performance and thereby on national economic activity, international trade and the balance of payments, regional economic development, the agriculture sector, and the general consumer interest as well as national security and defense, energy dependence, and environmental quality.

POSITION STATEMENT

The reduction of transportation services and anti-competitive consequences of the increased market concentration caused by the proposed Union Pacific-Southern Pacific merger and abandonment is harmful to the national economy and the national interest. It will cause me financial harm. **I oppose the proposed Union-Pacific merger and the abandonment of sections of existing rail. I support the efforts of the Mountain and Plains Communities and Shippers Coalition to secure another carrier to operate the rail line from St. Louis to Kansas City, Kansas City to Pueblo, and Pueblo to the West Coast. I further support the proposals for opening to competition the route south from Wichita Kansas to the Gulf with interconnection to the Central Corridor.**

Oklahoma, Texas, and Kansas wheat and other grain crops have been denied rail service for decades. The process followed the same pattern Union Pacific is undertaking now along the Central Corridor. Service was denied outright or became so bad that the only reliable way to get grain to markets was to haul it by truck -- 400-500 miles to the Port at Catoosa or 900 miles to the Gulf. Then after denying service or delivering on an unreliable basis, the railroads could make the case to the ICC that there was no demand for their services on those lines and the ICC acquiesced to abandonment and pulling the rail. Today, railroads that do operate across that part of the country decline significant participation in grain transport. We have no alternative other than to truck the grain 400 - 900 miles to market -- not because there was (or is) no demand for rail service, but because service was (and is) not delivered.

This comes at considerable economic cost. Rail is a far more energy efficient and less costly mode of transport than trucks. For example, trucks use 4 to 9 times as much fuel per ton mile as rail. In addition, truck freight requires enormous public expense in road and bridge construction and upkeep. This is a highly irrational national transport system, and it seems particularly abusive when one considers that the railroads were built with public land grants to support the construction and operation of the rail and the railroad companies are still reaping great amounts of income from those grants. 1

Not only has this coddling of monopolies to allow them to pick and serve only the most lucrative markets while reaping high monopoly returns from all markets been bad transportation policy, it has raised the delivery costs of everything in the US meaning a transfer of wealth from all consumers of any product that has used the services of the transport system to stockholders and

1 SEA acknowledges the comments on the efficiency of rail. Local and regional economic impacts are not considered in SEA's review of environmental impacts. The environmental assessment concludes that overall, the proposed merger would reduce energy consumption through increased efficiency.

officers of the railroad corporations or the trucking companies.

Furthermore, forcing transport of bulk commodities such as grain by truck creates an unnecessary and excessive burden on producers. For example, this winter when I needed to sell my 1995 milo crop, quotes for grain at the Gulf ran $6 - 7.00 per bushel, compared to $3.00 to $3.25 in central Oklahoma. Transport costs account for the difference in price. Cutting the price of transport to 1/5 the current rate would have raised the farm price of my crop by as much as $2.40/bushel or 80%. These high transport costs depress the local economy by discouraging economic activity and foreclosing production that, although efficient, may be rendered marginal or unprofitable by the high freight costs. It transfers money out of the local economy undermining the economic base. When we consider that this affects potentially 700 to 800 million bushels of wheat alone in Oklahoma, Kansas, and Texas without consideration for other farm crops and other goods, it translates into billions of dollars at stake.

The current policy is robbery on a grand scale. It deprives producers of a major proportion of the income from their output thereby discouraging economic activity and reducing the welfare of the society. This mitigates against economic development in the affected regions and creates a drag on the national economy. It prices our products out of the highly competitive foreign markets harming our balance of trade and payments position. It forces use of energy inefficient transportation making the nation more dependent on vulnerable oil imports and unnecessarily raising the level of greenhouse pollutants in the environment.

2

If this merger and abandonment are allowed to proceed as proposed, southwest Colorado wheat and other grain crops will become captive of a monopoly shipping arrangement which will force all grain trade through a monopsony grain dealer arrangement. UP has scheduled for abandonment and destruction the rail across southwestern Colorado which serves the cooperative and independent local elevators that compete with Cargill elevators on the line to be retained and upgraded. Since this proposed handling of the rail is the least economic of a number of alternatives including sale of the line to any one of a number of eager would-be owners, one can only conclude that monopoly control of shipping is the objective. (Please see filings by the Colorado Wheat Administrative Commission.)

Union Pacific does not want to serve the Central Corridor (former Missouri Pacific line). Shippers on the Missouri Pacific line received adequate, reliable, and prompt service until the line was purchased by Union Pacific. As soon as Union Pacific acquired the line, UP began deliberate denial and downgrading of service practically to the point of destroying local shipping on the line. UP says only 142 cars of local freight was shipped on the line last year; however, a recently completed study by the Colorado transportation department estimates the potential demand

2 SEA acknowledges the comments opposing the abandonment of Colorado rail segments.

Mesa County, Colorado
BOARD OF COUNTY COMMISSIONERS
District 1 - John R. Crouch (303) 244-1605
District 2 - Kathryn H. Hall (303) 244-1604
District 3 - Doralyn B. Genova (303) 244-1606

P. Box 20,000 • 750 Main Street • Grand Junction, Colorado 81502-5010 • FAX (303) 244-1639

April 19, 1996

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

Subject: Finance Docket No. 32760 - Environmental Assessment Review Comments

Dear Ms. Kaiser:

Thank you for the opportunity to review the Environmental Assessment prepared for the proposed UP/SP merger. Our original comments, contained in correspondence to your office dated February 12, 1996, related to the safety problems caused by the proposed increase in traffic at the existing SP rail yard in Grand Junction. Some clarification is required concerning the period of time the at-grade railroad crossing at Mesa County Road 30 is blocked. The crossing is blocked by through traffic on the rail line in excess of 15 times per day. Each of these blockages can last for a period of up to 5 minutes. This crossing is also blocked several times daily by rail yard operations. Each time this occurs, the crossing is blocked for an average time period of 20+ minutes. The situation is very difficult now, and any increase in crossing blockage due to increased rail yard activity is untenable.

In light of this clarification, we request that the SEA modify their mitigation recommendations to:

1. Require the development of a mutually agreeable mitigation plan to address the safety problems at the 30 Road crossing for the short term;

2. Require the UP/SP to participate with Mesa County to locate a site for a grade separated crossing over the rail yard; and

3. Require the UP/SP to cooperate with Mesa County and participate in funding the construction of a grade separated rail crossing over the Grand Junction rail yard.

1

1 SEA has reviewed the County's concern regarding blockage of County Road 30. SEA conducted a field visit to this location. This current condition appears to be exacerbated by the short distance between the railroad crossing and the intersection of County Road 30 and I-70 Business, which has a short cycle traffic light. The congestion and delay at this point can be addressed in part by changes of the local signal system. Post-merger rail traffic is projected to decrease by 3.4 on the Dotsero to Grand Junction segment and to decrease by 4.3 trains on the Grand Junction to Helper, UT segment, which would further reduce conflict. The planned Mesa County Road 29 overpass would provide alternate access to this area of the county. Therefore, SEA concludes that mitigation is not warranted.

Ms. Elaine K. Kaiser
UP/SP Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
April 19, 1996
Page 2

As outlined in our original correspondence, we believe the impact on law enforcement efforts, emergency vehicle response, and urban area traffic caused by the proposed increased rail yard activity merits such a response. 1

Thank you for your consideration of our request. Your cooperation and response in this matter are greatly appreciated.

Sincerely,

Kathryn H. Hall

Kathryn H. Hall, Chairman
Board of Commissioners

cc: Commissioners Doralyn Genova and John Crouch
Senator Ben Nighthorse-Campbell
Senator Hank Brown
Representative Scott McInnis
Representatives
Governor Roy Romer
Senator Tillman Bishop
Representative Dan Prinster
Representative Tim Foster
Secretary of Transportation
Colorado PUC
Bob Jasper, County Administrator
Joe Crocker, Public Works Director

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1 Refer to the previous page for response.

People for the West!

Arkansas Valley Chapter
4821 County Rd. 9
Canon City, CO 81212

Fighting for America's Communities

April 29, 1996

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
1201 Constitution Avenue NW
Room 3219
Washington, D.C. ~~20423~~ 24423

Comments due: May 3, 1996 responding to Environmental Assessment, Finance Docket 32760, Service Date: April 12, 1996; received by Chapter April 19, 1996

Arkansas Valley Chapter, People for the West, finds the SEA independent analysis to fail considerably short of the quality required to credibly support the ES.8 Conclusion, p. ES-19, and fails to conform to the "letter and spirit" of Section 102(2)(C) of NEPA.

1. Clearly, SEA attempts to circumvent the "spirit" of CEQ requirments specified in 40 CFR 1500.1[illegible] by subjecting its 12 pounds of environmental information to public scrutiny for digestion and comment in the short period of 13 days. Notwithstanding that gross constraint on our ability to rigorously evaluate the document for its adherence to science, we feel compelled to hold SEA and its consultant accountable for obvious mischaracterizations and omitting relevant information from its analysis that diminish the confidence in its finding that the merger, construction and abandonment proposals would not significantly affect the quality of the human environment.

2. Our letter of March 11, submitting the Chapter Position of March 5, 1996, p. E-73, is mischaracterized on p. 5-7, Vol 1 and in Vol 3, Chap 4, p. 4-28, under both 4.2.6 and 4.2.7. Neither the context of the letter, the context of the Position, or the context of the two taken together can be construed that the Chapter was referring to *(salvage)*, or that we were advocating, or *"suggested conversion of the abandoned line to trail use."* To the contrary, the Chapter is aware of impacts to local human environments and local economies of experiments with indiscriminant conversion of abandoned railroad rights-of-way into subsidized public trails. The Chapter is therefore opposed to such mischief for the reasons explained in its Position and expects SEA and its consultant to acknowledge and fully address the concerns expressed as concise is mandated to be addressed under Section 102(2)(C)(iv) of NEPA and the correlative CEQ regulations.

We find nowhere in NEPA a provision that permits a government agency to arbitrarily subordinate individual constitutional rights to own and control property to intangible aesthetic, recreational, and ecological values on which environmental assessments have a propensity to focus. On the other hand, Congress expressed

The National Coalition for Public Lands and Natural Resources

1 The accelerated schedule for this project limited the review period to 20 days. SEA endeavored to notify potential reviewers of the schedule in advance.

2 SEA acknowledges that initial comments from People for the West were not advocating conversion of abandoned lines to trail use. The Environmental Assessment (EA) has been prepared to address the environmental consequences of the proposed UP/SP merger. Railbanking is mentioned as a possible option in the disposition of particular rail segments and is not the focus for this environmental process. Therefore, an EA is not performed on railbanking as part of the UP/SP merger project.

in NEPA its intent for federal agencies to take into account the impact on maintenance and enhancement of long-term productivity of the human environment of any environmental assessment of a significant federal action. We feel the Chapter position is founded on substantial logical and legal ground to ask SEA to develop the data, evaluate and report the impacts of the 'railbanking' proposal as an integral part of proper environmental analysis of the UP/SP merger.

3. CEQ regulation 40 CFR 1500.2(c) mandates federal agencies shall to the fullest extent possible, in (c) "Integrate the requirements of NEPA with other environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively." In (d), "Encourage and facilitate public involvement in public decisions which affect the quality of the human environment." And in (e) "Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment."

In the context of those criteria, *'railbanking'* rises to a status of "concurrent" human environmental affect subject to the environmental assessment conducted to address the merger because we alerted SEA to the assault on private property rights and asked that the effect be included in the environmental assessment. Since the alert, media have reported UP/SP principals have met with Governor Roy Romer and have struck a deal. Romer tells us he refers comments and inquiries to his Trails Chief, Stuart McDonald, Colorado Parks Department, who is reported to be avidly engaged in developing his application. We feel the public deserves an objective public disclosure within the Environmental Assessment of the deal, and its consequences, that Governor Romer cut with the UP/SP principals. We worry that omitting the substance of that deal violates criteria (1) above and cuts effective public involvement out of the NEPA process. We must sense that criteria (e) may well have been perverted to 'political persuasion' wherein the Governor is deluded into committing the State to absorb any D&RGW liability under CERCLA for any complicity attributed to D&RGW, and its successors, in the Superfund mess that EPA attributes to mineral extraction in the Colorado Mineral Belt. CEQ's statement of policy under 40 CFR 1500.2 screams out for a far more substantive address before SEA is prepared to make a declaration of no significant environmental impact will occur as a result of the UP/SP merger and proposed abandonment of 600 miles of rail line.

4. We believe any conscientious environmental investigator recognizes risks to health and safety of the public to be his paramount consideration in conducting an environmental inspection, analysis or ad[redacted]ess. SEA is aware of the 100+ year symbiotic relationship D&RGW has enjoyed with the mining industry in the Colorado Mineral Belt—hauling in to the miners the supplies essential to winning the metals, and hauling the metals, metal concentrates and slag out to far off places to be further processed into a useful form. Over the past 20 years, EPA has classified many of those products with such alarming modifiers as *hazardous*-materials, *toxic*-metals, etc., that the public has been indoctrinated to the notion all products associated with mining are dangerous. There is no reason to suppose

2 Refer to the previous page for response.

3 The request for disclosure of an agreement between the UP/SP and the Governor of Colorado does not fall within the jurisdiction of the Surface Transportation Board in considering the proposed merger. The respondent should request this information directly from the State or Rails to Trails Conservancy. SEA's general approach to rails-to-trails conversion is described in Volume 1, Chapter 4 of the Post EA.

4 The request for an investigation of the right-of-way to determine if the ground has been contaminated from rail operations has been considered. Since publication of the EA, SEA has conducted a review of hazardous materials issues related to the proposed abandonment of the Sage to Canon City rail line (Sage to Leadville segment and Malta to Canon City segment). This review included interviews with clean up agency officials and others (CDPHE, US Forest Service, SP, and

D&RGW consistently used leak-proof tankers or cars to haul the products over the years, or that a car did not occasionally upset somewhere along the line. Apparently, SEA did not address the possibility the rights-of-way proposed to be abandoned may well contain the same contaminants that EPA Region VIII expressed concern about. We found no indication that selective samples were collected, much less that the samples were properly analyzed and the results scrutinized to identify environmental contamination and risk – a necessary first step for both protecting public health and safety and in designing an appropriate method for cleaning up the mess, should anomalous conditions be found. By its failure to conduct a minimal objective reconnaissance investigation of the rail corridors proposed to be abandoned, SEA has no basis which conforms to 40 CFR 1500.1(b) and 1500.2(b) to support its finding of "no *significant impact on the human environment*" as the terms are defined in 40 CFR 1508.

5. We found no provision of NEPA or the CEQ regulations that permit SEA to arbitrarily declare, or recommend to STB, that ". . . abandonment proposals would not significantly affect the quality of the human environment." Nor, did we find a provision that precludes SEA from evaluating the potential environmental perils of exposing an unsuspecting public to unregulated, undocumented, long-forgotten dribbles and spills known to have occurred on many of the rail corridors targeted for public trail use. To the contrary, Congress in its declaration of policy, NEPA Sec. 101(b)(2) and (3) commits the "Federal Government to use all practical means (including financial and technical assistance) . . . to . . . coordinate Federal plans, functions, and programs . . . to the end that . . . (2) assure for all Americans safe, healthful, productive, and esthetically and pleasing surroundings; (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; . . ." Thus, Congress and CEQ intended government agencies to bear the burden of initiating the process of environmental assessment to credibly identify risks to which the public may become exposed as a result of an agency decision, including investigation of a railbed to assure conditions are suitable for public use as a trail. Despite the government commitment to provide the resources to assure public health and safety, ICC adopted its 49 CFR 1152.29 to approve applications for 'railbanking' without a proper environmental investigation to determine the 'railbank' suitable for public contact and use as a recreational trail. The regulation further transfers any legal liability (CERCLA ?) from the Railroad to the "unsuspecting state, political subdivision, or qualified organization" – apparently, a buyer beware attitude. 49 CFR 1152.29(b)(1) does, however, provide a skinny 30 day protest and comment window in which a protestant may file a protest according to the labyrinth of conditions and procedural requirements specified under 49 CFR 1152.26. While "environmental impact, impacts on rural and community development and suitability of the properties for other public purposes" are acknowledged as causes for protest, the protestant is obliged to expend his time resources prodding the investigation to a resolution. Thus, ICC regulations effectively turn Congressional intent and CEQ regulations on their head. We believe SEA has an opportunity, nay, a duty, to abandon the ICC regulations which have misdirected its environmental assessment and bring its investigation up to the level of objectivity required by NEPA and the CEQ regulations.

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D&RGW), a site visit, and a review of hazardous materials investigation reports. The Eagle Mine and California Gulch Superfund sites are located adjacent to the proposed abandonment. Three derailment sites along the line (1989, 1994, and 1996) are being investigated, cleaned up, and restored by Southern Pacific. SEA notes that D&RGW has signed a consent decree with EPA regarding investigation and clean up of the California Gulch site. Remediation of the Eagle Mine site by Viacom International is under way under a 1988 Consent Decree. If the proposed merger is approved, UP/SP would assume, as appropriate, any responsibility and/or liability for hazardous materials clean up by SP or D&RGW in accordance with hazardous waste liability laws. This would include any responsibility of D&RGW for the California Gulch Superfund site. A copy of SEA's report is included in Appendix G. Volume 1, Chapter 5 of the Post EA includes SEA's recommended mitigation measures regarding hazardous materials along rail lines proposed for abandonment.

5

Comments on the adequacy of environmental analysis techniques is noted. The Surface Transportation Board's environmental analysis thresholds and processes are compatible with CEQ. These approved thresholds were used to prepare the EA.

6. We recommend that SEA retreat from its proposed conclusions and recommend to STB that the Environmental Assessment prepared for the merger fails to conform to NEPA and the CEQ regulations:

A. Fails to address railbanking as a "concurrent" alternative. (3) repeated

B. Fails to apply accurate scientific, economic or technical considerations to environmental analyses. (4)

C. Fails to compare short- and long-term effects of public trail use on the productivity of the affected community. (2)

D. Fails to provide evidence as a credible basis for declaring "no significant impact to the affected environment. (1)

E. Fails to review and include available information from recent Environmental Impact Statements by other federal agencies. (8)

F. Fails to include, evaluate and properly address health and safety risks to the public of the proposed railbanking (rails to trails) alternative. (9)

G. Fails to address impacts to, or preservation of, covenants between Railroad and adjacent property rights of owners in either the proposal for abandonment or railbanking. (10)

H. Fails to fix liability and maintenance responsibility on either the Railroad or Rails to Trails advocates. (11)

I. Fails to accurately characterize comments; destroys credibility. (12)

While those are failures to comply with NEPA and CEQ guidance that we have thus far noted, please understand they may not be complete. However, to accommodate your compressed schedule to make a recommendation, we are submitting our partial findings to alert SEA and the Surface Transportation Board that the recommended finding of "no significant impact to the human environment" is without substantive evidentiary support and therefore such recommendation would be a violation law. We reserve the right to amend and further comment as we find the time for more rigorous review. We hope our comments will assist SEA in restoring an element of credence to the ICC approach to handling environmental responsibilities.

Thanks for considering our comments.

Jack Gillespie

Jack Gillespie, Vice President
Arkansas Valley Chapter People for the West
3404 Morris
Pueblo, CO 81008

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5 Refer to the previous page for response.

PBLO-2

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (and related Sub-Dockets)

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

COMMENTS AND EVIDENCE OF
THE CITY OF PUEBLO, COLORADO

ENTERED
Office of the Secretary
MAR 29 1996
Part of
Public Record

Thomas J. Florczak
Thomas E. Jagger
127 Thatcher Building
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(719) 545-4412

Terence M. Hynes
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SIDLEY & AUSTIN
1722 Eye Street, NW
Washington, DC 20006
(202) 736-8000

Attorneys for City of Pueblo, Colorado

Dated: March 29, 1996

The Denver and Rio Grande Western Railroad Company ("DRGW") (referred to collectively hereinafter as "SP").[1]

Pueblo takes no position with respect to the issue whether the merger and control transaction proposed in the Primary Application, as a whole, is consistent with the public interest. However, Pueblo opposes the actions proposed by Applicants in the following related applications: 1

1. Docket No. AB-3 (Sub-No.130) and Docket No. AB-8 (Sub-No. 38), pursuant to which Applicants seek authorization pursuant to 49 U.S.C. § 10903 for MPRR to abandon, and DRGW to discontinue its trackage rights over, MPRR's line between Milepost 869.4 near NA Junction, CO and Milepost 747.0 near Towner, CO;

2. Docket No. AB-8 (Sub-No. 39) and Docket No. AB-12 (Sub-No. 188), pursuant to which Applicants seek authorization pursuant to 49 U.S.C. § 10903 for SPT to abandon, and DRGW to discontinue its trackage rights over, SPT's line between Milepost 271.0 near Malta, CO and Milepost 162.0 near Canon City, CO; and

3. Docket No. AB-8 (Sub-No. 36X) and Docket No. AB-12 (Sub-No. 189X), pursuant to which Applicants seek an exemption from the prior approval requirements of 49 U.S.C. § 10903 et seq. to enable SPT to abandon, and DRGW to discontinue its trackage rights over, SPT's line between Milepost 335.0 near Sage, CO and Milepost 271.0 near Malta, CO.

[1] UP and SP are referred to collectively hereinafter as "Applicants."

1 SEA acknowledges the City's comments in opposition to all abandonments in Colorado.

As the Verified Statements of Fay B. Kastelic, President of the City Council of Pueblo (attached hereto as Exhibit 1), and Dr. Richard A. Martinez, Chairman of the Board of County Commissions of Pueblo County, Colorado (attached hereto as Exhibit 2), demonstrate, these proposed abandonments, and certain other operational changes proposed by Applicants, would harm Pueblo (and other Colorado communities) in a number of ways:

First, abandonment of the line segments described above, which form part of SP's existing east-west transcontinental route via Pueblo, would deprive Pueblo of access to the direct, efficient transcontinental rail service that the City has enjoyed for more than a century. Applicants' plan to divert traffic from the SP route to an alternate east-west route via Denver (which lies more than 100 miles to the north) would harm shippers and receivers in the Pueblo area by subjecting their traffic to more circuitous routing, longer transit times and higher costs. See V.S. Kastelic at 2-3.

Second, the proposed abandonments would increase truck traffic on roads serving Pueblo and neighboring communities. The substitution of less energy efficient truck service would be detrimental to the environment. Moreover, the affected roads are, for the most part, two lane highways with no median protection and limited shoulders and passing lanes that traverse steep grades over mountainous terrain. The prospect of additional freight movements over these roads, particularly during periods of heavy tourist traffic, raises significant

-3-

2 SEA acknowledges the City's objection that abandonment would deprive community shippers of direct access to transcontinental rail service. The EA does not address issues of competition, but the Surface Transportation Board does consider such issues in its decision-making.

3 SEA's analyses of rail-to-truck diversions that would result from these proposed abandonments are shown in Volume 3 of the EA. For the Towner to NA Junction segment, approximately 120 rail cars of grain products would be diverted from rail to truck, which is equivalent to an increase of 480 trucks per year. Existing traffic volumes on major highways which would be used by trucks handling diverted rail traffic range from 1,000 to 6,000 vehicles per day. The increase due to rail to truck diversions would be less than one percent of existing average daily traffic on the local highway system. SEA concludes that this increase in roadway travel volumes would be minimal and no mitigation is proposed.

Governor's Rail Corridor Use Committee 5

employees severance packages which they anticipate many accepting and voluntarily leaving the company.[6]

3.1. Pueblo. Including trainmen, enginemen, carmen, clerks, laborers, machinists and "non-agreement" (non-union) employees, Union Pacific projects cutting 134 jobs in Pueblo, transferring 6 more (to Denver, Cheyenne and Omaha).

3.2. Eads. One signalman and one non-agreement employee are scheduled to be laid off.

3.3. Minturn. One non-agreement employee is scheduled to be laid off.

3.4. Denver. Although not directly related to the abandonment, the merger indicates some employment impacts in Denver as well. In the merger application, UP estimates a total of 6 jobs lost and 36 transferred from Denver. In addition, the application is not clear as to the fate of 1800 Southern Pacific employees located at the SP dispatch headquarters downtown.

4. Highway maintenance. Some of the traffic diverted from abandoned railroad lines will end up on Colorado's highway system, for at least part of its travel.[7]

4.1. Towner line. If this line is abandoned, traffic will increase on SH 71, SH 96, US 287, and US 385 (combined) by 904 heavy trucks per year, representing an average 0.75% increase in heavy truck traffic in the area. If a railroad purchased the Towner line, supplied enough rail cars to meet demand and offered freight rates competitive with the Cargill operation in Cheyenne Wells, the Towner line could see an increase in rail freight traffic ranging from 1000 cars to 4000 cars per year which translates to a decrease in current heavy truck traffic ranging from 4000 to 16,000 trucks per year. If all of these trucks currently travel the state highway system, the region's state highways would see a decrease in heavy truck traffic ranging from 3.5% to 13.8%.

4.2. Malta - Canon City line. If this rail line is abandoned, traffic will increase on US 24, US 285 and US 50 (combined) by over 1800 heavy trucks per year, representing an average 2.5% increase in heavy truck traffic in the region.

4.3. Sage - Leadville line. Traffic on area highways would not increase appreciably due to this abandonment.

4.4. Shipping costs. Loss of rail access in Kiowa increased the length of a truck trip to the railhead by at least three times for farmers in Kiowa. That

[6] See Verified Statement of Michael Hartman, UP Director of Employee Relations and Planning. Impacts broken out by location throughout section 4, are from schedule "Effects on Applicant Carriers' Employees" which is attached to Michael Hartman's statement.
[7] Information in section 4, provided by the Colorado Department of Transportation, Intermodal Unit.

4

SEA's estimate of rail-to-truck diversions is approximately half of the CDOT estimate cited (an increase of 904 heavy trucks per year or a 0.75 percent increase in the area), although the estimated average increase (0.75 percent) is consistent with SEA's analysis. SEA acknowledges the potential reduction in truck traffic if the abandoned line is operated at higher capacity by another operator.

5

For the Malta to Canon City segment, the equivalent of 530 rail cars of freight per year would be diverted to trucks, resulting in an estimated increase of 2,120 truck trips per year. Existing traffic volumes on major highways that would be used by trucks handling diverted rail traffic range from 2,000 to 6,000 vehicles per day. The increase due to rail to truck diversions would be less that one percent of existing average daily traffic on the local highway system. SEA concludes that this increase in roadway travel volumes would be minimal and no mitigation is proposed. It should be noted that this proposed abandonment begins more than 25 miles west of Pueblo; rail to truck diversions are anticipated to be limited to the Malta area for the movement of mine products from Asarco in Malta.

SEA's estimate of rail-to-truck diversions (530 rail cars x 4 trucks/car = 2,120 truck diversions) is greater than the estimate provided by CDOT, which reports that 1,800 diversions to heavy trucks would represent a 2.5 percent increase in the region. Even at the higher diversion calculation, the increase in roadway travel volumes would be minimal and no mitigation is proposed.

6

SEA analysis indicates that there would be no diversion from rail to truck resulting from the proposed abandonment of the Sage to Leadville segment.

BEFORE THE SURFACE TRANSPORTATION BOARD



The Denver and Rio Grande Western Railroad Company -- Discontinuance of Trackage -- Towner-NA Jct. Line in Kiowa, Crowley and Pueblo Counties, Colo.	)	AB-8 (Sub-no. 38)
Missouri Pacific Railroad Company -- Abandonment -- Towner-NA Jct. Like in Kiowa, Crowley and Pueblo Counties, Colo.	)	AB-3 (Sub-no. 130)

[merger related: Finance Dkt. 32750, UP/SP]

Statement of Willingness to Assume
Financial Responsibility

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, the Rails to Trails Conservancy (hereinafter "RTC" or "interim Trail User"), is willing to assume full responsibility for management of, for any legal liability arising out of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by Missouri Pacific Railroad Company ("Railroad"), with trackage rights held by The Denver and Rio Grande Western Railroad Company ("DRG"). The property extends from MP 747.0 near Towner to MP 869.4 near NA Junction, a distance of approximately 122.4 miles in Kiowa, Crowley and Pueblo Counties, Colorado. The right of way is part of a line proposed for abandonment in Docket AB-3 (Sub-no. 130), and for discontinuance of trackage rights in Docket AB-8 (Sub-no. 38).

A map depicting the property is attached.

RTC acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the Railroads on the same date it is being served on the Commission.



Hal Hiemstra
~~David Burwell,~~ Hal Hiemstra,
Vice President,
Rails to Trails Conservancy
1400--16th St., N.W., #300
Washington, D.C. 20036
(202) 797-5400

1

1 SEA acknowledges the Rails to Trails Conservancy's willingness to assume financial responsibility for the Towner, CO to NA Junction segment proposed for abandonment. Please refer to SEA's general statement on Rails-to-Trails and public use in Volume 1, Chapter 4 of the Post EA.

4/8/96

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CAÑON CITY, CO 81212-1540

March 25, 1996



Vernon A. Williams, Secretary
Surface Transportation Board
Interstate Commerce Commission
12th and Constitution Ave. N.W.
Washington, D.C. 20423

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

Docket No. AB-8 (Sub-No. 39)
Docket No. AB-8 (Sub-No. 36x)
Docket No. AB-3 (Sub-No. 130)

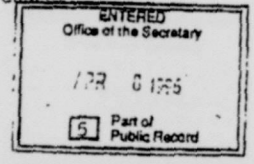
LETTER OF PROTEST AND REQUEST FOR CONDITIONS SUBMITTED BY

THE UPPER ARKANSAS AREA COUNCIL OF GOVERNMENTS
P.O. Box 510
Canon City, CO 81215-0510

Dear Secretary Williams:

Pursuant to the Notice of Intent to Participate, submitted to you in two mailings, dated January 3, 1996, and January 22, 1996, the Upper Arkansas Area Council of Governments hereby submits its position statement concerning protest to the proposed merger particularly as it pertains to the anticipated and proposed abandonment of 178 miles of track between Canon City, Colorado and Sage, Colorado. 1

1. Upper Arkansas Area Council of Governments is a non profit corporation formed under the laws of the State of Colorado. The council is composed of four member counties, and all municipalities contained within the four county members. The counties are Chaffee, Lake, Fremont, and Custer.



1 SEA acknowledges the Council's opposition to the proposed UP/SP merger and related abandonments.

MECONI & JACKSON
ATTORNEYS AT LAW

Secretary Vernon A. Williams
March 25, 1996
Page Two.

The council was formed on January 23, 1974, to implement the provisions of an Executive Order of the Governor creating State Planning Regions. The Council's purpose is to develop an overall program design for planning for the region, which contains specific projects within the region to improve the health, welfare and safety of the citizens in the planning region and also serves as a forum to identify, study and resolve area-wide problems.

2. The Council has taken a lead role in disseminating information to regional agencies and entities concerning the matter of the Merger and Abandonment of Lines proposed in this action. It is the widespread consensus of the regional agencies and entities that the abandonment of the 178 miles of track between Canon City and Sage, Colorado, will be detrimental to the interests of the region and should not occur without the imposition of certain conditions concerning such line abandonment. 2

3. The Upper Arkansas Area Council of Governments hereby requests that the proposed line abandonment be denied. If the line abandonment is granted, the Council requests that it be subject to the following conditions:

a. The merging parties, or Southern Pacific be required to offer for sale all of the Denver & Rio Grande Western lines as a whole unit which would encourage an interested party to make beneficial use of the lines for the betterment of the region. Although Southern Pacific has indicated that it does not oppose the sale of the lines, it has failed to give any consideration to inquiries for purchase of the lines. 3

b. If negotiations for sale of the intact lines are unsuccessful, the merging parties, or Southern Pacific be required to rail-bank the 178 miles of line, from Canon City to Sage, which would allow the right of way to be preserved.

c. The merging parties, or Southern Pacific be required to leave the physical track in place along the 300 miles of line proposed for abandonment in the State of Colorado for a period of 24 months following final approval of the proposed merger.

2 SEA acknowledges the Council's opposition to the proposed UP/SP merger and related abandonments.

3 Requiring the railroad to (1) offer its tracks and right-of-way for sale, (2) rail bank its tracks, or (3) leave its tracks in place for 24 months are all beyond the scope of the Board's jurisdiction. However, the Applicant has entered into a Letter of Intent (March 21, 1996) with the State of Colorado to explore disposition of the line in a fashion most beneficial to all interested parties including sale to the State, partial retention of rail service and joint use with recreational. Additionally, the State of Colorado has submitted Statements of Willingness to Assume Financial Responsibility for all of the lines proposed for abandonment. SEA's general approach to rails-to-trails conversion is included in Volume 1, Chapter 4 of the Post EA.

Viacom Inc.
One Utah Center
201 South Main Street, Suite 1100
Salt Lake City UT 84111-4904

Jeffrey B. Gray
Corporate Counsel/Environmental

Tel 801 578 6972
Fax 801 578 6999

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March 20, 1996

VIACOM

ENTERED
Office of the Secretary
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3 Part of Public Record

Office of the Secretary
Case Control Branch
Attn: Finance Docket No. 32760
Surface Transportation Board
1201 Constitution Avenue N.W.
Washington, DC 20423

Re: *Finance Docket No. 32760 -- Comments and Request for Conditions of Viacom International Inc. -- Docket Nos. AB-8 (Sub-No. 36X) and AB-12 (Sub-No. 189X)*

Dear Sir/Madam:

Viacom International Inc. ("Viacom") is performing an environmental cleanup in accordance with the terms of two consent decrees, which constitute orders of the U.S. District Court for the District of Colorado. This cleanup is taking place at the Eagle Mine site, located along the Eagle River between Minturn and Redcliff, Colorado. Several portions of the site are adjacent to a rail line between Sage and Leadville, Colorado (MP 335.00 to MP 276.1 -- sometimes referred to herein as "rail line") belonging to The Denver and Rio Grande Western Railroad ("D&RGW") and Southern Pacific Transportation Company ("SPTC"). In addition, Viacom leases several small tracts of land in the Belden area from D&RGW/SPTC, has a license for use of an access road on property belonging to D&RGW/SPTC, and has another license allowing use of D&RGW/SPTC property for certain monitoring facilities and sampling activities.

Union Pacific Corporation ("UPC") and SPTC have indicated that if the proposed merger of SPTC into UPC is accomplished, rail service on the Sage-Leadville line will be discontinued and the line abandoned. Because of the proximity of the rail line to the Eagle Mine site, and Viacom's need to use and/or cross D&RGW/SPTC property in order to access the site, Viacom makes the following comments in connection with the proposed discontinuance/abandonment of the rail line, and requests that certain conditions be imposed if the discontinuance/abandonment is approved.

Access to Eagle Mine Site. The terms of both consent decrees to which Viacom is a party require Viacom to perform certain actions in various locations near and along the rail line from Belden north to a point near the confluence of Cross Creek with the Eagle River. It is critically important that Viacom retain its current rights to use property

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belonging to D&RGW/SPTC for access to the Eagle Mine site and for certain sampling and monitoring activities on the D&RGW/SPTC property itself.

Any abandonment of the rail line, and any reversion or other disposition of railroad property coincident with such abandonment, must be conditioned so that Viacom's access to all portions of the Eagle Mine site is maintained, and so that Viacom's ability to perform required sampling and monitoring on the railroad property is preserved. Because the final disposition of railroad property in the vicinity of the Eagle Mine site is not yet determined, Viacom requests the opportunity to participate in any and all future discussions and/or negotiations concerning the final disposition and control of the railroad property in the area of the Eagle Mine site in order to protect its access and use rights. 1

Protection of the Remedial Actions at the Eagle Mine Site. In their exemption petition concerning the Sage-Leadville line, SPTC and D&RGW state that "the property proposed for abandonment is suitable for public purposes, particularly trail use. Petitioners are agreeable to negotiating a trail use agreement for all or part of the property." (Petition for Exemption, Docket Nos. AB-8 [Sub-No. 36X] and AB-12 [Sub-No. 189X], p. 293.)

Viacom believes that any such trail use, and trail use agreement, must be carefully limited and conditioned so that the operation and integrity of the remedial actions that have been accomplished at the Eagle Mine site are fully protected from interference by the public. Whether or not any trail use ever occurs in the right-of-way corridor adjacent to the Eagle Mine site, it will be important to condition the use of the corridor by any reversionary or other owner, including the United States, in a manner that will protect the remedial actions. 2

For example, there are numerous pipelines, pumps, culverts, bulkheads, and other water management facilities located in the Eagle River canyon in and near Belden and in the canyon of Rock Creek, a tributary of the Eagle River. It is critically important that these facilities not be disturbed or interfered with by curious hikers. The most practical solution would be to avoid placing a public-access trail along the right-of-way in the canyon through Belden, as such a trail would be virtually impossible to police.

Viacom does not own any portion of the Eagle Mine site. It is responsible for the ongoing environmental cleanup as a successor to one of the former owners, and its actions at the site are limited to those required by the two consent decrees to which it is a party. As a result of its general familiarity with the site, however, Viacom has observed that in the Belden and Rock Creek areas there are numerous uncontrolled mine openings, decrepit structures, and other hazards to persons that could make a trail through the area dangerous to the public.

1 SEA acknowledges Viacom's need for access to the Eagle Mine site and railroad property to complete remediation work and to perform sampling if the Sage to Leadville rail segment is abandoned, converted to trails, or acquired by another railroad company. SEA has recommended mitigation in Chapter 5 of the Post EA to preserve continued access for Viacom.

2 SEA acknowledges Viacom's need for access to the Eagle Mine site and railroad property to complete remediation work and to perform sampling if the Sage to Leadville rail segment is abandoned, converted to trails, or acquired by another railroad company. SEA has recommended mitigation in Chapter 5 of the Post EA to preserve continued access for Viacom.

Surface Transportation Board
March 20, 1996
Page 3

Acquisition of Rail Line By Other Railroads. Viacom understands that several companies have entered these merger application proceedings, indicating an interest in acquiring the Sage-Leadville line, among others. In the event that the line is not approved for discontinuance of service/abandonment, but rather is acquired by a new owner, Viacom's concerns and interests remain the same as expressed above. Any such acquisition may be approved only with sufficient limitations and conditions to protect Viacom's access and the security and integrity of the remedies in place. 3

Viacom reserves the right to make additional comments and/or request additional conditions as these proceedings progress.

Sincerely,

Jeffrey B. Gray

cc: Arvid E. Roach II, Esq.
Paul A. Cunningham, Esq.
Elisa M. Pivlin, Esq.
Felicity Hannay, Esq.
Mr. Robert J. Neukirchner, P.E.

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3 SEA acknowledges Viacom's need for access to the Eagle Mine site and railroad property to complete remediation work and to perform sampling if the Sage to Leadville rail segment is abandoned, converted to trails, or acquired by another railroad company. SEA has recommended mitigation in Chapter 5 of the Post EA to preserve continued access for Viacom.

[Statement NO. 1]

WIFE Women Involved in Farm Economics

BEFORE THE SURFACE TRANSPORTATION BOARD
ICC FINANCE DOCKET NO. 32760
UNION PACIFIC CORP., ET AL.---CONTROL AND MERGER---
SOUTHERN PACIFIC RAIL CORP., ET AL.

STATEMENT OF BERNICE TUTTLE
OPPOSING THE UP-SP MERGER

My name is Bernice Tuttle and I reside at 13775 County Road 78.5, Towner, Colorado 81071-9619. My phone number is (719) 727-5225. As President of the Kiowa County Women Involved in Farm Economics (WIFE) Chapter # 124, I am very concerned about the impact that the proposed merger and abandonment will have on the members of our chapter as well as all citizens in Kiowa County, the State of Colorado and the United States. Our members are working with all agricultural producers to improve profitability in production agriculture through educational, legislative and cooperative efforts. WIFE was organized in December, 1976, and we believe that American agriculture is our nation's most vital renewable industry. We are opposed to the merger of the Union Pacific and Southern Pacific railroad companies and the proposed abandonment of the railroad in Colorado, specifically the proposed abandonment and discontinuance of trackage rights of the Towner-NA Junction Line in Kiowa, Crowley and Pueblo Counties, Colorado. 1

I believe that the proposed Union Pacific-Southern Pacific merger is not in the best interest of farmers, shippers, manufacturers, governmental entities, educational systems and the general community's welfare. In 1980 there were forty Class I rail carriers; today there are ten. Less competition lends itself to higher freight rates. As farmers we deliver our grain to the elevator and the elevator gives us the best price they can once they deduct the shipping prices, whether that be by rail or truck. Ultimately the farmer pays the price if the rail rates are increased.

I have deep concerns that Kiowa County agricultural producers will be "captive" to one railroad and one grain company. The loss of competitive transportation options invariably increase the cost for all small shippers and once again this cost will be absorbed by the farmer. For every one-thousand cars of grain that are shipped by rail, four-thousand trips by truck would be needed to haul that same amount. The railroad seems to be portraying to farmers that we are not captive since we can ship our grain by truck. To me that's like saying we are not captive to one phone company for our long distance phone calls because we can send a letter.

1 SEA acknowledges the opposition of Women Involved in Farm Economies, Chapter 24, to the merger and abandonment of railroads in Colorado.

marketing, sell their wheat or monitor the grain futures market through their local elevator managers, they have limited resources.

I read with great interest the application filed by Union Pacific Railroad Company, specifically Docket No. AB-3 (Sub-No. 130) and Docket No. AB-8 (Sub-No. 38) in reference to Page 157. Lines 4 and 5 of Section (c)(9) reads "UP believes that the reason for the low local traffic volume is that area shippers prefer trucks for most of their transportation requirements". **I have visited with several shippers and find that this statement is not factual.** Shippers would prefer to ship their grain by rail cars if they were available and the price was competitive with trucks. Shippers have been forced to truck their grain to get a higher price.

Prior to the sale of the Missouri Pacific to the Union Pacific in 1982 the railroad provided: 1) good service to all concerned parties, 2) reasonable rates and 3) adequate cars were available. After this date the opposite has been true.

Grain harvests are at the mercy of many things: market price, weather extremes, harvester and trucker availabilities. When you have a crop in the field that needs to be in the elevator and there are no shippers available, either rail service or trucks, how are we to get our grain to an accessible market?

Seventy percent of all jobs in Kiowa County are related to Agribusiness employment according to a table prepared by the Resource Analysis Section of the Colorado Department of Agriculture in its "1992 Census of Agriculture". Our county produced 3,899,625 bushels of wheat, 175, 460 bushels of corn and 737,872 bushels of grain sorghum that year. In Kiowa County alone 1,501 rail cars could have been loaded with grain. The market value of the crops that were produced totals $14,058,000. (See Exhibit "A" attached)

Kiowa County has historically ranked in the top five wheat producing counties in Colorado. Kiowa County raises five to six million bushels annually. Twenty-five percent of the cropland in this county is enrolled in the Conservation Reserve Program. There are currently 177,000 acres of land enrolled in the CRP program. Many of the contracts will expire in 1996 and may be returned to wheat production. There is also the potential for a 25% increase in the number of bushels of wheat produced annually.

As roads deteriorate due to the increased heavy traffic over the county roads and our state highways, this would also mean additional costs to Kiowa County and the State of Colorado. Our roads and highways were not designed to withstand the additional usage. The road conditions will also damage the trucks owned by farmers. 2

According to a fact sheet prepared by the Kiowa County Assessor's Office, our county will receive $711,826.23 in taxes from the Union Pacific Railroad and Private Car Lines

2 SEA acknowledges concerns about the proposed abandonment of the Towner to NA Junction segment. Approximately 120 rails cars of grain products would be diverted to local highways, which would be equivalent to an increase of 480 trucks per year. This increase would be less than one percent of truck trips in the area, so no mitigation is proposed.

Page 4 of 7 pages

assessed in 1995. The percentage of property taxes that the railroad and private car lines contribute to the total taxes is 22.26%. The impact for the different taxing areas that receive monies varies from 4.25 % to 48.81%. I am deeply concerned about the ability of local taxpayers to carry the tax burden should this merger and abandonment take place. I also serve on the Towner Recreation Board. It is difficult for us to pay the basic utility bills at present. Future maintenance and improvement projects will have to be put on hold for years to come. (See Exhibit "B" attached)

Our two local school districts, Plainview School that is located between Sheridan Lake and Towner and the Eads Schools have had to cut staff and programs due to an unstable enrollment and financial shortfalls. The Eads School District RE-1 had to close the doors of the Haswell Elementary School several years ago because of declining enrollment and financial shortfalls. If the students in our school districts have to travel farther distances to school we will probably lose a number of families. The rural areas in America are being challenged by many different forces. This proposed merger and abandonment will no doubt have a domino effect on local businesses, churches, industries, and the economic well being of **EVERY** citizen in this county.

This rail line also runs through Pueblo, Colorado. The Pueblo Army Depot has always been considered vital to the civil defense of the United States. In case of a national disaster, the movement of military equipment from the east to the west or vice versa would be non-existent. With the need to destroy chemical weapons an ever increasing problem, it is vital to keep this railroad open for this nation. There are many chemical weapons presently stockpiled at the Pueblo Army Depot. If there is no rail available for these movements the United States Government may be forced to ship by truck. Since there would not be a central corridor these shipments may have to travel through the Front Range cities that include Colorado Springs and Denver. The largely-populated areas may need to address these issues at some time in the future.

Our members are adamantly opposed to the proposed merger and abandonment. We would ask that you work for the divestiture of the Missouri Pacific, Western Pacific, Denver and Rio Grande, Southern Pacific and Union Pacific Railroad from Kansas City to Pueblo (Missouri Pacific Line) from Pueblo to Dotsero (Denver and Rio Grande Line) and from Dotsero to the West Coast on all combined entities existing prior to the 1982 merger of Union Pacific-Missouri Pacific/Western Pacific ICC Docket 30000 of October, 1982. This divestiture would allow another third party carrier to serve our area and insure good access to valuable export locations on the Gulf of Mexico and to the Pacific Coast.

As farmers we pay transportation costs on all of the products that we produce and also on all of the products we consume and we do so without being able to pass those costs on. It really is a fact that **"farmers buy at retail, sell at wholesale and pay the freight both ways"**.

3

3 Transfer of U.S. Army materials and munitions to and from Pueblo would still be possible by rail. A major north/south BN/Santa Fe line runs through the area.

Village of Glen Carbon
151 North Main
P.O. Box 757
Glen Carbon, Illinois 62034

Village Hall
(618) 288-1200
Fax
(618) 288-1203

Ronald J. Foster, Mayor
Rita J. Ranek, Village Clerk

JAN 0 3 1995



December 29, 1995

Mr. Vernon A. Williams, Secretary
Interstate Commerce Commission
12th & Constitution Ave., NW
Washington, DC 20423

RE: Union Pacific Railroad Company - Abandonment Madison County, Illinois AB-33 (Sub-no 98) ICC Finance Docket Number 32760

Dear Mr. Williams:

This comment should be treated as a protest or a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of the Village of Glen Carbon, Illinois, which is a political subdivision interested in conservation, transportation, recreation, and other public use, which is hereinafter referred to as "Commenter".

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between the cities of Edwardsville and Madison, Illinois. 1

A. Public Use Condition

Commenter requests the ICC to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the rail corridor in question will connect a public park to major residential areas.

1 SEA acknowledges the Village's request for conditions to allow trail use of the proposed abandonment. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described in Volume 1, Chapter 5 of the Post EA.

4/4/96 8:38:12 AM

BEFORE THE SURFACE TRANSPORTATION BOARD

Union Pacific Railroad --)
Exemption -- DeCamp-Edwardsville) AB-33 (Sub-no. 97X)
Line in Madison County, Illinois)

Statement of Willingness to Assume
Financial Responsibility

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, Madison Transit ("MT", or "Interim Trail User"), is willing to assume full responsibility for management of, for any legal liability arising out of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by Union Pacific Railroad Company (Railroad). The property extends from MP 119.2 near DeCamp to MP 133.8 near Edwardsville, a distance of approximately 14.6 miles in Madison County, Illinois. The right of way is part of a line proposed for abandonment in Docket AB-33 (Sub-no. 97X), which is associated with the Union Pacific/Southern Pacific merger proceeding, Finance Docket No. 32760.

A map depicting the property is attached.

MT acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad on the same data it is being served on the Commission.

Jerry Kane
Executive Director
Madison Transit
One Transit Way
P.O. Box 7500
Granite City, IL 62040-7500

cc. Robert Opal, Esq.
Union Pacific (Law Department)
1416 Dodge Street
Omaha, NE 68179

Of counsel: Charles H. Montange
426 NW 162d St.
Seattle, WA 98177

ENTERED
Office of the Secretary
APR 5 1996

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1 SEA acknowledges the Madison Transit's willingness to assume financial responsibility for the proposed abandonment of the Edwardsville to Madison, IL segment. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described on Volume 1, Chapter 5 of the Post EA.

BEFORE THE SURFACE TRANSPORTATION BOARD

Union Pacific Railroad --
Exemption -- Edwardsville-
Madison Line in Madison County,
Illinois

) AB-33 (Sub-no. 98X)

Statement of Willingness to Assume
Financial Responsibility

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, Madison Transit ("MT" or "Interim Trail User"), is willing to assume full responsibility for management of, for any legal liability arising out of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by Union Pacific Railroad Company (Railroad). The property extends from MP MP 133.8 near Edwardsville to MP 148.78 near Madison, a distance of approximately 14.98 miles in Madison County, Illinois. The right of way is part of a line proposed for abandonment in Docket AB-33 (Sub-no. 98X), which is associated with the Union Pacific/Southern Pacific merger proceeding, Finance Docket No. 32760.

A map depicting the property is attached.

MT acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad on the same date it is being served on the Commission.

Jerry Kane
Executive Director
Madison Transit
One Transit Way
P.O. Box 7500
Granite City, IL 62040-7500

cc. Robert Opal, Esq.
Union Pacific (Law Department)
1416 Dodge Street
Omaha, NE 68179

Of counsel: Charles H. Montange
426 NW 162d St.
Seattle, WA 98177

ENTERED
Office of the Secretary
MAR 3 1 1996
Part of
Public Record

1

1 SEA acknowledges the Madison Transit's willingness to assume financial responsibility for the proposed abandonment of the Edwardsville to Madison, IL segment. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described on Volume 1, Chapter 5 of the Post EA.

BEFORE THE SURFACE TRANSPORTATION BOARD

Union Pacific Railroad --
Abandonment -- Barr-Girard Line) AB-33 (Sub-no. 96)
in Menard, Sangamon and Macoupin)
Counties, Illinois)

[merger related: Finance Dkt. 32760, UP/SP]

Statement of Willingness to Assume
Financial Responsibility

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, Rails to Trails Conservancy ("RTC" or "Interim Trail User"), is willing to assume full responsibility for management of, for any legal liability arising out of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by Union Pacific Railroad Company (Railroad). The property extends from MP 51.0 near Barr to MP 89.4 near Girard, a distance of approximately 38.4 miles in Menard, Sangamon and Macoupin Counties, Illinois. The right of way is part of a line proposed for abandonment in Docket AB-33 (Sub-no. 96).

A map depicting the property is attached.

RTC acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad on the same date it is being served on the Commission.

Hal Shapiro
~~David Burwell~~
Vice President,
Rails to Trails Conservancy
1400--16th St., N.W., #300
Washington, D.C. 20036
(202) 797-5400

Office of the Secretary
MAR 29 1996
Part of Public Record

1

1 SEA acknowledges the Rails to Trails Conservancy's willingness to assume financial responsibility for the Barr to Girard, IL segment proposed for abandonment. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described in Volume 1, Chapter 5 of the Post EA.

OFFICE OF THE MAYOR
CITY OF SPRINGFIELD, ILLINOIS

KAREN HASARA
MAYOR

RECEIVED
APR 1 1996

March 29, 1996

Vernon A. Williams
Surface Transportation Board
Room 2215
12th & Constitution Ave., N.W.
Washington, DC 20423

RE: Chicago & Northwestern Railway Company Abandonment, AB-1
Menard, Sangamon & Macoupin Counties, Illinois
ICC Docket Number AB-33, Sub-no.-96

Dear Mr. Williams:

This comment should be treated as a protest or a petition for reconsideration in the above-mentioned railway abandonment. This comment is filed on behalf of the City of Springfield which is an incorporated area interested in transportation, natural resources, and recreation which is hereinafter referred to as 'Commenter'.

While not taking a position on the merits of this abandonment, Commenter requests issuance of Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between M.P.51.0 near Barr and M.P.89.4 near Girard. 1

A. Public Use Condition

Commenter requests the ICC to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment.

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. The justification for this condition is that the corridor would make an excellent recreational 2

200 MUNICIPAL BUILDING • SPRINGFIELD, ILLINOIS 62701 • (217) 789-2200 • FAX (217) 789-2117

1 SEA acknowledges the City of Springfield's request for conditions to allow trail use of the proposed abandonment, and its statement to accept financial responsibility. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described in Volume 1, Chapter 5 of the Post EA.

2 SEA acknowledges the City of Springfield's request for conditions to allow trail use of the proposed abandonment, and its statement to accept financial responsibility. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described in Volume 1, Chapter 5 of the Post EA.

trail connecting existing parks,schools and residential areas. In addition, the corridor provides important wildlife habitat and greenspace and its preservation as a recreational trail is consistent with that end. The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time because we have not had an opportunity to complete a trail plan or commence negotiations with the carrier.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Commentor also makes the following request:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under Section 8(d) of the National Trails System Act. 16 U.S.C. Section 1247(d), and 49 C.F.R. Section 1152.29. the City of Springfield is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by Chicago & Northwestern Railway Company.

The property known as the Chicago & Northwestern Railroad extends from the railroad milepost 51.0 near Barr to railroad milepost 89.4 near Girard a distance of 38.4 miles in Menard, Sangamon & Macoupin Counties, Illinois. The right-of-way is part of the line or railroad proposed for abandonment in ICC Docket No. AB-33, sub-no.-96.

A map depicting the right-of-way is attached.

The City of Springfield acknowledges that the use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

3

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3 SEA acknowledges the City of Springfield's request for conditions to allow trail use of the proposed abandonment, and its statement to accept financial responsibility. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described in Volume 1, Chapter 5 of the Post EA.

4 SEA acknowledges the City of Springfield's request for conditions to allow trail use of the proposed abandonment, and its statement to accept financial responsibility. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described in Volume 1, Chapter 5 of the Post EA.

BEFORE THE SURFACE TRANSPORTATION BOARD

The Denver and Rio Grande Western Railroad Company -- Discontinuance of Trackage -- Hope-Bridgeport Line in Dickinson and Saline Counties, KS) AB-8 (Sub-no. 37)

Missouri Pacific Railroad Company -- Abandonment -- Hope-Bridgeport Line in Dickinson and Saline Counties, KS) AB-3 (Sub-no. 131)

(merger-related: Finance Dkt. 32760, UP/SP)

Statement of Willingness to Assume Financial Responsibility

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, the Rails to Trails Conservancy (hereinafter "RTC" or "interim Trail User"), is willing to assume full responsibility for management of, for any legal liability arising out of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by Missouri Pacific Railroad Company ("Railroad"), with trackage rights held by The Denver and Rio Grande Western Railroad Company ("DRG"). The property extends from MP 459.20 near Hope to MP 491.20 near Bridgeport a distance of approximately 31.24 miles (an equation at MP 478.05 = 478.81) in Dickinson and Saline Counties, Kansas. The right of way is part of a line proposed for abandonment in Docket AB-3 (Sub-no. 131), and for discontinuance of trackage rights in Docket AB-8 (Sub-no. 37).

A map depicting the property is attached.

RTC acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the Railroads on the same date it is being served on the Commission.

~~David Burwell~~, Hal Hiemstra
Vice President,
Rails to Trails Conservancy
1400--16th St., N.W., #300
Washington, D.C. 20036
(202) 797-5400

ENTERED
Office of the Secretary
MAY 29 1997
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Public Record

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1 SEA acknowledges the Rails to Trails Conservancy's willingness to assume financial responsibility for the proposed abandonment of the Hope to Bridgeport, KS segment. Please refer to SEA's general statement on Rails-to-Trails in Volume 1, Chapter 4 of the Post EA.

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

Finance Docket No. 32760

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

PETITION AND NOTICE OF SEDGWICK COUNTY, KANSAS AND CITY OF WICHITA, KANSAS

Petitioners, the Board of County Commissioners of Sedgwick County, Kansas ("Sedgwick County") and the Mayor and Council of the City of Wichita, Kansas ("Wichita"), both municipal corporations of the State of Kansas, pursuant to 49 C.F.R. 1117.1, request leave to file out of time their Notice of Intent to file Written Comments, Request for Conditions and Other Objections to this proposed merger application, and, in support of such request, of state:

1. Petitioners have an interest in the plan of UP and SP to substantially increase unit coal and grain train traffic on the UP's "former Rock Island" north-south line through Her[redacted]gton and Wellington, Kansas to

Fort Worth, Texas line ("former Rock Island"). Such additional ten daily trains of 110 car unit trains on this line will gravely affect residents who use twenty-six arterial highway-rail grade crossings in both Sedgwick County and Wichita, bisecting the County and its communities. UP's proposal will cause substantial inconvenience to residents and hazards to public safety and to the environment of the area due to the impact of many long, slow and heavy 110 car unit trains.

2. Sedgwick County has a population of some 417,000 people and Wichita, the largest City in Sedgwick County, has a population of some 312,000. Among other things, the Sedgwick County area has major aircraft manufacturing facilities for Boeing-Wichita, Cessna, Learjet and Raytheon (Beech and Hawker Aircraft). This important local aircraft production is for both military and civilian uses. The long trains proposed will have a major impact on the communities, including the safety and convenience of the workers and employers at the local aircraft plants who have to use the many highway-rail crossings on the UP's "former Rock Island" line.

3. Petitioners will offer trackage rights and other conditions to have such traffic pass over other lines of railroad designed and built to handle such traffic with minimal inconvenience to the public interest of Sedgwick

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SEA has reviewed Sedgwick County's concern about vehicle delay at grade crossings. SEA performed additional traffic analysis to determine the impact of longer trains cited by the commenter. Please refer to response #7 of Sedgwick County and Wichita joint comments on Environmental Assessment. SEA's recommended mitigation related to vehicle delay is presented in Volume 1, Chapter 5 of the Post EA.

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SEA has assessed the suggestion to bypass Wichita on BN/Santa Fe tracks via Emporia and El Dorado. SEA finds this concept to have a number of drawbacks, including:

- Poor connections, with differences in grade levels at both Topeka and Wellington.
- A steeper ruling grade on the BN/Santa Fe than the UP line.
- Single track and limited siding capacity between Topeka and Emporia.
- Heavy transcontinental traffic and limited capacity between Emporia and Wellington.

The most heavily traveled part of the line, Emporia to Elinor, handles up to 51.1 freight trains per day, plus 2 Amtrak trains and 3 to 4 SP trackage rights trains. The combination of heavy traffic, limited capacity on some sections, a steeper ruling grade, and the need to provide improved connections makes this an undesirable alternative to improvements in Wichita.

County/Wichita and with minimal potential impact on public safety and the environment. 2

4. Petitioners have only recently become fully aware of the details of the full impact of applicants' proposed operating plan on petitioners. Petitioners have been trying to work out some sort of agreement (and continue to do so) with applicants UP and SP [and with BN Santa Fe] to relieve to expected adverse effects on the public interest and upon the environment. The parties have had a high-level meeting during the week of March 18, 1996, a week before formal comments and objections are due to this Board under the present procedural timetable. Only this week have the City Council and the County Commission authorized this filing with the Board.

5. Due, however, to the tight procedural timetable for this case, petitioners have little choice but to file this Petition and Notice of Intent to Participate to preserve their opportunity to make an appropriate record with written comments, request for conditions and other objections in evidence and argument that are due to be filed with this Board by March 29, 1996.

6. Such a filing will also include necessary environmental information to be filed now and later to permit the Board to fully assess applicants'

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Refer to the previous page for response.

operating plan as it relates to Sedgwick County and Wichita and to evaluate the petitioners' request for conditions and other relief to reduce the impact of many long unit trains on the communities in Sedgwick County, Kansas.

7. Accepting this late filing of Petitioners' Notice of Intent to file a request for conditions, comments, objections and other relief will not prejudice applicants UP and SP or other parties. There is still time for Sedgwick County/Wichita to make a timely filing of written comments, requests for conditions and other relief that are due on March 29, 1996. Moreover, the time allowed applicants and other parties to respond will be unaffected. Thus, the due process rights of others will be fully preserved. Finally, petitioners have continually made their concerns known to applicants. There can be no claim of surprise. In any event, the petitioners, applicants and BN Santa Fe continue to negotiate to try to achieve a settlement of these issues.

8. Among other things, petitioners plan to offer the Board a proposed condition to require UP and SP to secure trackage rights over a parallel BN Santa Fe (former Santa Fe) line from Topeka via Emporia and Ellinor Kansas ("Sedgwick County rail bypass") to a junction with the UP's former "Rock Island" Herington line at Wellington, Kansas. This would

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SEA has assessed the suggestion to bypass Wichita on BN/Santa Fe tracks via Emporia and El Dorado. SEA finds this concept to have a number of drawbacks, including:

- Poor connections, with differences in grade levels at both Topeka and Wellington.
- A steeper ruling grade on the BN/Santa Fe than the UP line.
- Single track and limited siding capacity between Topeka and Emporia.
- Heavy transcontinental traffic and limited capacity between Emporia and Wellington.

The most heavily traveled part of the line, Emporia to Elinor, handles up to 51.1 freight trains per day, plus 2 Amtrak trains and 3 to 4 SP trackage rights trains. The combination of heavy traffic, limited capacity on some sections, a steeper ruling grade, and the need to provide improved connections makes this an undesirable alternative to improvements in Wichita.

bypass UP's proposal to run long trains on the Topeka-Herington-Kechi-Wichita-Haysville-Peck-Caldwell, Kansas former "Rock Island" line. The BN Santa Fe's "Sedgwick County rail bypass line" runs through fewer towns and would not require the $91 million dollar upgrade the "former Rock Island line" would require to keep the unit train traffic moving and to avoid conflicts with highway traffic and the environmental impact on the Sedgwick County area. Alternatively, this Board could require these trains to continue to move over UP via Kansas City.

9. Wherefor, petitioners, Sedgwick County and Wichita, respectfully request (1) to be placed on the official service list and (2) to be allowed to fully participate in this docket by filing written comments, requested conditions and other related evidence, objections, and argument on March 29, 1996, addressed to the public interest and environmental factors associated with the UP-SP proposal to operate many long unit trains through Sedgwick County, Kansas.

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2 3 Refer to the previous page for response.

4 Continuing to route trains via Kansas City, as proposed by the commenter, would limit UP/SP's ability to take advantage of the efficiencies gained from the merger (routing some traffic through Wichita to avoid the Kansas City bottleneck). SEA has concluded that the recommended mitigation in Volume 1, Chapter 5 of the Post EA would effectively mitigate impacts to Wichita.

(SEDG-4)

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

FINANCE DOCKET NO. 32760

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

JOINT COMMENTS ON ENVIRONMENTAL ASSESSMENT AND REQUEST FOR PREPARATION OF ENVIRONMENTAL IMPACT STATEMENT OF SEDGWICK COUNTY, KANSAS AND CITY OF WICHITA, KANSAS

Pursuant to the procedural schedule adopted for this proceeding, Sedgwick County, Kansas ("Sedgwick County" and "County") and City of Wichita, Kansas ("Wichita" and "City") submit their comments on the Environmental Assessment ("EA") served on April 12, 1996. Through these comments and the accompanying verified statements, Sedgwick County and Wichita will demonstrate that the EA's conclusion that "the proposed merger of the Union Pacific and Southern Pacific railroads would not significantly affect the quality of the human environment"[1] is in serious error.

This demonstration by Wichita and Sedgwick County will be presented in three sections. First, we will demonstrate that the applicants' proposal to reroute their traffic so as to increase rail traffic through Sedgwick County and Wichita by a minimum of ten mile-plus trains per day will have: (1) a severe negative impact on the ability of emergency services personnel to protect the citizens of Sedgwick County and Wichita from loss of life,

[1] EA, Volume 1, "Guide To The Environmental Assessment."

1 Mitigation measures to address merger related impacts to vehicle delay, emergency response, vehicle emissions, and accidents are discussed in Volume 1, Chapter 5 of the Post EA.

2 With respect to emergency response, the City of Wichita has a distribution of fire/rescue stations on each side of the railroad tracks to provide adequate coverage. Therefore, the impact of a blocked railroad grade crossing on emergency response times would be minimal. In fact, fire stations are routinely out of service to respond to other emergencies and are sometimes out of service for maintenance, training, etc. Dispatching centers are prepared to deal with these circumstances by dispatching response from the next closest or available standby station. Grade crossings blocked by trains can easily be incorporated into the dispatching protocol. Mitigation measures to address emergency response delay times are presented in Volume 1, Chapter 5 of the Post EA.

other serious personal injuries, and serious property losses; and (2) serious negative impacts on the quality of life of the citizens of Sedgwick County and Wichita in a number of areas including frequent traffic delays, increased railroad-motor vehicle accidents, reduced air quality, and increased noise.[2]

Second, we will demonstrate that the Environmental Assessment's measurements of negative impacts on Sedgwick County and Wichita resulting from the proposed rerouting of traffic: (1) ignore issues of vital importance; (2) fail to provide any data specifically applicable to Sedgwick County and Wichita; and (3) consistently understate negative environmental impacts in the considered subject areas.

Third, Sedgwick County and Wichita will demonstrate that the mitigation proposals offered by the Environmental Assessment are woefully inadequate to protect the County and City from irreparable injury resulting from the environmental degradation that would be caused by the applicants' rerouting proposal.

In light of these demonstrations, Sedgwick County and Wichita request that the Surface Transportation Board ("Board") specifically order the applicants not to increase railroad traffic through the City and the County above pre-merger levels. In the event that the Board is not prepared, at this time, to issue such an order, the County and the City request the Board to

[2] The Kansas Department of Transportation ("KDOT") has noted that "... public safety, quality of life and economic well being are truly at stake..." in Wichita. March 28, 1996 KDOT submission at 10.

2 Refer to the previous page for response.

3 SEA acknowledges the issues raised in this comment. SEA has conducted a site visit and additional analysis since the EA to provide a more specific evaluation of issues in Sedgwick County. Mitigation measures deemed appropriate for implementation in Sedgwick County are discussed in Volume 1, Chapter 5 of the Post EA.

(1) reverse the conclusion of the EA that "the preparation of an environmental impact statement is not necessary"[2] and (2) prepare an Environmental Impact Statement ("EIS") addressing the applicants' proposal to increase the amount of train traffic through Sedgwick County and Wichita and all reasonable alternatives thereto, including continued use of the current routing for this traffic.[3]

Two additional preliminary comments are in order. First, Wichita and Sedgwick County note that the environmental degradation addressed in these comments is a function of the precise number of trains passing through the community. Thus, in order to quantify certain matters, we will be assuming that train traffic through Wichita and Sedgwick County would be increased by ten trains per day. However, we recognize that this ten train per day figure is not a binding maximum traffic commitment on the applicants. Indeed, it is at least arguable that the huge investments in track and other infrastructure contemplated by the applicants to pave the way for increased train traffic through Wichita and Sedgwick County would not be justified for an increase of only ten trains per day. See, infra. We further recognize that the Kansas City Southern ("KCS") has requested trackage rights through Wichita. Accordingly, all

[2] EA, Volume 1, "Conclusion."

[3] It appears that the only alternative considered by the EA was the "no action" or "no merger" alternative (EA Volume 1 at ES-17). This is a far more draconian alternative than the ones Wichita and Sedgwick County ask the Board to consider.

3 Refer to the previous page for response.

4 SEA has reviewed the estimate of post-merger train traffic submitted by UP/SP and found them to be reasonable. Evaluation of potential future variations in train traffic to respond to market demands is beyond the scope of the environmental review and the jurisdiction of the Surface Transportation Board. The KCS request for trackage rights has not been submitted as part of the proposed merger and is therefore beyond the scope of SEA's environmental review.

quantifications based upon an increase of ten trains per day must be viewed as highly conservative.

Second, Wichita and Sedgwick County have reviewed the applicants' response to the Wichita/Sedgwick County March 29, 1996 Joint Protest And Request For Conditions.[1] While UP/SP state that they "will continue to work with Wichita", their view that "some 16 trains per day" -- this is the first time that UP/SP have used the 16 trains per day estimate -- is a "modest" volume establishes beyond cavil that Wichita and Sedgwick County have virtually no hope of reaching an accord with the railroads. Surface Transportation Board action is required.

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BACKGROUND

A. Applicants' Proposal

Volume 3 of the UP/SP "Railroad Merger Application" (UP/SP-24), dated November 30, 1995, describes what the applicants term the "Kansas City Bypass Routes" at pages 54-58. Applicants assert that "Kansas City has become a major bottleneck for the UP system" and that "Kansas City also can be a major source of delay for SP." In order "to reduce congestion in Kansas City and improve service", UP/SP propose to create a new route for coal and grain traffic via Topeka, Herington, and Wichita, Kansas to Oklahoma City and Ft. Worth.[2] Creation of that new route "to handle large volumes of heavy traffic" would require UP/SP to spend more than $91 million.

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[1] UP/SP-230 at 273 to 274.

[2] See UP/SP-24 Volume 3 at 57.

5 Based on operating data supplied by the Applicant, the increase in trains is projected to be:

a. From 4.4 to 11.8 freight trains per day on the UP line through downtown Wichita (Chickasha, OK to Wichita line). The northernmost grade crossing of this line is 21st Street. No BN/Santa Fe trains will operate along this rail segment.

b. From 1.9 to 11.9 freight trains per day on the UP line from Wichita to Lost Springs. This line crosses 21st Street North in the City of Wichita and nine relatively low-volume roads in north Sedgwick County. No BN/Santa Fe trains will operate along this rail segment.

6 Increased freight train traffic can increase emergency response time, as do traffic congestion, inclement weather and other factors. Trains are relatively infrequent, of short duration, and can be usually either bypassed by alternate or detour routes or other emergency response units can be immediately dispatched to supplement or replace those that may be blocked. SEA acknowledges that rapid response time is critical in an emergency, but increased railroad traffic generated by the proposed merger should not have a significant or frequently recurring impact.

Please refer to the responses provided for comments #2 and #7 of this letter for additional information pertaining to emergency response issues. SEA has recommended mitigation measures that would reduce grade crossing delays and thereby reduce average emergency response delays. These mitigation measures are included in Volume 1, Chapter 5 of the Post EA.

his "great concern" over the ability of his department to provide emergency services with the addition of ten trains per day on the UP tracks.

The basis for this concern is clear. In 1995, the Wichita Police received 275,683 calls for service, an average of over 750 per day. The Police Department's average response time for these calls was 10 minutes and 29 seconds.

However, cumulatively, the 12 (or 14 or 16) trains bisecting Wichita would block its major arteries for almost an hour and one-half out of every day.[9] This blockage obviously will make it more difficult for the police to respond to calls on the opposite side of the large number of "at grade" railroad crossings in Wichita.

To be sure, there are means of moving from one side of Wichita to the other using roads above the railroad tracks. However, as fully discussed by Chief Watson, this will not permit the police to avoid increased response times because in the heart of the city, all of the railroad crossings are "at grade."[10]

Chief Watson explains that delays caused by trains blocking his vehicles cannot be eliminated simply by reassigning the call to another unit. He also explains unique problems associated with "critical incidents." That is, police policy prohibits officers from responding to potentially dangerous situations without backup. Thus, if one of the units is blocked by a train,

[9] The calculations leading to this total are discussed infra.

[10] This fact is discussed in more detail, infra.

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7 SEA has reviewed concerns about freight trains passing through rail grade crossings and blocking the streets of Wichita. This comment has erroneously assumed the number of post-merger trains and, as a consequence, overstates the total impact through most of Wichita. The Chickasha to Wichita line, which passes through downtown Wichita, will see an increase from 4.4 (pre-merger) to 11.8 (post-merger) freight trains per day, an increase of 7.4 trains per day. Basing impact on a projected increase of 10 trains overstates the impacts by 35 percent. SEA's calculation of the delay is shown in the following paragraph. The 10 freight trains per day increase referred to by the respondent corresponds to the increase that will occur along the Lost Springs to Wichita line. This line begins at 21st Street, north of downtown Wichita, and continues north to Lost Springs. In addition to train numbers, train speed has also not been properly analyzed by the respondent, as explained below.

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

To imply that all crossings in Wichita have train speed limits of 10 mph is misleading and overstates the potential impact of any increase in rail traffic. Based on *UP Timetable No. 2*, dated 10/29/95, which gives the permanent freight train speed limits, the train speed limit for the Lincoln Street crossing and all crossings to the south of the city limits is 20 mph. The train speed limit for all UP crossings in Sedgwick County outside the Wichita city limits is 40 mph. Where conflicting with the timetable speeds, the current 10 mph slow orders referred to by the City would be temporary and should not be used for calculating future impacts.

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

SEA used 5,000-foot train lengths as the average for calculating crossing delay. For Wichita, SEA also calculated delays using a longer

Based on a timing of unit trains of the type UP/SP would run through Wichita, Mr. Stockwell has determined that a unit train going 50 miles per hour, the maximum speed UP/SP would use in Sedgwick County outside of Wichita, would block a street for approximately three minutes. When a train's maximum speed is 30 miles per hour, the maximum that would be reached in Wichita assuming that all "slow orders"[1/] are removed, it would block each street crossing for up to seven minutes. Simple multiplication reveals that **the additional ten trains a day proposed by UP/SP would block the streets of Wichita for up to an additional 70 minutes, i.e. one hour and ten minutes every day.** The total of 12 trains a day proposed by UP/SP would block each Wichita crossing for up to 84 minutes, i.e., one hour and 24 minutes every day.

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Stated another way, in order to avoid what they term "congestion" in Kansas City, the applicants propose to block the streets of Wichita for up to an additional one hour and ten minutes per day, a period in which police, fire, and emergency medical personnel either would not be able to reach victims or would not be able to bring victims to hospitals. This is a clear and substantial degradation of the quality of the human environment in Wichita, is not remotely acceptable to the citizens of Wichita, and should not be acceptable to the Surface Transportation Board.

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1/ "Slow orders" have reduced the speed of UP trains through Wichita to approximately 10 m.p.h.

7 Refer to the previous page for comment.

average train length of 6,000 feet. For 6,000-foot freight trains, total blockage time for crossings south of Lincoln Street would increase from pre-merger values of 36 minutes to post-merger values of 96 minutes, a change of 60 minutes. The crossings north of 21st Street would experience blockage increases from 5 minutes per day pre-merger, to 30 minutes per day post-merger.

Traffic level of service (LOS) at grade crossings in the 10 mph operating section would be degraded to peak hour LOS D values for 6,000-foot train operation. For 5,000-foot freight trains, LOS C values are projected for the crossings in the 10 mph operating area. Please refer to the response provided for comment #9 of this letter and Volume 1, Chapter 4 of the Post EA for additional discussion of LOS at grade crossings.

SEA's recommended mitigation measures related to vehicle delay are presented in Volume 1, Chapter 5 of the Post EA.

8 Please see the response to #7.

9 SEA acknowledges the respondent's opinion that the merger is unacceptable to the people of Wichita. Please refer to the response provided for comments #6 and #7 of this letter.

II. Additional Quality Of Life Degradation

Assuming, arguendo, that Wichita and Sedgwick County need go further in describing the impact of an additional ten unit trains bisecting a major city, in the following sections we will address traffic delays, accidents, air quality, and noise.

A. Traffic Delays

Following his calculation of the amount of time during a day that the proposed additional ten UP/SP trains would block the streets of Wichita, Mr. Stockwell then calculates the impact of this blockage on Wichita's and Sedgwick County's street traffic. This calculation is based on 1994 daily traffic volumes for Sedgwick County and on 1995 daily traffic volumes for Wichita. As reflected in his Table 1, based upon conservative assumptions as to when the additional ten trains will pass through Sedgwick County and Wichita, Mr. Stockwell determines that **9,471 cars will be blocked every day by these trains.**

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Since it may be difficult to grasp the significance of 9,471 cars being blocked every day, Mr. Stockwell also has presented the impact of a single unit train blocking Pawnee Street, in the heart of Wichita. Every time a UP unit train blocks that street for seven minutes during the evening rush hour, it would block the passage of 245 vehicles. That is, 61 vehicles would be blocked in each of Pawnee's four lanes. **This backs cars up for 1,225 feet per lane, four full city blocks.**

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In considering traffic delays in Wichita, it should be noted that the EA states:

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The impacts reported by the respondent are overstated. Using the post-merger freight train traffic data noted in response to comments #5 and #7 of this letter, the number of vehicles stopped per day, in both Wichita and Sedgwick County, are estimated to be about 4,430 vehicles, not 9,471. During the peak hour, a unit train crossing Pawnee Street would block the street for about 2.8 minutes, affecting an estimated 66 vehicles (not 245 vehicles), with a maximum queue of 20 vehicles in the peak traffic direction and 13 vehicles in the off-peak direction (not 61 in each direction), for a corresponding length of 400 or 260 feet (not 1,225 feet).

To put this amount of delay in perspective, during the peak hour, the grade crossing at Pawnee Street functions as a signalized intersection with a LOS A. LOS A means that the average stopped delay for all vehicles crossing the tracks in the peak hour is less than five seconds; the Pawnee grade crossing functions like an uncongested urban intersection.

For the sick or the injured, these delays mean that, in some cases, ambulances will arrive too late. In brief, these delays would degrade the quality of life in Wichita.

B. Accidents

Mr. Stockwell reports that during the last six years there have been 15 auto/train collisions[16], **including two fatalities**, within Wichita and Sedgwick County on the UP tracks at issue here. If the number of UP/SP trains increases from two to 12 (or 14 or 16), it must be assumed that the number of accidents will rise as well, but by how much cannot be estimated without further study.[17]

Wichita and Sedgwick County have been advised that the Kansas Department of Transportation utilizes calculated "exposure rates" to determine whether either (1) "active systems", i.e. flashing lights or gates, or (2) grade separations are appropriate for railroad crossings. As reported by Mr. Stockwell, the KDOT standards call for active systems when exposure rates exceed 3,000 and the KDOT standards for rural

[16] See Mr. Stockwell's Table 3.

[17] The EA candidly notes that it did not attempt to calculate the increased number of accidents that would be caused by the merger. EA Volume 1 at 2-23. But see, infra. If the Board does not prohibit the proposed UP/SP rerouting of traffic through Wichita, we specifically request that a study of the type described at EA Volume 1 at 2-22 be conducted to perform that calculation.

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12 Based on the Federal Railroad Administration (FRA) accident prediction method for railroad grade crossings, for the two UP tracks at issue, the predicted accidents over the past six years would be about 14, or 2.32 accidents per year. The comment states that there have actually been 15 accidents over this six-year period. By the same methodology, post-merger accidents are predicted to be a total of 4.05 accidents per year for Wichita and Sedgwick County.

SEA's recommended mitigation to address safety is presented in Volume 1, Chapter 5 of the Post EA.

highways with speed limits of 55 miles per hour call for grade separations when the exposure rate exceeds 12,000.[11]

The calculated exposure rates for Wichita with the 12 trains per day proposed by UP/SP are contained in Mr. Stockwell's Table 2. Those exposure rates range from a low of 900 at 85th Street North to a high of 304,056 at the above-mentioned Pawnee Street. **Fully 20 of the grade crossings would have exposure rates equal to or greater than the level at which KDOT's standards call for grade separation. Fully ten of those 20 grade crossings would have exposure rates ten times greater than the level at which KDOT's standards call for grade separation.** 13

In brief, by application of KDOT standards, moving 12 unit trains at grade through the heart of Wichita would be entirely unacceptable from the standpoint of vehicle safety and the applicants' proposal to do precisely that should not be permitted by the Board.

C. Air Quality

Jack Brown, Environmental Health Director of the Wichita-Sedgwick County Department of Community Health, has addressed air quality in his verified statement and his analysis reveals the inadequacies of the EA's treatment of air quality, a summary of which is presented infra.

Currently, Wichita is in attainment status under federal air quality guidelines. However, on January 9, 1996, Wichita almost

[11] For reasons unknown to Sedgwick County and Wichita, KDOT does not have official standards for grade separations in urban environments.

13 Please refer to the response provided for comment #12 of this letter. The respondent's statement is predicated upon a misinterpretation of train operating data. For clarification of train operating data, please refer to the responses provided for comments #5 and #7 of this letter as well as the final train numbers reported in Volume 1, Chapter 3 of the Post EA.

exceeded the National Ambient Air Quality Standards ("NAAQS") for carbon monoxide ("CO"). This is of particular concern to Wichita because, for over eleven years, a portion of Wichita was designated by the Environmental Protection Agency as "nonattainment with respect to the CO primary National Ambient Air Quality Standard (NAAQS) as required by section 107(d) of the Clean Air Act, as amended in 1977 (Act)."[12]

If four trains came through Wichita during an eight hour period between 10 a.m. and 6 p.m. (a reasonable assumption given that UP/SP propose to run 12 (or 14 or 16) trains per day through Wichita), and if Wichita experienced the same conditions that existed on January 9, 1996, then the above-discussed blockage of vehicles by the four trains alone would have resulted in Wichita exceeding air quality standards for carbon monoxide. The carbon monoxide emitted from the trains themselves[13] would have been in addition to a level exceeding air quality standards. 14

Exceeding air quality standards for carbon monoxide only twice per year would put Wichita into a nonattainment status. And, as reported by Director Brown, nonattainment status could impose a huge cost on Wichita. Included in this cost is a

[12] See 43 FR 8964, March 3, 1978, so designating a portion of Wichita, and 54 FR 14958, April 14, 1989, redesignating Wichita from nonattainment to attainment with respect to Carbon Monoxide.

[13] Table 2-2, found at EA Volume 1 at 2-6, says that the increased trains will increase CO emissions by 54.9 tons per year in AQCR 99 for the Chickasha to Wichita segment, which encompasses most of the City of Wichita.

14 SEA has reviewed potential impacts from idling vehicles after considering implementation of mitigation to reduce vehicle delay and concluded that the impact is small and mitigation is not required. SEA's recommended mitigation related to air quality are discussed in Volume 1, Chapter 5 of the Post EA.

potential loss of federal funds for road projects, $6.8 million per year at current funding levels.

D. Noise

Once again, Director Brown's analysis demonstrates the errors in the EA's assessment of noise impacts, a subject that will be addressed infra. Fully 1,253 residences, 3 schools, and 12 churches would be in the impact zone. Five tests conducted by Director Brown's department resulted in maximum noise levels ranging from 77.9 db(A) to 109.4 db(A) (at a residential location) resulting from train traffic through Wichita. 15

Again, reduced to its essentials, this data establishes that, in order to avoid "congestion" in Kansas City, UP/SP propose to dramatically increase traffic congestion in Wichita and Sedgwick County, to increase the accident exposure level in the City and the County to unacceptable levels, to reduce air quality in Wichita to a level that could place the City in a nonattainment status, and to dramatically increase the noise heard by thousands of residents, school children, and church attendees each day.

THE ENVIRONMENTAL ASSESSMENT IS INADEQUATE

I. The EA Ignores Issues Of Vital Importance

While the EA addresses certain environmental issues[21], it does not address a number of issues of vital importance to the citizens of Wichita and Sedgwick County. Perhaps as a result of its failure to recognize the size of Wichita and Sedgwick County,

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21/ EA, Volume 1, Cover Letter.

15 The estimates of noise exposure from trains based on the highest noise levels measured by Director Brown's department are consistent with the assumptions used in the EA and support the noise impact assessment methodology used in the EA. The Single Event Sound Exposure Levels (SEL's), based on Director Brown's data, are compared with SEL's based on the noise prediction model used for the EA. See table below.

Location Distance		Measured Data			EA Noise Model Prediction	
		Leq -dBA	Duration - seconds	SEL -dBA	SEL without Horn -dBA	SEL with Horn -dBA
1616 N. Market	250	71	180	94	93	103
Manon & SE Drive	225	86	60	104	93	104
1102 Santa Fe	250	65	300	90	93	103
900 Bl. N. Santa Fe	75	74	60	92	101	112
802 E. Blake	50	90	240	114	103	114

Director Brown's report did not indicate whether or not horns were sounded during each passby. Data from four of the five locations are consistent with either the predicted SEL without horns or the SEL with horns. The SEL based on data collected at the 900 block on N. Santa Fe are significantly less than predicted by the EA noise model. The predicted noise levels based on the EA noise model equal or exceed the levels based on Director Brown's data.

The lower and upper limits of 77.9 and 109.4 dBA reported by Director Brown for the range of maximum noise levels occurring during train passby are representative of train noise without, and with, horn use respectively. Maximum noise levels are not used in the EA for impact assessment. SEA uses Day-Night Levels (L_{dn}) for its analysis; this is an accepted industry practice for assessing noise impacts. Please see Volume 1, Chapter 4 of the Post-EA for further discussion of the noise analysis.

a matter discussed infra, the EA does not even purport to address the effect that moving 12 (or 14 or 16) trains in excess of a mile long through Wichita would have on the ability of emergency services personnel to protect the citizens of Sedgwick County and Wichita.[17] 16

Similarly, the EA does not attempt to calculate the increased number of accidents at grade crossings in Wichita and Sedgwick County based on the changes in train traffic from the proposed merger.

The City and County do not believe that an environmental assessment that fails to address these issues can possibly be deemed either complete or legally adequate. While matters addressed by the EA, albeit inaccurately, such as air quality and noise, are of undeniable importance, consideration of such matters cannot substitute for an analysis of other equally important or more important matters including the immediate and irreparable injury that would be experienced if police, fire, and/or emergency medical personnel are not able to attend to the sick and the injured because their community has been cut in half by trains over a mile long. Clearly, since the sole rationale presented by the applicants to inflict these harms on Wichita and Sedgwick County is a desire to avoid "congestion" along a route that has been used for an unstated number of years, the Board cannot possibly weigh the "merits" of the applicants' proposal

[17] The EA's discussion of "safety impacts", Volume 1 at 2-22, does not include impacts on emergency services as among the categories considered.

16 Emergency response issues are addressed in the responses provided for comments #2 and #6. Accident issues are addressed in the response provided for comment #12. Issues pertaining to vehicular delay and at-grade crossings are addressed in the responses provided for comments #7 and #10. Air quality concerns are addressed in the responses provided for comments #14 and #18.

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without even considering each of the grievous harms that their proposal would cause.

Even in subject matters considered by the EA, the consideration is incomplete. For example, the EA's consideration of Air Quality Impacts, discussed in EA Volume 1 at 2-1, only considers increases in vehicle emissions "from expanded or new activities at intermodal facilities." The huge increases in air emissions from vehicles blocked by railroads in Wichita and elsewhere in Sedgwick County were not considered.

In brief, the Board is required by law to consider all environmental degradations resulting from the the applicants' rerouting plan and all reasonable alternatives thereto. The EA fails to do so.

II. The EA Contains No Data Quantifying Environmental Impacts On Wichita and Sedgwick County

As candidly recognized by the EA, the rail line segments it considered were "portions of rail line arbitrarily selected by end points."[23] The negative implications of the UP/SP arbitrary selection are particularly acute with regard to Wichita and Sedgwick County.

By dividing Wichita and Sedgwick County into the two segments noted above, i.e., Lost Springs, Kansas to Wichita and Wichita to Chickasha, Oklahoma[24], the UP/SP and, ultimately, the EA, effectively mask the impact of their proposal on the relevant

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[23] EA Volume 1 at 2-3, emphasis added.

[24] The dividing line is in the rail yard on the north side of Wichita, just south of 29th Street. See EA Volume 2 at 8-25.

17 The analysis by rail segment does not mask vehicle delay impacts in Wichita. The Chickasha to Wichita rail segment runs from Chickasha, OK to 21st Street in northern Wichita. This segment incorporates urban at-grade crossings in downtown Wichita and terminates at the logical breaking point for rail traffic changes. The Lost Springs to Wichita rail segment does not include any urbanized at-grade crossings as it traverses rural areas between northern Wichita and Lost Springs. All notable grade crossing impacts are included in the northern portion of the Chickasha to Wichita rail segment. SEA conducted a Post EA site visit and a reevaluation of 27 at-grade crossings located in urban and suburban areas of Wichita. Please refer to the responses provided for comments #5 and #7 of this letter for additional information.

community, Wichita and Sedgwick County. According to the Operating Plan, the Lost Springs to Wichita segment is 64 miles long and the Wichita to Chickasha segment is 192 miles long.[23] Thus, by utilizing these segments, the EA not only divides Wichita in two, it then buries the impact on the northern side of Wichita and Sedgwick County into a mostly rural area, 64 miles in length, and similarly buries the impact on the southern side of Wichita and Sedgwick County into a mostly rural area, 192 miles in length.

The impact of this type of analysis may be seen by reference to the Air Quality table in Volume 2 at 8-10. By way of example, the EA finds that the "Estimated Increase in Emissions (tons per year)" for carbon monoxide (CO) is 79.1 tons for the Lost Springs to Wichita segment and is 54.9 tons for the Wichita to Chickasha segment. How much of this increase may be assigned to Wichita itself, a figure vital to an understanding of whether the proposed rerouting would or could put Wichita in a "nonattainment" status, is not stated. 18

When the EA does aggregate data of interest to Wichita, it does so in yet another manner that makes the rerouting proposal's full environmental impact on Wichita impossible to learn. For example, by considering Air Quality matters for Wichita and Sedgwick County as part of an entire Air Quality Control Region[24], the serious potential that the proposed rerouting of

[23] UP/SP-24, Railroad Merger Application, Volume 3 at 379.

[24] See, e.g., Volume 1, Table 2-5 at 2-12.

18 Based on comments and additional analysis, SEA has revised air quality results to show net change in emissions by AQCR as shown in Volume 1, Chapter 3 of the Post EA. SEA calculated the air emissions in the Wichita/Sedgwick County area. Since only 16 miles of the Lost Springs to Wichita segment are within the Wichita/Sedgwick County area, only about 25 percent of the CO emissions increase (20 tons per year) would be projected to occur in this area. Similarly, approximately one-third of the trackage of the Chickasha, OK, to Wichita segment is within the Wichita/Sedgwick County area. For this line, an increase of about 17 tons per year in CO emissions would occur in this area.

This presentation in the operating plan, carried forward into the EA, raises an obvious question, which is answered neither in the operating plan nor in the EA. That is, **how do the UP and SP plan to make three trains per day disappear?** The operating plan says that ten trains per day will be added to the Lost Springs to Wichita segment. At the same time, it says that only seven trains per day will be added to the Wichita to Chickasha segment. The only way that this could make sense is if three new trains per day were proposed for Wichita termination. But UP/SP are not proposing such new service. Rather, the new train traffic is entirely destined for points to the south of Wichita.

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If UP/SP cannot make three trains per day disappear in Wichita, then the EA's conclusion that 11.8 trains per day would move on the Wichita to Chickasha segment[20] is in error. Rather, the ten additional trains per day that UP/SP propose would be added to the existing 4.4 trains per day[21] to reach a total of 14.4 trains per day. Obviously, this would further increase the public safety and other problems resulting from the applicants' proposed rerouting of traffic.

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[20](...continued)
The EA eliminates the rounding errors by concluding that the current traffic on the Chickasha to Wichita line is 4.4 trains per day, which would be increased by 7.4 trains per day to reach a total of 11.8 trains per day. EA, Volume 1, Table ES-3 at ES-10.

[20] EA Volume 1, Table ES-3 at ES-10.

[21] Id.

19 Variations in numbers of trains entering and leaving Wichita reflect originations and terminations within Wichita. Please refer to the final train numbers presented in Volume 1, Chapter 3 of the Post EA

As demonstrated infra, the fictional elements of the operating plan are compounded in the EA.

A. Noise

Volume 1 of the EA addresses "noise" by stating that "the increase in the number of sensitive receptors would be only incremental, as trains are already the dominant source of noise in these areas [at or near grade crossings]."[1/]

This conclusion, minimizing the noise impacts of the rerouting proposal, does not square with the reality of the UP/SP proposal as it applies to Wichita and Sedgwick County. In the first place, railroads are not the dominant source of noise in any major city, and the UP trains are not the dominant source of noise today in Wichita. Consider the attachments to the verified statement of Jack Brown.

In Attachment #1, the noise level without the train was 67.7 db(A) during a late evening measurement. This level rose by 13.4 db(A) as a result of the train. In Attachment #2, the noise level without the train was 81.1 db(A) during a morning measurement. Heavy vehicle traffic was noted as adding to the background measurement. This measurement rose by 10 db(A) as a result of the train.

Similarly, in Attachment #3, an afternoon measurement, the noise level without the train was 66.2 db(A), in part due to truck traffic. This measurement was increased by 11.7 db(A) by the train.

1/ EA Volume 1 at ES-15.

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20 The noise impact resulting from the proposed merger include incremental increases in noise level and number of residences falling within the 65 L_{dn} noise contour. There is little projected change in the character of railroad noise, such as introduction or elimination of horns or wheel squeal.

The commenter indicates that train noise is not the dominant noise source in the community. If this is true, the noise increase produced by the proposed merger will be less than projected. SEA maintains the position that the most dominant noise source for sensitive receptors identified in the EA within the 65 L_{dn} noise contour is the railroad.

SEA recognizes that the maximum noise levels produced by trains are, indeed, substantially higher than average background noise. The maximum noise levels would not likely change as a result of the proposed merger. The L_{dn} noise metric has been selected as the principal metric for comparison of pre-merger and post-merger train noise since it is sensitive to changes in train volume, speed and length. SEA concludes that the L_{dn} metric is more appropriate for assessing the potential noise impact of the proposed merger than maximum train noise levels.

The commenter indicates an estimate of a greater number of sensitive receptors falling within the 65 L_{dn} noise contour than indicated in the EA. It appears that this greater number (wider contours) is based upon including horn noise throughout the alignment, which would overstate the impact. A field visit to Sedgwick County was made and the number of affected receptors was revised upward from that presented in the EA. The increase in the number of estimated sensitive receptors is based on observed higher densities of residential units, and new housing construction, not previously included in the EA. The revised estimate for each affected city or town in Sedgwick County are shown in the following table. The revised estimates of sensitive receivers within the 65 L_{dn} noise contour for Wichita are 277 (pre-merger) and 635 (post-merger). For the entire county, the revised estimates are 321 (pre-merger) and 821 (post-merger). These revised estimates are less than those presented by the commentor.

duplicate activities, and truck-to-rail traffic diversions.[19]

As relates to Wichita and Sedgwick County, the UP/SP proposal suggests no operational efficiencies, reduction of duplicate activities, or truck-to-rail traffic diversions. To the contrary, UP/SP propose only to increase the number of unit trains moving through the City and County by (at least) ten per day.

Thus, the EA's measurement of air quality impacts cannot be considered "conservative." In fact, it is hugely "liberal" in that it entirely ignores the air quality degradation caused by literally thousands of vehicles that would be blocked and would "idle" in the streets of Wichita every day as a result of the UP/SP rerouting proposal. And, as noted by the verified statement of Director Brown, this one element of the air quality degradation package could be enough to put Wichita into a non-attainment status. Accordingly, there is no sound basis for the EA's conclusion that the proposed action, as it relates to Wichita, "is not subject to National Ambient Air Quality Standards General Conformity regulations."[20]

C. Air Quality at Grade Crossings

The EA's commentary on this issue is as follows:

> Railroad crossings tend to be grade-separated when roadway and/or train traffic volumes become high, so the air quality impacts at grade crossings would generally be relatively

[19] EA, Volume 1 at 2-13.

[20] EA, Volume 2 at 8-10.

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20 Refer to the previous page for comment.

Locations	Revised Pre-Merger Numbers			Revised Post-Merger Numbers		
	Residences	Schools	Churches	Residences	Schools	Churches
Furley	0	0	0	18	0	0
Kechi	2	0	0	25	0	0
Wichita	277	0	0	630	0	5
Haysville	33	0	2	121	1	3
Peck	7	0	0	18	0	0
TOTAL	319	0	2	812	1	8

21 The merger of the UP and SP rail lines results in increased operational efficiencies and a reduction of duplicate activities on a national basis; however, these benefits may not occur in every locality. Benefits from the merger are likely to result from truck-to-rail diversion as the South Central Kansas AQCR (99) will experience an increase in annual gross ton-miles of over 3 billion as a result of the proposed merger. While some of this rail traffic would be diverted from other rail, some would also be diverted from trucks, resulting in emissions decreases from truck traffic. Similarly, diversion from other rail would result in decreased emissions from other rail lines in this AQCR. As an example, if all of these ton-miles were assumed to be carried by trucks, the resulting CO emissions increases would be almost 20 times that shown for the rail; if all were assumed to be diverted from the other rail, the net emissions increase would be zero. SEA has evaluated the potential impacts from increased idling vehicles at grade crossings and found the change small, so as not to require mitigation.

minor. In Kansas, most grade crossings carry 5,000 or fewer vehicles. SEA concludes that no adverse air quality impacts would result from increased grade crossing delays as a result of the proposed merger.[*]

This commentary is almost entirely contrary to the facts and in error. While it may be true that railroad crossings outside of Wichita and Sedgwick County "tend to be grade-separated" when traffic volumes are high, virtually all of the railroad crossings in Wichita are not grade-separated. Similarly, while it may be true that most grade crossings in Kansas carry 5,000 or fewer vehicles, **there are 12 grade crossings in Wichita that carry 5,000 or more vehicles per day.** See Mr. Stockwell's Table 2. **Ten of these crossings carry 10,000 or more vehicles per day. Three of these crossings carry 15,000 or more vehicles per day. One of these crossings carries more than 25,000 vehicles per day None of these crossings is grade-separated.**

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Accordingly, the EA's conclusion that no adverse air qualit impacts would result from increased grade crossing delays as a result of the proposed merger is wholly in error.

D. Grade Crossing Delays

The EA addresses grade crossings for the Chickasha to Wichita segment in Volume 2 at 8-31. According to the EA, there are insufficient data to determine how many grade crossings have average daily traffic counts in excess of 5,000 vehicles per da As noted above, the answer for Wichita is 12.

[*] EA, Volume 2 at 8-12.

22 The crossing volumes cited by the commenter are the same as those analyzed by SEA for vehicle delay determination in the EA and for those re-evaluated subsequent to the EA.

The EA also concludes that the total amount of time per day that 11.8 trains will block the streets in this segment is 30 minutes. This equates to each train blocking the streets for 2.5 minutes. The assumptions as to train length and calculations underlying this 2.5 minute per train estimate are provided in EA Volume 5, Appendix I at I-4. For several reasons, those assumptions do not apply to the traffic of concern to Wichita and Sedgwick County.

First, the unit trains at issue are not limited to the 5,000 feet assumed by the EA. Assuming that UP/SP utilize unit trains of 136 cars[11/] and three locomotives, and further assuming that each car is only 53 feet in length[12/], the UP/SP trains would be 7,421 feet, 48% longer than assumed by the EA.

Second, the EA assumes that the total time in minutes for gate closing and opening prior to and after the passage of a train is only 0.67 minutes. This is not the experience of Wichita and Sedgwick County. Based on studies conducted on May 1, 1996, our best estimate of the average gate closing and opening time in Wichita is .88 minutes.[13/]

Third, the EA formula for "Crossing Delay Per Train" does not include time to allow the waiting line of vehicles blocked b

[11/] See The Journal of Commerce, April 30, 1996.

[12/] Wichita and Sedgwick County have been advised that cars may be as long as 60 feet.

[13/] It is our understanding that the amount of time that a stree is blocked before the train arrives and after the train clears the crossing is a function of the train's speed.

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The commenter indicates that train lengths could be as long as 7,421 feet. For the analysis, SEA used a 5,000 foot average. Since publication of the EA, SEA has also evaluated crossing delay impacts for a 6,000-foot average train length and concluded that the change in level of service for local grade crossings is minimal. The traffic delay and level of service analysis is described in Volume 1, Chapter 4, of the Post EA.

Crossing blockage or gate closure time varies with the train frequencies described in response to comment #5 and the timetable speeds described in response to comment #7 as follows:

Crossing Speed	Gate Closure Time
10 MPH	8.2 minutes
20 MPH	4.4 minutes
40 MPH	2.6 minutes

The time for gate closing and opening is approximately 30 seconds (0.5 minutes), according to research performed by the Stanford Research Institute for FRA. This time is predicted on the presence of a calculator to determine the speed of a train, thereby making the additional delay caused by the gate constant (regardless of train speed) at about 25 seconds prior to train arrival and about 5 seconds after train departure. An additional 10 seconds were added in the EA methodology to make this formula more conservative, resulting in overstatement of delay to compensate for older gate equipment without a speed determination calculator. The formula is appropriate for the EA vehicle delay analysis.

The commenter did not disclose how many crossings were reviewed in Wichita, how many trains were observed, or the approximate speed of the trains. Gate delay times as long as 0.88 minutes could indicate a need to have gate equipment reviewed to determine whether it is operating properly.

the train to dissipate. A figure of .3 minutes for this time is included in the EA's second formula, i.e., "Crossing Delay per Vehicle." The basis for assuming only .3 minutes for this element of the delay equation is not stated in the EA, but, based on the EA's assumption that ADT's in Wichita are less than 5,000, Wichita and Sedgwick County believe that this figure is understated as a result of the ADT understatement and that an estimate of .5 minutes, while probably still very conservative, is closer to reality.

Finally, the EA assumes that the trains will be running through Wichita at a constant speed of 30 m.p.h. Given current slow orders, the fact that a train yard exists at the beginning of this segment, and the general congestion in Wichita, Wichita and Sedgwick County have assumed that UP/SP trains will average approximately 15 m.p.h. through the City.

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Based on these factors, Wichita and Sedgwick County have assumed that a fair representation of the delay to vehicles attributable to a passing train in Wichita may be stated in the following forumla: $D = L/(V \times 88) + .88 + .5$ where:

D = Delay to vehicles;

L = Length of the train in feet;

V = Average train speed in m.p.h.;

88 = Conversion factor from m.p.h. to feet per minute;

.88 = Average time in minutes for gate closing and opening and

.50 = Average time in minutes for traffic dissipation.

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Freight train speed utilized in the EA analyses was not 30 MPH as stated by the commenter. The EA train speeds were the timetable speeds noted in response to comment #7, i.e., 10 MPH, 20 MPH, or 40 MPH.

Please refer to the response provided for comment #7 for the resulting delays computed from the above train speeds.

Utilizing 7,421 feet as the length of the train and 15 m.p.h. as the average speed of the train in this formula results in a "Delay to Vehicles" of seven minutes, not the 2.5 minutes assumed by the EA.

As noted supra, Wichita and Sedgwick County have utilized this seven minute per train estimate and have determined that the ten additional trains proposed by the applicants will result in streets being blocked for an additional 70 minutes per day. The total for 12 trains per day is streets being blocked for 84 minutes per day. The total would be even greater, if, as discussed above, UP/SP are actually planning to run more than 12 trains a day through Wichita and/or other railroads are given trackage rights through Wichita.

E. Accidents

The EA "concludes that the accident exposure in Kansas would range from an increase of 383 percent to a decrease of 100 percent, depending on rail segment."[49]

The calculations leading to this conclusion are not presented in the EA. However, this conclusion is counterintuitive, at best, and is contradicted by the conclusion elsewhere in the EA that "[s]ince the proposed merger would not result in any new grade crossings, **the probability of increased accidents at grade crossings would depend on the increased number of trains on rail segments.**"[50] If the number of trains per day

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[redacted]

[49] EA, Volume 2 at 8-31.

[50] EA Volume 2 at 4-39.

25 Please refer to the response provided for comment #12 of this letter.

in the Lost Springs to Wichita segment is to increase from 1.9 to 11.9, EA Volume 1 at ES-9, the increase in trains, 10, represents a percentage increase of 526% and the probability of increased accidents at grade crossings would increase by that percentage, not by 383 percent.

Even assuming, arguendo, that the EA's 383 percent figure is correct, what does it mean in human terms? According to statistics compiled by Wichita and Sedgwick County, between May, 1990 and March, 1996, there were 15 accidents on the UP line in the City and the County, including two fatalities. If these figures are multiplied by 3.83, the EA is advising Wichita and Sedgwick County that, over the next six years, they can expect an additional 57 accidents and an additional eight fatalities as a result of the proposed rerouting by the UP/SP. This is over nine additional accidents per year and over one additional fatality per year. We note parenthetically that UP/SP estimate that their merger "could be expected to result in an additional 25 accidents per year."[12] Thus, over 1/3 of the total increase in accidents projected by the applicants would occur in Wichita and Sedgwick County.

THE EA'S MITIGATION PROPOSALS ARE INADEQUATE

Given the severity of the above-discussed environmental harms that would result from the proposed rerouting of traffic through Wichita and Sedgwick County, particularly in the area of public safety, there is only one mitigation order that is

[12] EA Volume 1 at 2-24.

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26 SEA has considered the commenter's recommended mitigation. SEA's recommended mitigation measures to address vehicle delay, emergency response, vehicle emissions, and accidents are discussed in Volume 1, Chapter 5 of the Post EA.

appropriate. The Board should prohibit the UP/SP from increasing the current number of trains per day through Wichita and Sedgwick County. 26

In contrast, the EA's mitigation proposals, Volume 2 at 8-33 through 8-35, are akin to substituting post hoc bandages for preventive surgery. We will address those proposals in the order in which they are presented by the EA.

Air Quality

The EA proposes that the UP/SP "consult" with various agencies concerning any possible mitigations measures to reduce any potential adverse emissions. The UP/SP are to advise the Section of Environmental Analysis ("SEA") of the results of those consultations.

Given that the proposed "consultations" would not be a condition precedent to approval of the merger and the proposed rerouting of unit trains, they are worthless to Wichita and Sedgwick County. Having already discussed the merger with the UP, we cannot conceive of the possibility that, under no duty imposed by the Board to do anything but talk, the UP/SP would do anything to eliminate the principal cause of air quality degradation, the lack of grade separations at the 20 grade crossings with high KDOT "exposure rates" (or at least the 12 crossings used by more than 5,000 vehicles per day).

Noise

1. The EA proposes that the UP/SP consult with appropriate agencies to reduce potential noise level impacts to sensitive

26 Refer to the previous page for response.

receptors. SEA is to be advised of the results of these consultations and is to be provided with a copy of any resulting noise abatement plans.

Again, this "mitigation" proposal is not a condition precedent to the merger proposal and there is no reason to believe that it would be useful to Wichita and Sedgwick County. As reflected in Director Brown's Table 1, Wichita alone has 842 residences, two schools, and nine churches, that are "sensitive receptors." What are we to discuss with UP/SP? If we ask them to avoid running trains at night, in order to allow the human beings in those 842 residences to sleep, the 12 (or 14 or 16) trains would run during daylight hours, causing untold problems for emergency service vehicles. If we ask them to avoid running trains during the day, all trains would run at night to the obvious detriment of sleep.

2. This mitigation proposal is applicable only to Kansas City.

Transportation and Safety

1. The EA proposes that UP/SP consult with Wichita about "safety and the potential effects of additional rail traffic on vehicular traffic." UP/SP are to advise SEA periodically of the status of these consultations and are to submit any final mitigation plans to SEA.

Once again, the EA proposes to give Wichita absolutely no bargaining leverage. If we cannot reach agreement with UP/SP,

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27 Please refer to the response provided for comment #12 of this letter. Using the FRA Accident Exposure Calculation methodology, grade separations proposed by the commentor for 13th, Murdock and Central Streets would reduce accidents in Wichita by a total of 0.77 accidents per year, based on the projected (post-merger) UP traffic alone.

they remain free to jeopardize the safety of our citizens and to degrade the quality of life in our community. 27

We note with interest that the EA proposes that, after up to 18 months of future consultations, the UP/SP be required to construct, in some unknown period, a minimum of three grade-separated crossings in Reno.[12] Since the ADTs in Wichita exceed the ADTs in Reno, if the Board wishes to consider mitigation short of prohibiting UP/SP to run more than the current number of trains per day in Wichita, it not only should require UP/SP to construct the necessary grade-separated crossings in Wichita, it should require that construction before permitting UP/SP to run any additional trains through Wichita.

Wichita and Sedgwick County further note in this regard that in the April 11, 1996 Final Environmental Impact Statement in Finance Docket No. 30186 (Sub-No. 2), Tongue River Railroad Company - Construction and Operation - of an Additional Rail Line From Ashland to Decker, Montana, the Board required the applicant to comply with the Montana Department of Highway's Railroad Crossing Protection Policy. As noted above, compliance with Kansas policy would require grade separation at 20 grade crossings in Wichita and Sedgwick County. Fully ten of the grade crossings in Wichita would have "exposure rates" ten times

[12] EA Volume 2, errata at 12-15. It appears that eleven streets are to be given "first consideration for selection." It further appears that the peak traffic level for these Reno streets is 15,200 vehicles per day. RENO-4, Fact Finding Report, Appendix C, Figure 11. Wichita has three crossings with daily traffic levels greater than 15,200.

27 Refer to the previous page for response.

Under any reasoned application of these definitions and considerations, approval of a railroad merger that would result in the rerouting of at least ten trains per day through the heart of Wichita (a) severely jeopardizing the ability of public safety personnel to perform their functions, (b) negatively affecting air quality to the degree that Wichita could fall into the nonattainment category, and (c) negatively affecting noise levels, traffic, and other quality of life elements is one "significantly affecting the quality of the human environment."

As explained in State Of Idaho By & Thru Idaho Pub Util. v. I.C.C., 35 F.3d 585, 595 (D.C. Cir. 1994), the court's review of a refusal by the Board to prepare an EIS would consider four criteria:

> (1) whether the agency took a "hard look" at the problem; (2) whether the agency identified the relevant areas of environmental concern; (3) as to the problems studied and identified, whether the agency made a convincing case that the impact was insignificant; and (4) if there was impact of true significance, whether the agency convincingly established that changes in the project sufficiently reduced it to a minimum. (footnote omitted)

A review of the EA establishes that the Board's refusal to prepare an EIS would fail all four criteria. The failure of the EA to consider, among other issues, public safety considerations would result in the conclusion that the Board did not take a "hard look" at the problem. That same failure would result in the conclusion that the Board did not even identify "relevant areas of environmental concern." The EA's dramatic

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28 SEA has concluded that, based on the level of impacts identified, an EA with recommended mitigation measures is appropriate. An EIS is not warranted.

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understatement of problems it considered, e.g., air quality and noise, would result in the conclusion that the EA has not made a convincing case that impacts are insignificant. And, a review of the EA's proposed post hoc "discussion" mitigation requirements would lead to the conclusion that the environmental degradations caused by the UP/SP rerouting proposal have not been reduced "to a minimum."[12]

Missouri Mining, Inc. v. I.C.C., 33 F.3d 980 (8th Cir. 1994) also teaches that the Board must consider all appropriate alternatives. However, as noted above, the EA has not done so. Rather, it has considered only the "merger" or "no merger" alternatives. This approach ignores the fact that not only are other routings possible for the freight at issue, but one of those routings is being used by the applicants today. Moreover, given that the applicants' rationale for the rerouting of this traffic through Wichita is nothing more than a desire to reduce "congestion" in Kansas City, applicants clearly cannot maintain that the present routing through Kansas City is not either a reasonable or a feasible alternative to consider in an EIS.

In brief, if the Board is not prepared at this time to prohibit the UP/SP from running more than the current number of trains per day through Wichita, it must prepare the environmental impact statement mandated by NEPA, the Board's regulations, and applicable precedent.

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[12] Indeed, there appears to be little in the EA's proposed discussion conditions that differ from those which the Idaho court found inadequate. Id. at 595-596.

28 Refer to the previous page for response.

4 June, 1996

Elaine K. Kaiser, Esq.
Chief, section of Environmental Analysis
Surface Transportation Board
12th & Constitution Ave., N.W.
Washington, DC 20423-0001

Re: Union Pacific -- Control and Merger -- Southern Pacific, Finance Dkt. 32760 – Abandonment of Hope to Bridgeport Line in Kansas, AB-3 (Sub-no. 131) and AB-8 (Sub-no. 37)

Dear Ms. Kaiser:

This letter, on behalf of Serenata Farms Equestrian Therapy Foundation (SFETF) is in response to the environmental assessment required by the Surface Transportation Board in the above proceeding. SFETF is a non-profit corporation specializing in preserving out of service rail lines for future transportation purposes in the state. SFETF is the holding organization for the Union Pacific line between Osawatomie and Herington Kansas and would like to preserve this property as one continuous corridor. SFETF intends to use this corridor for compatible interim public uses, including especially use as recreational trails. The Hope to Bridgeport line would be a logical extension of our Osawatomie to Herington project. 1

Loss of important transportation corridors unequivocally would constitute a significant adverse environmental impact flowing from the merger proceeding. A full EIS evaluating the merger-related abandonment should be prepared to ensure the adverse impacts of loss are fully mitigated. The only way to avoid the EIS requirement would be to condition the merger authority so as to ensure that the various corridors are preserved for railbanking/interim trail use purposes, at least in all instances in which a qualified entity files a "statement of Willingness" as provided in 49 C.F.R. § 1152.29 (invocation of Trails Act). The Commission has broad authority to condition mergers to protect the public interest, and this extends to authority to require mitigation of adverse consequences flowing from merger-related abandonments. SFETF is filing a statement of willingness in connection with the Hope to Bridgeport line in AB-3 (Sub-no. 131). 2 3

The Kansas Horse Council, Kansas Horse Foundation, Kansas Trails Council, and SFETF all support preservation of the Bridgeport to Hope line as a railbanked trail.

1 SEA acknowledges the Serenata Farms Equestrian Therapy Foundation's position on preserving the UP line between Osawatomie and Herington, Kansas for interim public uses.

2 SEA acknowledges the Foundation's position that an EIS is needed unless corridors are preserved for railbanking/interim trail use. SEA believes that an EIS is not appropriate or required. The EA identifies and evaluates impacts of the proposed merger and describes recommended mitigation measures to reduce impacts.

3 SEA acknowledges the Foundation's willingness to assume financial responsibility for the Bridgeport to Hope, KS segment proposed for abandonment. Please refer to SEA's general statement on Rail-to-Trails in Volume 1, Chapter 4 of the Post EA.

PARISH OF CADDO
CADDO PARISH COMMISSION BUILDING
525 MARSHALL STREET — THIRD FLOOR
SHREVEPORT, LOUISIANA 71101

JUDY DURHAM
CADDO PARISH ADMINISTRATOR AND
CHIEF EXECUTIVE OFFICER
318-226-6900
FAX NO. 318-429-7630

DANNYE W. MALONE
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SHREVEPORT, LA 71106

GILFORD L. "GIF" GILLEN
DISTRICT 4
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SHREVEPORT, LA 71104

JAMES H. "JIM" MORRIS
DISTRICT 1
228 GRAY STREET
BELCHER, LA 71004-0225

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DISTRICT 5
3801 SUNSET DRIVE
SHREVEPORT, LA 71108

JERRY C. SPEARS
COMMISSION CLERK
318-226-6596
FAX 318-226-6954

April 24, 1996

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

Dear Ms. Donsky:

In response to your letter request to me dated April 9, 1996, my departmental directors inform me we have no concerns based on the five information topics contained in your letter. 1

Our Parks Director indicated that a Parish Nature Park is within three miles of the railway but indicated that no apparent impact to the Park should result from the merger. A copy of his memo is attached.

Thank you for the opportunity to respond to your request. If there is anything I can do for you in the future, please do not hesitate to contact me.

Yours truly,

Judy Durham

Judy Durham
Caddo Parish Administrator
and Chief Executive Officer

JD/cp

1 SEA acknowledges the Parish's comment of no concerns in regard to the subject rail segment.

REDACTED - To Be Filed on the Public Record STRC-8

BEFORE THE

SURFACE TRANSPORTATION BOARD

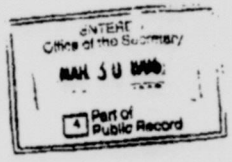
WASHINGTON, D.C.



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

: Finance Docket No. 32760

COMMENTS, EVIDENCE, AND REQUEST FOR MERGER CONDITIONS OR TO DENY APPLICATION BY SAVE THE ROCK ISLAND COMMITTEE, INC.



William P. Jackson, Jr.
Attorney for Save the Rock Island Committee, Inc.

OF COUNSEL:

JACKSON & JESSUP, P.C.
Post Office Box 1240
Arlington, VA 22210
(703) 525-4050

Due and Dated: March 29, 1996

Leeds Junction-Pleasant Hill line segment. As far back as 1980, in the ICC's Kyle decision, it was recognized that the SSW line between Kansas City and St. Louis, including the segment between Leeds Junction and Pleasant Hill, needs extensive rehabilitation if it is to be used in overhead freight operations. Yet the 12 corridor upgrades discussed in the Operating Plan do not include any mention of projects involving the Leeds Junction-Pleasant Hill line segment. See Application, Vol. 3 at 216-22.[2]

Moreover, the Environmental Report that accompanies the Application makes no mention of the Leeds Junction-Pleasant Hill line segment, which is quite surprising. The line segment has not been operated since prior to its acquisition by SSW in 1980. Thus, any reactivation of the segment as a result of the proposed merger will trigger the air quality and noise thresholds for impact analysis, set forth at 49 C.F.R. Section 1105.7(e)(5)(i) and (ii) for ambient air quality and 49 C.F.R. Section 1105.7(e)(6) for noise levels. While the Application's Environmental Report recognizes the applicability of those standards to line segments in this proceeding, see Application, Vol. 6, Part 1 at 4-5, it does not include the Leeds Junction-Pleasant Hill line segment as one of the 70 line segments that meet or exceed one or more of the applicable thresholds. Id. at 11-13.[3] Consequently, the environmental impact of post-merger reactivation of the line segment is not examined in the Environmental Report. See Application, Vol. 6, Part 2.

1

[2] The least expensive of those corridor upgrades will cost $1.7 million, an amount which is considerably less than the likely cost to Applicants of restoring the Leeds Junction-Pleasant Hill line segment to operable condition for overhead traffic.

[3] Nor does the Environmental Report state whether the Leeds Junction-Pleasant Hill line segment was one of the 389 line segments "evaluated" during preparation of the Environmental Report. Application, Vol. 6, Part 1 at 25.

1 SEA acknowledges the Committee's comment on the Leeds Junction-Pleasant Hill line segment. The segment was not included in the Application for Merger and Control and therefore was not subject to analysis in the EA.

Churchill County Administration Office

May 15, 1996

Elaine Kaiser, Esquire
Chief
Section of Environmental Analysis
Surface Transportation Board
12th and Constitution Avenue NW
Washington, DC 20423-0001

Re: Union Pacific Control and Merger
Finance Docket No. 32760

Dear Ms. Kaiser:

The Board of Churchill County Commissioners, Fallon, Nevada, submits these comments and requests for consideration. Churchill County, Nevada consists of approximately 4,900 square miles or approximately 3,144,320 acres. Topography consists of the typical basin and range features found in much of northern Nevada. Vast tracks of this acreage were a part of ancient Lake Lahontan dating to North America's last glaciation period which ended some 10,000 years ago.

At this time there is only one major population center in the county. There are approximately 22,000 inhabitants in Churchill County. The City of Fallon, the County seat, has approximately 8,000 inhabitants with the balance of the county's population (approximately 14,000 residents) located within a 15 mile radius of the city.

The railroad played an important role in Churchill County aiding the development of the first U.S. Bureau of Reclamation irrigation system to be implemented in this country shortly after the adoption of the Reclamation Act of 1902. At that time the railroad was the main transportation medium serving Churchill County at the mainline terminal located at Hazen, Nevada, also in Churchill County. Hazen at one time had 10,000 inhabitants and was the disembarkation point for workers on the dam and irrigation system, settlers and miners going eastward to farms around Fallon and further to gold and silver boomtowns. Now, Hazen is nothing more than a memory with a few residences and a small general store.

190 WEST FIRST STREET • FALLON, NEVADA 89406 • (702) 423-5136 FAX 423-0717

Elaine Kaiser, Esquire
Chief
Section of Environmental Analysis
May 15, 1996
Page 2

The Southern Pacific mainline enters Churchill County on the northern boundary between Churchill County and adjoining Pershing County and traverses Churchill County generally from the northeast to the southwest. Southern Pacific has 41.84 miles of mainline track in Churchill County according to the State of Nevada Department of Taxation, Division of Central Assessments. There is only one mainline highway crossing located approximately 28 miles north of the City of Fallon on U.S. Highway 95. This crossing is protected by gates and flashing lights. Traffic on U.S. Highway 95 is relatively sparse. However, with the increasing number of trains crossing Highway 95 at this point the potential for accidents may rise. Two branchlines originate in Hazen off the mainline and are not part of these comments. 1

Although the mainline is a considerable distance from the major population center in Churchill County (the City of Fallon), we are concerned that the increases expected in railroad traffic, especially the number of trains carrying hazardous materials, may intensify the level of potential injury exposure to our residents as a result of hazardous materials accidents involving the railroad. More specifically, we are concerned that the volunteer fire department which serves the needs of our residents may be sorely put upon as first responders in the event of a railroad accident, especially those accidents involving hazardous materials. A similar case in point a number of years ago, involved an over-the-road truck and tractor traversing Churchill County on Interstate 80 on the northern boundary of our county. The truck was involved in an accident spilling its cargo of hazardous material requiring a response by the Fallon Volunteer Fire Department. Although a hazardous materials management firm was dispatched to the accident site by the trucking firm, the initial exposure and subsequent potentially fatal consequences of incorrectly re-packaging the spilled materials due to a mistake by the hazardous materials specialist, unnecessarily exposed our volunteer fire department members to injury. Additionally, equipment utilized by our fire department in controlling the accident scene was damaged by exposure to the materials to the point they were no longer usable. To add insult to injury, the county, in order to recover the costs expended in controlling this accident, was forced to go to court resulting in additional costs for legal counsel as well as delay in reimbursement for our out-of-pocket costs. 2 3

The readiness and training of our volunteer fire department is superior and allows us to enjoy some of the lowest ISO (Insurance Services Office) ratings in the state of Nevada, including a number of paid departments, resulting in relatively low fire insurance rates. Yet, the unnecessary exposure to potentially harmful or fatal hazards resulting from the increased likelihood of railroad accidents involving hazardous materials has our Board of County Commissioners concerned. In the board 4

1 SEA acknowledges the County's concern about increased potential for accidents at US Highway 95. SEA's review of the Federal Railroad Administration's data base indicates that the crossing currently has adequate crossing control safety devices and there is no apparent history of problems at the location.

2 SEA acknowledges the County's concern over increased potential exposure to hazardous materials accidents. Subsequent to issuance of the EA, in response to a request from SEA, the Applicant generated a more detailed output from its traffic model, which indicates the number of carloads of hazardous materials before and after the merger. This information indicated that the Winnemucca to Sparks line would experience an increase of 60 percent in hazardous materials carloadings. The traffic increase resulting from the merger exceeds both historic levels and the increase that could reasonably be expected from the upward swing of a single business cycle. SEA's recommended mitigation measures for the transport of hazardous materials are reported in Volume 1, Chapter 5 of the Post EA.

3 SEA recognizes the County's suggestion for adequate training of local emergency responders. This issue does not fall within the jurisdiction of the Surface Transportation Board in considering the proposed merger. The respondent should forward this concern directly to the Applicant. UP/SP has expressed a willingness to provide additional training to emergency response personnel.

4 SEA acknowledges the County's position with regard to liability, reimbursement costs, and training. These issues do not fall within the jurisdiction of the Surface Transportation Board in considering the proposed merger. The respondent should forward these concerns directly to the Applicant.

Elaine Kaiser, Esquire
Chief
Section of Environmental Analysis
May 15, 1996
Page 3

members' minds, the potential harm to our volunteers coupled together with the possible loss of equipment are of primary concern in this merger proposal. Furthermore, the question of liability and reimbursement of out-of-pocket costs for providing equipment and necessary training for our volunteer fire crews is likewise of paramount importance. Therefore, we respectfully request that the Surface Transportation Board, prior to taking an action to confirm the proposed merger, seek answers to the questions posed with regard to hazardous materials exposure and liability for control of accidents on the railroad mainline requiring response by our volunteer fire department. Implementation of insurance and bonding requirements plus provision of safety training, equipment and response protocols should be mandated for the new carrier.

4

5

Sincerely,

BJORN P. SELINDER
County Manager

BPS:wg

4 Refer to the previous page for response.

5 SEA recognizes the County's request for insurance and bonding, and safety training and equipment. These issues do not fall within the jurisdiction of the Surface Transportation Board in considering the proposed merger. The respondent should forward these concerns directly to the Applicant.

NEVADA - ROGER M. HALL

ROGER M. HALL
2678 IDLEWILD DR.
RENO, NEVADA 89509
702/323-6929

4/15/96

TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS
1201 CONSTITUTION AVE. NW.
ROOM 3219
WASHINGTON, DC 20423

Dear Sirs.

I am writing you this letter to state my opposition to the rail merger with Southern Pacific for the reasons listed below

1. Increased rail traffic would detrimentally effect my:
   Real Estate value of my home due to increased noise and danger of a hazardous spill in the Reno area. 1
2. Decrease the quality of life in Reno and along the whole line due to the increased rail traffic. 2
3. Increase combustion emissions from cars and diesels. 3
4. Block access to various parts of Reno because crossing would be blocked twice as long as before. 4
5. The merger would create a monopoly. 5

Please decline to approve this merger.

Sincerely

Roger M. Hall
cc:files

1 SEA recognizes the respondent's concern for changes in property value. Such changes do not fall within the scope of SEA's environmental review. SEA has assessed the potential noise impact of increased train traffic for the line segment that includes Reno. The noise increase in this segment was below the 3 dB threshold at which mitigation would be warranted. A noise increase of 2.6 dBA would extend the 65 dB noise contour line by 190 feet from its present distance of 480 feet from the rail line.

The noise analysis is described in Volume 1, Chapter 4 of the Post EA. In response to a request from SEA, the Applicant generated a more detailed traffic model analysis, which indicates the number of carloads of hazardous materials before and after the merger. This information indicated that the Donner route through Reno would experience an increase of 60 percent in hazardous materials car loadings. The traffic increase resulting from the merger exceeds historic levels or the increase that could reasonably be expected from the upward swing of a single business cycle. Mitigation measures that are proposed for the transport of hazardous materials are reported in Volume 1, Chapter 5 of the Post EA.

2 Quality of life issues are not within the scope of SEA's environmental review. The respondent should forward this concern directly to the Applicant.

3 In response to this and other comments on estimated emissions increased from the proposed merger, SEA calculated total net emissions changes for all air quality control regions (ACQRs). These net emissions impacts by AQCR are shown in Table 3-6 in Volume 1, Chapter 3 of the Post EA. These calculations incorporate those rail line segments that do not exceed Surface Transportation Board's threshold for analysis as well as those segments where rail traffic is expected to decrease. Based on this analysis, the total net increase for all calculated pollutants would be less than 8 tons per year. These increases are below EPA's General Conformity thresholds, therefore mitigation is not required. With respect to emissions from idling vehicles at grade crossings, SEA has performed additional analysis and concludes that, as stated in the EA, these emissions would be insubstantial. Further discussion of vehicular emissions at grade crossing is included in Volume 1, Chapter 3 of the Post EA and in Appendix G.

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

5 This economic/financial issue is not within the scope of SEA's environmental review, however, the Surface Transportation Board will consider economic and competitive issues in its deliberations on the merger.

VERIFIED STATEMENT

OF

D. STEPHEN WEST

1.0 INTRODUCTION/QUALIFICATIONS

My name is D. Stephen West. I am the City Manager/City Engineer ("Manager") for the City of Winnemucca, Nevada ("City"). I am responsible for the day to day management of the affairs of the City, including streets, traffic and certain emergency services. As Manager, I have been authorized to submit this Verified Statement setting forth the position of the City of Winnemucca and the County of Humboldt (collectively referred to herein sometimes as "Winnemucca") relating to the proposed Union Pacific/ Southern Pacific ("UP/SP") merger.

I have a Bachelors Degree in Civil Engineering. After graduation I was employed from 1977 to 1982 with a private consulting engineering firm. In 1982 I accepted employment with Winnemucca as the City Engineer, a position I held until 1986 when I assumed additional responsibility as City Manager. I have been the City Manager/City Engineer for Winnemucca since 1986.

2.0 AREA PROFILE

Humboldt County ("County") is situated in north central Nevada encompassing an area of approximately 9625 square miles. The City of Winnemucca, the only incorporated city in the County, is located in the southeasterly portion of the County occupying an approximate 5.45 square mile area. Situated on the Humboldt River, the City is approximately 165 miles east of Reno, 265 miles southwest of Boise, Idaho, and 360 miles west of Salt Lake City, Utah. The City is bisected in a northeast to southwest direction by Interstate 80 freeway ("I80"), by Union Pacific Railroad ("UP") and by Southern Pacific Railroad ("SP"). A portion of the City is bisected in a north/south direction by U.S. Highway 95. Appendix A contains a map illustrating the transportation routes.

The County has an approximate population of 16,000, with an estimated 7,500 residents living within the City limits. The population for Winnemucca has increased 7.8% in the last year, 25% in the last five (5) years, and 40% in the last decade.

Historically, the principal economy has been agriculture and mining. Mining, agribusiness, recreation and tourism are the principal economic influences today.

The UP/SP merger application characterizes Winnemucca as a town where there are two grade crossings. There appear to be residences to both sides of the line, with a large residential

1

1 In Post EA analysis, SEA has incorporated the City's comment that there are five grade crossings, not two as reported in the EA.

area to the south of the tracks at the south end of town.' This description of Winnemucca is neither accurate nor complete. The City is a growing regional business and transportation center that supports expanding mining and agribusiness activities throughout northern Nevada. Commercial, industrial and residential development have been expanding accordingly.

The UP route skirts the northern edge of the City, while the SP line bisects the central core of Winnemucca. Local roads cross the UP twice at grade and the SP three times. The busiest grade crossing is Bridge Street, situated on the SP line in the heart of the City. Located within two to three blocks of this crossing are the City Fire Station, the Rural Fire Station, and the Police Station. The Elementary School, Hospital, City Park, Recreation Center, and Swimming Pool are between one and two blocks from the main line tracks. Immediately adjacent to the main line tracks are the Junior High School, the Little League Baseball Complex, and Haskell Street, which is a primary collector street.

The Municipal Airport, the BLM Fire Unit (based at the airport), and the Care-Flights, which transport hospital patients to and from Reno, are accessed using the Airport Road grade crossing. Public safety vehicles are already delayed in responding to a large portion of the County when waiting for trains at the crossing or when forced to use another more distant crossing.

3.0 FACT FINDING REPORT

Winnemucca retained the services of Nolte and Associates ("Nolte") and Kleinfelder to perform a study on the proposed UP/SP merger and determine the effects of the proposed merger on the County and City. The study involved City and County staff, railroad personnel, engineering professionals, legal experts and in-house railroad specialists. Information on transportation issues relating to the railroad through Winnemucca was obtained. Additionally, historical data and the UP/SP merger application were examined and used to develop estimates on the rail traffic changes. The objective of the study was to determine the pertinent facts surrounding the effects of the merger on the City and to assist the City and County in establishing a position on the merger.

During the time the study was being conducted, the UP/SP group held a town meeting in Winnemucca to discuss the proposed merger with City and County officials and the general public. At the meeting, several concerns and proposals relating to the UP/SP merger were discussed. Two of the proposals received consideration by UP/SP personnel and are discussed later in this statement.

4.0 WINNEMUCCA TRANSPORTATION PROFILE

4.01 Railroad Operations in General

Railroad operations through northern Nevada and Winnemucca utilize two main line routes. The first is the UP's line from Sacramento through Winnemucca via the Feather River

1

1 Refer to the previous page for response.

canyon. The second is the SP route from Roseville through Winnemucca via the Donner pass. The UP and SP lines converge at the Weso station, 3 miles east of the City. East of Weso, SP and UP share double track main lines for about 182 miles to the Alazon station.

The SP route is at least 136 miles[2] shorter than the UP route between Oakland and Salt Lake City, saving an esnmated two crews per train between those points. The UP line consists of single track (except Weso to Alazon) with maximum 1% grade over the Sierras, while the SP line is predominantly double track with maximum 2.6% grade over Donner Summit. The section of SP track through Winnemucca is single track with a siding for meeting and passing trains. The gradients of both the SP track and the UP track through Winnemucca are less than 0.6% grade and slope away from downtown to the west. The UP route is cleared for maximum-height double-stacked containers, the SP route is not.[1] Appendix A contains route maps and track charts illustrating these lines.

4.02 Current SP Winnemucca Operations

Winnemucca is located on the Nevada District Control Region of the SP at Mile Post (MP) 417.3.[1] Two tracks pass through downtown Winnemucca, identified as the mainline and the siding. Centralized Traffic Control (CTC) governs train movements from MP 406.8 (Rose Creek) to MP 420.9 (Weso). Established train operating rules mandate maximum train speeds of 40 mph for both passenger and freight as they pass between MP 417.4 and MP 417.9.

Presently, Amtrak operates 4 trains east and 4 trains west through Winnemucca each week. These trains are generally about 1,200 to 1,500 feet long including locomotives. Winnemucca is a regular station stop for intercity passenger trains.

Approximately 13 freight trains[2] presently operate on SP tracks through Winnemucca each day. SP train density records from 1994 validate this number. These trains consist of expedited automobile, intermodal, manifest (box car), unit grain, and coal trains operating 24 hours per day, seven days per week. Train lengths vary depending on train type, tonnage, and commodity. Auto and intermodal trains are generally 5,000 to 6,000 feet long and generally operate at faster speeds than the heavier, longer manifest and unit trains. The manifest trains can range from 5,000 to 8,000 feet long and are much heavier. Unit grain and coal trains usually operate with 65 to 75 cars and weigh approximately 7,500 to 10,000 tons at lengths ranging from 5,000 to over 6,000 feet.

An actual 24-hour lineup of trains through Winnemucca on February 8, 1996, showed 16 trains including one local engine that performs industry work. The same lineup on January 22, 1996, showed a total of 14 trains. These trains included all categories of passenger and freight

2

[1] The merger application indicates the costs of increasing overhead clearances on SP=s route to be $18 million. A similar program was completed on UP=s route around 1990.
[2] This number was generated from an analysis of SP train density records showing train traffic on the division during two representative days in 1994.

2 SEA acknowledges the City's comments on train counts at locations for specific dates. Analysis of impacts is based on UP/SP's estimates of train traffic by segments. SEA finds that the projected number of trains provided in the Applicant's Operating Plan, adjusted to consider the BN/Santa Fe-1 Settlement Agreement, are reasonable. The Applicant's Rebuttal, filed on April 29, 1996, confirms that the post-merger Operating Plan would have 22 freight trains, one Amtrak train and six BN/Santa Fe trains on the SP line through Winnemucca, and six trains per day on the UP line.

BEFORE THE SURFACE TRANSPORTATION BOARD

Union Pacific Railroad --
Abandonment -- Barr-Girard Line) AB-33 (Sub-no. 96)
in Menard, Sangamon and Macoupin)
Counties, Illinois)

[merger related: Finance Dkt. 32760, UP/SP]

Statement of Willingness to Assume
Financial Responsibility

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, Rails to Trails Conservancy ("RTC" or "interim Trail User"), is willing to assume full responsibility for management of, for any legal liability arising out of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by Union Pacific Railroad Company (Railroad). The property extends from MP 51.0 near Barr to MP 89.4 near Girard, a distance of approximately 38.4 miles in Menard, Sangamon and Macoupin Counties, Illinois. The right of way is part of a line proposed for abandonment in Docket AB-33 (Sub-no. 96).

A map depicting the property is attached.

RTC acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad on the same date it is being served on the Commission.

Hal Hiemstra
~~David Burwell,~~
Vice President,
Rails to Trails Conservancy
1400--16th St., N.W., #300
Washington, D.C. 20036
(202) 797-5400

FILED
Office of the Secretary
MAR 29 1996
Part of
Public Record

1

1 SEA acknowledges the Rails to Trails Conservancy's willingness to assume financial responsibility for the Barr to Girard, IL segment proposed for abandonment. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described in Volume 1, Chapter 5 of the Post EA.

OFFICE OF THE MAYOR
CITY OF SPRINGFIELD, ILLINOIS

KAREN HASARA
MAYOR

RECEIVED
APR 1 1996

March 29, 1996

Vernon A. Williams
Surface Transportation Board
Room 2215
12th & Constitution Ave., N.W.
Washington, DC 20423

RE: Chicago & Northwestern Railway Company Abandonment, AB-1
Menard, Sangamon & Macoupin Counties, Illinois
ICC Docket Number AB-33, Sub-no.-96

Dear Mr. Williams:

This comment should be treated as a protest or a petition for reconsideration in the above-mentioned railway abandonment. This comment is filed on behalf of the City of Springfield which is an incorporated area interested in transportation, natural resources, and recreation which is hereinafter referred to as 'Commenter'.

While not taking a position on the merits of this abandonment, Commenter requests issuance of Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between M.P.51.0 near Barr and M.P.89.4 near Girard. 1

A. Public Use Condition

Commenter requests the ICC to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment.

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. The justification for this condition is that the corridor would make an excellent recreational 2

200 MUNICIPAL BUILDING • SPRINGFIELD, ILLINOIS 62701 • (217) 789-2200 • FAX (217) 789-2117

1 SEA acknowledges the City of Springfield's request for conditions to allow trail use of the proposed abandonment, and its statement to accept financial responsibility. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described in Volume 1, Chapter 5 of the Post EA.

2 SEA acknowledges the City of Springfield's request for conditions to allow trail use of the proposed abandonment, and its statement to accept financial responsibility. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described in Volume 1, Chapter 5 of the Post EA.

trail connecting existing parks,schools and residential areas. In addition, the corridor provides important wildlife habitat and greenspace and its preservation as a recreational trail is consistent with that end. The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time because we have not had an opportunity to complete a trail plan or commence negotiations with the carrier.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Commentor also makes the following request:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under Section 8(d) of the National Trails System Act. 16 U.S.C. Section 1247(d), and 49 C.F.R. Section 1152.29. the City of Springfield is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by Chicago & Northwestern Railway Company.

The property known as the Chicago & Northwestern Railroad extends from the railroad milepost 51.0 near Barr to railroad milepost 89.4 near Girard a distance of 38.4 miles in Menard, Sangamon & Macoupin Counties, Illinois. The right-of-way is part of the line or railroad proposed for abandonment in ICC Docket No. AB-33, sub-no.-96.

A map depicting the right-of-way is attached.

The City of Springfield acknowledges that the use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

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3 SEA acknowledges the City of Springfield's request for conditions to allow trail use of the proposed abandonment, and its statement to accept financial responsibility. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described in Volume 1, Chapter 5 of the Post EA.

4 SEA acknowledges the City of Springfield's request for conditions to allow trail use of the proposed abandonment, and its statement to accept financial responsibility. Please refer to SEA's general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described in Volume 1, Chapter 5 of the Post EA.

BEFORE THE SURFACE TRANSPORTATION BOARD

The Denver and Rio Grande Western Railroad Company -- Discontinuance of Trackage -- Hope-Bridgeport Line in Dickinson and Saline Counties, KS) AB-6 (Sub-no. 37)

Missouri Pacific Railroad Company -- Abandonment -- Hope-Bridgeport Line in Dickinson and Saline Counties, KS) AB-3 (Sub-no. 131)

(merger-related: Finance Dkt. 32760, UP/SP)

Statement of Willingness to Assume Financial Responsibility

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, the Rails to Trails Conservancy (hereinafter "RTC" or "interim Trail User"), is willing to assume full responsibility for management of, for any legal liability arising out of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by Missouri Pacific Railroad Company ("Railroad"), with trackage rights held by The Denver and Rio Grande Western Railroad Company ("DRG"). The property extends from MP 459.20 near Hope to MP 491.20 near Bridgeport, a distance of approximately 31.24 miles (an equation at MP 478.05 = 478.81) in Dickinson and Saline Counties, Kansas. The right of way is part of a line proposed for abandonment in Docket AB-3 (Sub-no. 131), and for discontinuance of trackage rights in Docket AB-6 (Sub-no. 37).

A map depicting the property is attached.

RTC acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the Railroads on the same date it is being served on the Commission.

~~David Burwell,~~ Hal Hiemstra
Vice President,
Rails to Trails Conservancy
1400--16th St., N.W., #300
Washington, D.C. 20036
(202) 797-5400

ENTERED
Office of the Secretary
MAR 29 1993
Part of Public Record

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1 SEA acknowledges the Rails to Trails Conservancy's willingness to assume financial responsibility for the proposed abandonment of the Hope to Bridgeport, KS segment. Please refer to SEA's general statement on Rails-to-Trails in Volume 1, Chapter 4 of the Post EA.

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

Finance Docket No. 32760

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

PETITION AND NOTICE OF SEDGWICK COUNTY, KANSAS AND CITY OF WICHITA, KANSAS

Petitioners, the Board of County Commissioners of Sedgwick County, Kansas ("Sedgwick County") and the Mayor and Council of the City of Wichita, Kansas ("Wichita"), both municipal corporations of the State of Kansas, pursuant to 49 C.F.R. 1117.1, request leave to file out of time their Notice of Intent to file Written Comments, Request for Conditions and Other Objections to this proposed merger application, and, in support of such request, of state:

1. Petitioners have an interest in the plan of UP and SP to substantially increase unit coal and grain train traffic on the UP's "former Rock Island" north-south line through Herington and Wellington, Kansas to

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Fort Worth, Texas line ("former Rock Island"). Such additional ten daily trains of 110 car unit trains on this line will gravely affect residents who use twenty-six arterial highway-rail grade crossings in both Sedgwick County and Wichita, bisecting the County and its communities. UP's proposal will cause substantial inconvenience to residents and hazards to public safety and to the environment of the area due to the impact of many long, slow and heavy 110 car unit trains.

2. Sedgwick County has a population of some 417,000 people and Wichita, the largest City in Sedgwick County, has a population of some 312,000. Among other things, the Sedgwick County area has major aircraft manufacturing facilities for Boeing-Wichita, Cessna, Learjet and Raytheon (Beech and Hawker Aircraft). This important local aircraft production is for both military and civilian uses. The long trains proposed will have a major impact on the communities, including the safety and convenience of the workers and employers at the local aircraft plants who have to use the many highway-rail crossings on the UP's "former Rock Island" line.

3. Petitioners will offer trackage rights and other conditions to have such traffic pass over other lines of railroad designed and built to handle such traffic with minimal inconvenience to the public interest of Sedgwick

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SEA has reviewed Sedgwick County's concern about vehicle delay at grade crossings. SEA performed additional traffic analysis to determine the impact of longer trains cited by the commenter. Please refer to response #7 of Sedgwick County and Wichita joint comments on Environmental Assessment. SEA's recommended mitigation related to vehicle delay is presented in Volume 1, Chapter 5 of the Post EA.

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SEA has assessed the suggestion to bypass Wichita on BN/Santa Fe tracks via Emporia and El Dorado. SEA finds this concept to have a number of drawbacks, including:

- Poor connections, with differences in grade levels at both Topeka and Wellington.
- A steeper ruling grade on the BN/Santa Fe than the UP line.
- Single track and limited siding capacity between Topeka and Emporia.
- Heavy transcontinental traffic and limited capacity between Emporia and Wellington.

The most heavily traveled part of the line, Emporia to Elinor, handles up to 51.1 freight trains per day, plus 2 Amtrak trains and 3 to 4 SP trackage rights trains. The combination of heavy traffic, limited capacity on some sections, a steeper ruling grade, and the need to provide improved connections makes this an undesirable alternative to improvements in Wichita.

County/Wichita and with minimal potential impact on public safety and the environment. 2

4. Petitioners have only recently become fully aware of the details of the full impact of applicants' proposed operating plan on petitioners. Petitioners have been trying to work out some sort of agreement (and continue to do so) with applicants UP and SP [and with BN Santa Fe] to relieve to expected adverse effects on the public interest and upon the environment. The parties have had a high-level meeting during the week of March 18, 1996, a week before formal comments and objections are due to this Board under the present procedural timetable. Only this week have the City Council and the County Commission authorized this filing with the Board.

5. Due, however, to the tight procedural timetable for this case, petitioners have little choice but to file this Petition and Notice of Intent to Participate to preserve their opportunity to make an appropriate record with written comments, request for conditions and other objections in evidence and argument that are due to be filed with this Board by March 29, 1996.

6. Such a filing will also include necessary environmental information to be filed now and later to permit the Board to fully assess applicants'

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3 Refer to the previous page for response.

operating plan as it relates to Sedgwick County and Wichita and to evaluate the petitioners' request for conditions and other relief to reduce the impact of many long unit trains on the communities in Sedgwick County, Kansas.

7. Accepting this late filing of Petitioners' Notice of Intent to file a request for conditions, comments, objections and other relief will not prejudice applicants UP and SP or other parties. There is still time for Sedgwick County/Wichita to make a timely filing of written comments, requests for conditions and other relief that are due on March 29, 1996. Moreover, the time allowed applicants and other parties to respond will be unaffected. Thus, the due process rights of others will be fully preserved. Finally, petitioners have continually made their concerns known to applicants. There can be no claim of surprise. In any event, the petitioners, applicants and BN Santa Fe continue to negotiate to try to achieve a settlement of these issues.

8. Among other things, petitioners plan to offer the Board a proposed condition to require UP and SP to secure trackage rights over a parallel BN Santa Fe (former Santa Fe) line from Topeka via Emporia and Elinor Kansas ("Sedgwick County rail bypass") to a junction with the UP's former "Rock Island" Herington line at Wellington, Kansas. This would

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SEA has assessed the suggestion to bypass Wichita on BN/Santa Fe tracks via Emporia and El Dorado. SEA finds this concept to have a number of drawbacks, including:

- Poor connections, with differences in grade levels at both Topeka and Wellington.
- A steeper ruling grade on the BN/Santa Fe than the UP line.
- Single track and limited siding capacity between Topeka and Emporia.
- Heavy transcontinental traffic and limited capacity between Emporia and Wellington.

The most heavily traveled part of the line, Emporia to Elinor, handles up to 51.1 freight trains per day, plus 2 Amtrak trains and 3 to 4 SP trackage rights trains. The combination of heavy traffic, limited capacity on some sections, a steeper ruling grade, and the need to provide improved connections makes this an undesirable alternative to improvements in Wichita.

bypass UP's proposal to run long trains on the Topeka-Herington-Kechi-Wichita-Haysville-Peck-Caldwell, Kansas former "Rock Island" line. The BN Santa Fe's "Sedgwick County rail bypass line" runs through fewer towns and would not require the $91 million dollar upgrade the "former Rock Island line" would require to keep the unit train traffic moving and to avoid conflicts with highway traffic and the environmental impact on the Sedgwick County area. Alternatively, this Board could require these trains to continue to move over UP via Kansas City.

9. Wherefor, petitioners, Sedgwick County and Wichita, respectfully request (1) to be placed on the official service list and (2) to be allowed to fully participate in this docket by filing written comments, requested conditions and other related evidence, objections, and argument on March 29, 1996, addressed to the public interest and environmental factors associated with the UP-SP proposal to operate many long unit trains through Sedgwick County, Kansas.

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2 3 Refer to the previous page for response.

4 Continuing to route trains via Kansas City, as proposed by the commenter, would limit UP/SP's ability to take advantage of the efficiencies gained from the merger (routing some traffic through Wichita to avoid the Kansas City bottleneck). SEA has concluded that the recommended mitigation in Volume 1, Chapter 5 of the Post EA would effectively mitigate impacts to Wichita.

(SEDG-4)

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

FINANCE DOCKET NO. 32760

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

JOINT COMMENTS ON ENVIRONMENTAL ASSESSMENT
AND REQUEST FOR PREPARATION OF
ENVIRONMENTAL IMPACT STATEMENT OF
SEDGWICK COUNTY, KANSAS AND
CITY OF WICHITA, KANSAS

Pursuant to the procedural schedule adopted for this proceeding, Sedgwick County, Kansas ("Sedgwick County" and "County") and City of Wichita, Kansas ("Wichita" and "City") submit their comments on the Environmental Assessment ("EA") served on April 12, 1996. Through these comments and the accompanying verified statements, Sedgwick County and Wichita will demonstrate that the EA's conclusion that "the proposed merger of the Union Pacific and Southern Pacific railroads would not significantly affect the quality of the human environment"[1/] is in serious error.

This demonstration by Wichita and Sedgwick County will be presented in three sections. First, we will demonstrate that the applicants' proposal to reroute their traffic so as to increase rail traffic through Sedgwick County and Wichita by a minimum of ten mile-plus trains per day will have: (1) a severe negative impact on the ability of emergency services personnel to protect the citizens of Sedgwick County and Wichita from loss of life,

1/ EA, Volume 1, "Guide To The Environmental Assessment."

1 Mitigation measures to address merger related impacts to vehicle delay, emergency response, vehicle emissions, and accidents are discussed in Volume 1, Chapter 5 of the Post EA.

2 With respect to emergency response, the City of Wichita has a distribution of fire/rescue stations on each side of the railroad tracks to provide adequate coverage. Therefore, the impact of a blocked railroad grade crossing on emergency response times would be minimal. In fact, fire stations are routinely out of service to respond to other emergencies and are sometimes out of service for maintenance, training, etc. Dispatching centers are prepared to deal with these circumstances by dispatching response from the next closest or available standby station. Grade crossings blocked by trains can easily be incorporated into the dispatching protocol. Mitigation measures to address emergency response delay times are presented in Volume 1, Chapter 5 of the Post EA.

other serious personal injuries, and serious property losses; and (2) serious negative impacts on the quality of life of the citizens of Sedgwick County and Wichita in a number of areas including frequent traffic delays, increased railroad-motor vehicle accidents, reduced air quality, and increased noise.[2]

Second, we will demonstrate that the Environmental Assessment's measurements of negative impacts on Sedgwick County and Wichita resulting from the proposed rerouting of traffic: (1) ignore issues of vital importance; (2) fail to provide any data specifically applicable to Sedgwick County and Wichita; and (3) consistently understate negative environmental impacts in the considered subject areas.

Third, Sedgwick County and Wichita will demonstrate that the mitigation proposals offered by the Environmental Assessment are woefully inadequate to protect the County and City from irreparable injury resulting from the environmental degradation that would be caused by the applicants' rerouting proposal.

In light of these demonstrations, Sedgwick County and Wichita request that the Surface Transportation Board ("Board") specifically order the applicants not to increase railroad traffic through the City and the County above pre-merger levels. In the event that the Board is not prepared, at this time, to issue such an order, the County and the City request the Board to

[2] The Kansas Department of Transportation ("KDOT") has noted that "... public safety, quality of life and economic well being are truly at stake..." in Wichita. March 28, 1996 KDOT submission at 10.

2 Refer to the previous page for response.

3 SEA acknowledges the issues raised in this comment. SEA has conducted a site visit and additional analysis since the EA to provide a more specific evaluation of issues in Sedgwick County. Mitigation measures deemed appropriate for implementation in Sedgwick County are discussed in Volume 1, Chapter 5 of the Post EA.

(1) reverse the conclusion of the EA that "the preparation of an environmental impact statement is not necessary"[1] and (2) prepare an Environmental Impact Statement ("EIS") addressing the applicants' proposal to increase the amount of train traffic through Sedgwick County and Wichita and all reasonable alternatives thereto, including continued use of the current routing for this traffic.[2]

Two additional preliminary comments are in order. First, Wichita and Sedgwick County note that the environmental degradation addressed in these comments is a function of the precise number of trains passing through the community. Thus, in order to quantify certain matters, we will be assuming that train traffic through Wichita and Sedgwick County would be increased by ten trains per day. However, we recognize that this ten train per day figure is not a binding maximum traffic commitment on the applicants. Indeed, it is at least arguable that the huge investments in track and other infrastructure contemplated by the applicants to pave the way for increased train traffic through Wichita and Sedgwick County would not be justified for an increase of only ten trains per day. See, infra. We further recognize that the Kansas City Southern ("KCS") has requested trackage rights through Wichita. Accordingly, all

[1] EA, Volume 1, "Co[illegible]sion."

[2] It appears that the only alternative considered by the EA was the "no action" or "no merger" alternative (EA Volume 1 at ES-17). This is a far more draconian alternative than the ones Wichita and Sedgwick County ask the Board to consider.

3 Refer to the previous page for response.

4 SEA has reviewed the estimate of post-merger train traffic submitted by UP/SP and found them to be reasonable. Evaluation of potential future variations in train traffic to respond to market demands is beyond the scope of the environmental review and the jurisdiction of the Surface Transportation Board. The KCS request for trackage rights has not been submitted as part of the proposed merger and is therefore beyond the scope of SEA's environmental review.

quantifications based upon an increase of ten trains per day must be viewed as highly conservative.

Second, Wichita and Sedgwick County have reviewed the applicants' response to the Wichita/Sedgwick County March 29, 1996 Joint Protest And Request For Conditions.[1] While UP/SP state that they "will continue to work with Wichita", their view that "some 16 trains per day" -- this is the first time that UP/SP have used the 16 trains per day estimate -- is a "modest" volume establishes beyond cavil that Wichita and Sedgwick County have virtually no hope of reaching an accord with the railroads. Surface Transportation Board action is required.

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BACKGROUND

A. Applicants' Proposal

Volume 3 of the UP/SP "Railroad Merger Application" (UP/SP-24), dated November 30, 1995, describes what the applicants term the "Kansas City Bypass Routes" at pages 54-58. Applicants assert that "Kansas City has become a major bottleneck for the UP system" and that "Kansas City also can be a major source of delay for SP." In order "to reduce congestion in Kansas City and improve service", UP/SP propose to create a new route for coal and grain traffic via Topeka, Herington, and Wichita, Kansas to Oklahoma City and Ft. Worth.[2] Creation of that new route "to handle large volumes of heavy traffic" would require UP/SP to spend more than $91 million.

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[1] UP/SP-230 at 273 to 274.

[2] See UP/SP-24 Volume 3 at 57.

5 Based on operating data supplied by the Applicant, the increase in trains is projected to be:

a. From 4.4 to 11.8 freight trains per day on the UP line through downtown Wichita (Chickasha, OK to Wichita line). The northernmost grade crossing of this line is 21st Street. No BN/Santa Fe trains will operate along this rail segment.

b. From 1.9 to 11.9 freight trains per day on the UP line from Wichita to Lost Springs. This line crosses 21st Street North in the City of Wichita and nine relatively low-volume roads in north Sedgwick County. No BN/Santa Fe trains will operate along this rail segment.

6 Increased freight train traffic can increase emergency response time, as do traffic congestion, inclement weather and other factors. Trains are relatively infrequent, of short duration, and can be usually either bypassed by alternate or detour routes or other emergency response units can be immediately dispatched to supplement or replace those that may be blocked. SEA acknowledges that rapid response time is critical in an emergency, but increased railroad traffic generated by the proposed merger should not have a significant or frequently recurring impact.

Please refer to the responses provided for comments #2 and #7 of this letter for additional information pertaining to emergency response issues. SEA has recommended mitigation measures that would reduce grade crossing delays and thereby reduce average emergency response delays. These mitigation measures are included in Volume 1, Chapter 5 of the Post EA.

his "great concern" over the ability of his department to provide emergency services with the addition of ten trains per day on the UP tracks.

The basis for this concern is clear. In 1995, the Wichita Police received 275,683 calls for service, an average of over 750 per day. The Police Department's average response time for these calls was 10 minutes and 29 seconds.

However, cumulatively, the 12 (or 14 or 16) trains bisecting Wichita would block its major arteries for almost an hour and one-half out of every day.[9] This blockage obviously will make it more difficult for the police to respond to calls on the opposite side of the large number of "at grade" railroad crossings in Wichita.

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To be sure, there are means of moving from one side of Wichita to the other using roads above the railroad tracks. However, as fully discussed by Chief Watson, this will not permit the police to avoid increased response times because in the heart of the city, all of the railroad crossings are "at grade."[10]

Chief Watson explains that delays caused by trains blocking his vehicles cannot be eliminated simply by reassigning the call to another unit. He also explains unique problems associated with "critical incidents." That is, police policy prohibits officers from responding to potentially dangerous situations without backup. Thus, if one of the units is blocked by a train,

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[9] The calculations leading to this total are discussed infra.

[10] This fact is discussed in more detail, infra.

7 SEA has reviewed concerns about freight trains passing through rail grade crossings and blocking the streets of Wichita. This comment has erroneously assumed the number of post-merger trains and, as a consequence, overstates the total impact through most of Wichita. The Chickasha to Wichita line, which passes through downtown Wichita, will see an increase from 4.4 (pre-merger) to 11.8 (post-merger) freight trains per day, an increase of 7.4 trains per day. Basing impact on a projected increase of 10 trains overstates the impacts by 35 percent. SEA's calculation of the delay is shown in the following paragraph. The 10 freight trains per day increase referred to by the respondent corresponds to the increase that will occur along the Lost Springs to Wichita line. This line begins at 21st Street, north of downtown Wichita, and continues north to Lost Springs. In addition to train numbers, train speed has also not been properly analyzed by the respondent, as explained below.

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

To imply that all crossings in Wichita have train speed limits of 10 mph is misleading and overstates the potential impact of any increase in rail traffic. Based on *UP Timetable No. 2*, dated 10/29/95, which gives the permanent freight train speed limits, the train speed limit for the Lincoln Street crossing and all crossings to the south of the city limits is 20 mph. The train speed limit for all UP crossings in Sedgwick County outside the Wichita city limits is 40 mph. Where conflicting with the timetable speeds, the current 10 mph slow orders referred to by the City would be temporary and should not be used for calculating future impacts.

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

SEA used 5,000-foot train lengths as the average for calculating crossing delay. For Wichita, SEA also calculated delays using a longer

Based on a timing study which trains of the type UP/SP would run through Wichita, Mr. [illegible] determined that a unit train going 50 miles per hour, the maximum speed UP/SP would use in Sedgwick County outside of [illegible] would block a street for approximately three minutes. When a train's maximum speed is 30 miles per hour, the maximum that would be reached in Wichita assuming that all "slow orders"[1] are removed, it would block each street crossing for up to seven minutes. Simple multiplication reveals that **the additional ten trains a day proposed by UP/SP would block the streets of Wichita for up to an additional 70 minutes, i.e. one hour and ten minutes every day.** The total of 12 trains a day proposed by UP/SP would block each Wichita crossing for up to 84 minutes, i.e., one hour and 24 minutes every day.

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Stated another way, in order to avoid what they term "congestion" in Kansas City, the applicants propose to block the streets of Wichita for up to an additional one hour and ten minutes per day, a period in which police, fire, and emergency medical personnel either would not be able to reach victims or would not be able to bring victims to hospitals. This is a clear and substantial degradation of the quality of the human environment in Wichita, is not remotely acceptable to the citizens of Wichita, and should not be acceptable to the Surface Transportation Board.

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[1] "Slow orders" have reduced the speed of UP trains through Wichita to approximately 10 m.p.h.

7 Refer to the previous page for comment.

average train length of 6,000 feet. For 6,000-foot freight trains, total blockage time for crossings south of Lincoln Street would increase from pre-merger values of 36 minutes to post-merger values of 96 minutes, a change of 60 minutes. The crossings north of 21st Street would experience blockage increases from 5 minutes per day pre-merger, to 30 minutes per day post-merger.

Traffic level of service (LOS) at grade crossings in the 10 mph operating section would be degraded to peak hour LOS D values for 6,000-foot train operation. For 5,000-foot freight trains, LOS C values are projected for the crossings in the 10 mph operating area. Please refer to the response provided for comment #9 of this letter and Volume 1, Chapter 4 of the Post EA for additional discussion of LOS at grade crossings.

SEA's recommended mitigation measures related to vehicle delay are presented in Volume 1, Chapter 5 of the Post EA.

8 Please see the response to #7.

9 SEA acknowledges the respondent's opinion that the merger is unacceptable to the people of Wichita. Please refer to the response provided for comments #6 and #7 of this letter.

II. Additional Quality Of Life Degradation

Assuming, arguendo, that Wichita and Sedgwick County need go further in describing the impact of an additional ten unit trains bisecting a major city, in the following sections we will address traffic delays, accidents, air quality, and noise.

A. Traffic Delays

Following his calculation of the amount of time during a day that the proposed additional ten UP/SP trains would block the streets of Wichita, Mr. Stockwell then calculates the impact of this blockage on Wichita's and Sedgwick County's street traffic. This calculation is based on 1994 daily traffic volumes for Sedgwick County and on 1995 daily traffic volumes for Wichita. As reflected in his Table 1, based upon conservative assumptions as to when the additional ten trains will pass through Sedgwick County and Wichita, Mr. Stockwell determines that **9,471 cars will be blocked every day by these trains.**

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Since it may be difficult to grasp the significance of 9,471 cars being blocked every day, Mr. Stockwell also has presented the impact of a single unit train blocking Pawnee Street, in the heart of Wichita. Every time a UP unit train blocks that street for seven minutes during the evening rush hour, it would block the passage of 245 vehicles. That is, 61 vehicles would be blocked in each of Pawnee's four lanes. **This backs cars up for 1,225 feet per lane, four full city blocks.**

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In considering traffic delays in Wichita, it should be noted that the EA states:

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The impacts reported by the respondent are overstated. Using the post-merger freight train traffic data noted in response to comments #5 and #7 of this letter, the number of vehicles stopped per day, in both Wichita and Sedgwick County, are estimated to be about 4,430 vehicles, not 9,471. During the peak hour, a unit train crossing Pawnee Street would block the street for about 2.8 minutes, affecting an estimated 66 vehicles (not 245 vehicles), with a maximum queue of 20 vehicles in the peak traffic direction and 13 vehicles in the off-peak direction (not 61 in each direction), for a corresponding length of 400 or 260 feet (not 1,225 feet).

To put this amount of delay in perspective, during the peak hour, the grade crossing at Pawnee Street functions as a signalized intersection with a LOS A. LOS A means that the average stopped delay for all vehicles crossing the tracks in the peak hour is less than five seconds; the Pawnee grade crossing functions like an uncongested urban intersection.

For the sick or the injured, these delays mean that, in some cases, ambulances will arrive too late. In brief, these delays would degrade the quality of life in Wichita.

B. Accidents

Mr. Stockwell reports that during the last six years there have been 15 auto/train collisions[16], **including two fatalities**, within Wichita and Sedgwick County on the UP tracks at issue here. If the number of UP/SP trains increases from two to 12 (or 14 or 16), it must be assumed that the number of accidents will rise as well, but by how much cannot be estimated without further study.[17] 12

Wichita and Sedgwick County have been advised that the Kansas Department of Transportation utilizes calculated "exposure rates" to determine whether either (1) "active systems", i.e. flashing lights or gates, or (2) grade separations are appropriate for railroad crossings. As reported by Mr. Stockwell, the KDOT standards call for active systems when exposure rates exceed 3,000 and the KDOT standards for rural

[16] See Mr. Stockwell's Table 3.

[17] The EA candidly notes that it did not attempt to calculate the increased number of accidents that would be caused by the merger. EA Volume 1 at 2-23. But see, infra. If the Board does not prohibit the proposed UP/SP rerouting of traffic through Wichita, we specifically request that a study of the type described at EA Volume 1 at 2-22 be conducted to perform that calculation.

12 Based on the Federal Railroad Administration (FRA) accident prediction method for railroad grade crossings, for the two UP tracks at issue, the predicted accidents over the past six years would be about 14, or 2.32 accidents per year. The comment states that there have actually been 15 accidents over this six-year period. By the same methodology, post-merger accidents are predicted to be a total of 4.05 accidents per year for Wichita and Sedgwick County.

SEA's recommended mitigation to address safety is presented in Volume 1, Chapter 5 of the Post EA.

highways with speed limits of 55 miles per hour call for grade separations when the exposure rate exceeds 12,000.[9]

The calculated exposure rates for Wichita with the 12 trains per day proposed by UP/SP are contained in Mr. Stockwell's Table 2. Those exposure rates range from a low of 900 at 85th Street North to a high of 304,056 at the above-mentioned Pawnee Street. **Fully 20 of the grade crossings would have exposure rates equal to or greater than the level at which KDOT's standards call for grade separation. Fully ten of those 20 grade crossings would have exposure rates ten times greater than the level at which KDOT's standards call for grade separation.** 13

In brief, by application of KDOT standards, moving 12 unit trains at grade through the heart of Wichita would be entirely unacceptable from the standpoint of vehicle safety and the applicants' proposal to do precisely that should not be permitted by the Board.

C. Air Quality

Jack Brown, Environmental Health Director of the Wichita-Sedgwick County Department of Community Health, has addressed air quality in his verified statement and his analysis reveals the inadequacies of the EA's treatment of air quality, a summary of which is presented infra.

Currently, Wichita is in attainment status under federal air quality guidelines. However, on January 9, 1996, Wichita almost

[9] For reasons unknown to Sedgwick County and Wichita, KDOT does not have official standards for grade separations in urban environments.

13 Please refer to the response provided for comment #12 of this letter. The respondent's statement is predicated upon a misinterpretation of train operating data. For clarification of train operating data, please refer to the responses provided for comments #5 and #7 of this letter as well as the final train numbers reported in Volume 1, Chapter 3 of the Post EA.

exceeded the National Ambient Air Quality Standards ("NAAQS") for carbon monoxide ("CO"). This is of particular concern to Wichita because, for over eleven years, a portion of Wichita was designated by the Environmental Protection Agency as "nonattainment with respect to the CO primary National Ambient Air Quality Standard (NAAQS) as required by section 107(d) of the Clean Air Act, as amended in 1977 (Act)."[19]

If four trains came through Wichita during an eight hour period between 10 a.m. and 6 p.m. (a reasonable assumption given that UP/SP propose to run 12 (or 14 or 16) trains per day through Wichita), and if Wichita experienced the same conditions that existed on January 9, 1996, then the above-discussed blockage of vehicles by the four trains alone would have resulted in Wichita exceeding air quality standards for carbon monoxide. The carbon monoxide emitted from the trains themselves[20] would have been in addition to a level exceeding air quality standards.

Exceeding air quality standards for carbon monoxide only twice per year would put Wichita into a nonattainment status. And, as reported by Director Brown, nonattainment status could impose a huge cost on Wichita. Included in this cost is a

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[19] See 43 FR 8964, March 3, 1978, so designating a portion of Wichita, and 54 FR 14958, April 14, 1989, redesignating Wichita from nonattainment to attainment with respect to Carbon Monoxide.

[20] Table 2-2, found at EA Volume 1 at 2-6, says that the increased trains will increase CO emissions by 54.9 tons per year in AQCR 99 for the Chickasha to Wichita segment, which encompasses most of the City of Wichita.

14 SEA has reviewed potential impacts from idling vehicles after considering implementation of mitigation to reduce vehicle delay and concluded that the impact is small and mitigation is not required. SEA's recommended mitigation related to air quality are discussed in Volume 1, Chapter 5 of the Post EA.

potential loss of federal funds for road projects, $6.8 million per year at current funding levels.

D. Noise

Once again, Director Brown's analysis demonstrates the errors in the EA's assessment of noise impacts, a subject that will be addressed infra. Fully 1,253 residences, 3 schools, and 12 churches would be in the impact zone. Five tests conducted by Director Brown's department resulted in maximum noise levels ranging from 77.9 db(A) to 109.4 db(A) (at a residential location) resulting from train traffic through Wichita. 15

Again, reduced to its essentials, this data establishes that, in order to avoid "congestion" in Kansas City, UP/SP propose to dramatically increase traffic congestion in Wichita and Sedgwick County, to increase the accident exposure level in the City and the County to unacceptable levels, to reduce air quality in Wichita to a level that could place the City in a nonattainment status, and to dramatically increase the noise heard by thousands of residents, school children, and church attendees each day.

THE ENVIRONMENTAL ASSESSMENT IS INADEQUATE

I. The EA Ignores Issues Of Vital Importance

While the EA addresses certain environmental issues[2/], it does not address a number of issues of vital importance to the citizens of Wichita and Sedgwick County. Perhaps as a result of its failure to recognize the size of Wichita and Sedgwick County,

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2/ EA, Volume 1, Cover Letter.

15 The estimates of noise exposure from trains based on the highest noise levels measured by Director Brown's department are consistent with the assumptions used in the EA and support the noise impact assessment methodology used in the EA. The Single Event Sound Exposure Levels (SEL's), based on Director Brown's data, are compared with SEL's based on the noise prediction model used for the EA. See table below.

Location Distance		Measured Data			EA Noise Model Prediction	
		Leq -dBA	Durati... - seconds	SEL -dBA	SEL without Horn -dBA	SEL with Horn -dBA
1616 N. Market	250	71	180	94	93	103
Manon & SE Drive	225	86	60	104	93	104
1102 Santa Fe	250	65	300	90	93	103
900 Bl. N. Santa Fe	75	74	60	92	101	112
802 E. Blake	50	90	240	114	103	114

Director Brown's report did not indicate whether or not horns were sounded during each passby. Data from four of the five locations are consistent with either the predicted SEL without horns or the SEL with horns. The SEL based on data collected at the 900 block on N. Santa Fe are significantly less than predicted by the EA noise model. The predicted noise levels based on the EA noise model equal or exceed the levels based on Director Brown's data.

The lower and upper limits of 77.9 and 109.4 dBA reported by Director Brown for the range of maximum noise levels occurring during train passby are representative of train noise without, and with, horn use respectively. Maximum noise levels are not used in the EA for impact assessment. SEA uses Day-Night Levels (L_{dn}) for its analysis; this is an accepted industry practice for assessing noise impacts. Please see Volume 1, Chapter 4 of the Post-EA for further discussion of the noise analysis.

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a matter discussed infra, the EA does not even purport to address the effect that moving 12 (or 14 or 16) trains in excess of a mile long through Wichita would have on the ability of emergency services personnel to protect the citizens of Sedgwick County and Wichita.[2/]

Similarly, the EA does not attempt to calculate the increased number of accidents at grade crossings in Wichita and Sedgwick County based on the changes in train traffic from the proposed merger.

The City and County do not believe that an environmental assessment that fails to address these issues can possibly be deemed either complete or legally adequate. While matters addressed by the EA, albeit inaccurately, such as air quality and noise, are of undeniable importance, consideration of such matters cannot substitute for an analysis of other equally important or more important matters including the immediate and irreparable injury that would be experienced if police, fire, and/or emergency medical personnel are not able to attend to the sick and the injured becausa their community has been cut in half by trains over a mile long. Clearly, since the sole rationale presented by the applicants to inflict these harms on Wichita and Sedgwick County is a desire to avoid "congestion" along a route that has been used for an unstated number of years, the Board cannot possibly weigh the "merits" of the applicants' proposal

[redacted]

2/ The EA's discussion of "safety impacts", Volume 1 at 2-22, does not include impacts on emergency services as among the categories considered.

16 Emergency response issues are addressed in the responses provided for comments #2 and #6. Accident issues are addressed in the response provided for comment #12. Issues pertaining to vehicular delay and at-grade crossings are addressed in the responses provided for comments #7 and #10. Air quality concerns are addressed in the responses provided for comments #14 and #18.

community, Wichita and Sedgwick County. According to the Operating Plan, the Lost Springs to Wichita segment is 64 miles long and the Wichita to Chickasha segment is 192 miles long.[25] Thus, by utilizing these segments, the EA not only divides Wichita in two, it then buries the impact on the northern side of Wichita and Sedgwick County into a mostly rural area, 64 miles in length, and similarly buries the impact on the southern side of Wichita and Sedgwick County into a mostly rural area, 192 miles in length.

The impact of this type of analysis may be seen by reference to the Air Quality table in Volume 2 at 8-10. By way of example, the EA finds that the "Estimated Increase in Emissions (tons per year)" for carbon monoxide (CO) is 79.1 tons for the Lost Springs to Wichita segment and is 54.9 tons for the Wichita to Chickasha segment. How much of this increase may be assigned to Wichita itself, a figure vital to an understanding of whether the proposed rerouting would or could put Wichita in a "nonattainment" status, is not stated. 18

When the EA does aggregate data of interest to Wichita, it does so in yet another manner that makes the rerouting proposal's full environmental impact on Wichita impossible to learn. For example, by considering Air Quality matters for Wichita and Sedgwick County as part of an entire Air Quality Control Region[26], the serious potential that the proposed rerouting of

[25] UP/SP-24, Railroad Merger Application, Volume 3 at 379.

[26] See, e.g., Volume 1, Table 2-5 at 2-12.

18 Based on comments and additional analysis, SEA has revised air quality results to show net change in emissions by AQCR as shown in Volume 1, Chapter 3 of the Post EA. SEA calculated the air emissions in the Wichita/Sedgwick County area. Since only 16 miles of the Lost Springs to Wichita segment are within the Wichita/Sedgwick County area, only about 25 percent of the CO emissions increase (20 tons per year) would be projected to occur in this area. Similarly, approximately one-third of the trackage of the Chickasha, OK, to Wichita segment is within the Wichita/Sedgwick County area. For this line, an increase of about 17 tons per year in CO emissions would occur in this area.

This presentation in the operating plan, carried forward into the EA, raises an obvious question, which is answered neither in the operating plan nor in the EA. That is, **how do the UP and SP plan to make three trains per day disappear?** The operating plan says that ten trains per day will be added to the Lost Springs to Wichita segment. At the same time, it says that only seven trains per day will be added to the Wichita to Chickasha segment. The only way that this could make sense is if three new trains per day were proposed for Wichita termination. But UP/SP are not proposing such new service. Rather, the new train traffic is entirely destined for points to the south of Wichita.

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If UP/SP cannot make three trains per day disappear in Wichita, then the EA's conclusion that 11.8 trains per day would move on the Wichita to Chickasha segment[XV] is in error. Rather, the ten additional trains per day that UP/SP propose would be added to the existing 4.4 trains per day[11/] to reach a total of 14.4 trains per day. Obviously, this would further increase the public safety and other problems resulting from the applicants' proposed rerouting of traffic.

[XV](...continued)
The EA eliminates the rounding errors by concluding that the current traffic on the Chickasha to Wichita line is 4.4 trains per day, which would be increased by 7.4 trains per day to reach a total of 11.8 trains per day. EA, Volume 1, Table ES-3 at ES-10.

[XV] EA Volume 1, Table ES-3 at ES-10.

[11/] Id.

19 Variations in numbers of trains entering and leaving Wichita reflect originations and terminations within Wichita. Please refer to the final train numbers presented in Volume 1, Chapter 3 of the Post EA

As demonstrated infra, the fictional elements of the operating plan are compounded in the EA.

A. Noise

Volume 1 of the EA addresses "noise" by stating that "the increase in the number of sensitive receptors would be only incremental, as trains are already the dominant source of noise in these areas [at or near grade crossings]."[17]

This conclusion, minimizing the noise impacts of the rerouting proposal, does not square with the reality of the UP/SP proposal as it applies to Wichita and Sedgwick County. In the first place, railroads are not the dominant source of noise in any major city, and the UP trains are not the dominant source of noise today in Wichita. Consider the attachments to the verified statement of Jack Brown.

In Attachment #1, the noise level without the train was 67.7 db(A) during a late evening measurement. This level rose by 13.4 db(A) as a result of the train. In Attachment #2, the noise level without the train was 81.1 db(A) during a morning measurement. Heavy vehicle traffic was noted as adding to the background measurement. This measurement rose by 10 db(A) as a result of the train.

Similarly, in Attachment #3, an afternoon measurement, the noise level without the train was 66.2 db(A), in part due to truck traffic. This measurement was increased by 11.7 db(A) by the train.

[17] EA Volume 1 at ES-15.

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20 The noise impact resulting from the proposed merger include incremental increases in noise level and number of residences falling within the 65 L_{dn} noise contour. There is little projected change in the character of railroad noise, such as introduction or elimination of horns or wheel squeal.

The commenter indicates that train noise is not the dominant noise source in the community. If this is true, the noise increase produced by the proposed merger will be less than projected. SEA maintains the position that the most dominant noise source for sensitive receptors identified in the EA within the 65 L_{dn} noise contour is the railroad.

SEA recognizes that the maximum noise levels produced by trains are, indeed, substantially higher than average background noise. The maximum noise levels would not likely change as a result of the proposed merger. The L_{dn} noise metric has been selected as the principal metric for comparison of pre-merger and post-merger train noise since it is sensitive to changes in train volume, speed and length. SEA concludes that the L_{dn} metric is more appropriate for assessing the potential noise impact of the proposed merger than maximum train noise levels.

The commenter indicates an estimate of a greater number of sensitive receptors falling within the 65 L_{dn} noise contour than indicated in the EA. It appears that this greater number (wider contours) is based upon including horn noise throughout the alignment, which would overstate the impact. A field visit to Sedgwick County was made and the number of affected receptors was revised upward from that presented in the EA. The increase in the number of estimated sensitive receptors is based on observed higher densities of residential units, and new housing construction, not previously included in the EA. The revised estimate for each affected city or town in Sedgwick County are shown in the following table. The revised estimates of sensitive receivers within the 65 L_{dn} noise contour for Wichita are 277 (pre-merger) and 635 (post-merger). For the entire county, the revised estimates are 321 (pre-merger) and 821 (post-merger). These revised estimates are less than those presented by the commentor.

duplicate activities, and truck-to-rail traffic diversions.[19]

As relates to Wichita and Sedgwick County, the UP/SP proposal suggests no operational efficiencies, reduction of duplicate activities, or truck-to-rail traffic diversions. To the contrary, UP/SP propose only to increase the number of unit trains moving through the City and County by (at least) ten per day.

Thus, the EA's measurement of air quality impacts cannot be considered "conservative." In fact, it is hugely "liberal" in that it entirely ignores the air quality degradation caused by literally thousands of vehicles that would be blocked and would "idle" in the streets of Wichita every day as a result of the UP/SP rerouting proposal. And, as noted by the verified statement of Director Brown, this one element of the air quality degradation package could be enough to put Wichita into a non-attainment status. Accordingly, there is no sound basis for the EA's conclusion that the proposed action, as it relates to Wichita, "is not subject to National Ambient Air Quality Standards General Conformity regulations."[20]

C. Air Quality at Grade Crossings

The EA's commentary on this issue is as follows:

> Railroad crossings tend to be grade-separated when roadway and/or train traffic volumes become high, so the air quality impacts at grade crossings would generally be relatively

[19] EA, Volume 1 at 2-13.

[20] EA, Volume 2 at 8-10.

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20 Refer to the previous page for comment.

Locations	Revised Pre-Merger Numbers			Revised Post-Merger Numbers		
	Residences	Schools	Churches	Residences	Schools	Churches
Furley	0	0	0	18	0	0
Kechi	2	0	0	25	0	0
Wichita	277	0	0	630	0	5
Haysville	33	0	2	121	1	3
Peck	7	0	0	18	0	0
TOTAL	319	0	2	812	1	8

21 The merger of the UP and SP rail lines results in increased operational efficiencies and a reduction of duplicate activities on a national basis; however, these benefits may not occur in every locality. Benefits from the merger are likely to result from truck-to-rail diversion as the South Central Kansas AQCR (99) will experience an increase in annual gross ton-miles of over 3 billion as a result of the proposed merger. While some of this rail traffic would be diverted from other rail, some would also be diverted from trucks, resulting in emissions decreases from truck traffic. Similarly, diversion from other rail would result in decreased emissions from other rail lines in this AQCR. As an example, if all of these ton-miles were assumed to be carried by trucks, the resulting CO emissions increases would be almost 20 times that shown for the rail; if all were assumed to be diverted from the other rail, the net emissions increase would be zero. SEA has evaluated the potential impacts from increased idling vehicles at grade crossings and found the change small, so as not to require mitigation.

minor. In Kansas, most grade crossings carry 5,000 or fewer vehicles. SEA concludes that no adverse air quality impacts would result from increased grade crossing delays as a result of the proposed merger.[*]

This commentary is almost entirely contrary to the facts and in error. While it may be true that railroad crossings outside of Wichita and Sedgwick County "tend to be grade-separated" when traffic volumes are high, virtually all of the railroad crossings in Wichita are not grade-separated. Similarly, while it may be true that most grade crossings in Kansas carry 5,000 or fewer vehicles, **there are 12 grade crossings in Wichita that carry 5,000 or more vehicles per day.** See Mr. Stockwell's Table 2. **Ten of these crossings carry 10,000 or more vehicles per day. Three of these crossings carry 15,000 or more vehicles per day. One of these crossings carries more than 25,000 vehicles per day. None of these crossings is grade-separated.**

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Accordingly, the EA's conclusion that no adverse air quality impacts would result from increased grade crossing delays as a result of the proposed merger is wholly in error.

D. Grade Crossing Delays

The EA addresses grade crossings for the Chickasha to Wichita segment in Volume 2 at 8-31. According to the EA, there are insufficient data to determine how many grade crossings have average daily traffic counts in excess of 5,000 vehicles per day. As noted above, the answer for Wichita is 12.

[*] EA, Volume 2 at 8-12.

22 The crossing volumes cited by the commenter are the same as those analyzed by SEA for vehicle delay determination in the EA and for those re-evaluated subsequent to the EA.

The EA also concludes that the total amount of time per day that 11.8 trains will block the streets in this segment is 30 minutes. This equates to each train blocking the streets for 2.5 minutes. The assumptions as to train length and calculations underlying this 2.5 minute per train estimate are provided in EA Volume 5, Appendix I at I-4. For several reasons, those assumptions do not apply to the traffic of concern to Wichita and Sedgwick County.

First, the unit trains at issue are not limited to the 5,000 feet assumed by the EA. Assuming that UP/SP utilize unit trains of 136 cars[11] and three locomotives, and further assuming that each car is only 53 feet in length[12], the UP/SP trains would be 7,421 feet, 48% longer than assumed by the EA.

Second, the EA assumes that the total time in minutes for gate closing and opening prior to and after the passage of a train is only 0.67 minutes. This is not the experience of Wichita and Sedgwick County. Based on studies conducted on May 1, 1996, our best estimate of the average gate closing and opening time in Wichita is .88 minutes.[13]

Third, the EA formula for "Crossing Delay Per Train" does not include time to allow the waiting line of vehicles blocked b

[11] See The Journal of Commerce, April 30, 1996.

[12] Wichita and Sedgwick County have been advised that cars may be as long as 60 feet.

[13] It is our understanding that the amount of time that a stree is blocked before the train arrives and after the train clears the crossing is a function of the train's speed.

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The commenter indicates that train lengths could be as long as 7,421 feet. For the analysis, SEA used a 5,000 foot average. Since publication of the EA, SEA has also evaluated crossing delay impacts for a 6,000-foot average train length and concluded that the change in level of service for local grade crossings is minimal. The traffic delay and level of service analysis is described in Volume 1, Chapter 4, of the Post EA.

Crossing blockage or gate closure time varies with the train frequencies described in response to comment #5 and the timetable speeds described in response to comment #7 as follows:

Crossing Speed	Gate Closure Time
10 MPH	8.2 minutes
20 MPH	4.4 minutes
40 MPH	2.6 minutes

The time for gate closing and opening is approximately 30 seconds (0.5 minutes), according to research performed by the Stanford Research Institute for FRA. This time is predicted on the presence of a calculator to determine the speed of a train, thereby making the additional delay caused by the gate constant (regardless of train speed) at about 25 seconds prior to train arrival and about 5 seconds after train departure. An additional 10 seconds were added in the EA methodology to make this formula more conservative, resulting in overstatement of delay to compensate for older gate equipment without a speed determination calculator. The formula is appropriate for the EA vehicle delay analysis.

The commenter did not disclose how many crossings were reviewed in Wichita, how many trains were observed, or the approximate speed of the trains. Gate delay times as long as 0.88 minutes could indicate a need to have gate equipment reviewed to determine whether it is operating properly.

the train to dissipate. A figure of .3 minutes for this time is included in the EA's second formula, i.e., "Crossing Delay per Vehicle." The basis for assuming only .3 minutes for this element of the delay equation is not stated in the EA, but, based on the EA's assumption that ADT's in Wichita are less than 5,000, Wichita and Sedgwick County believe that this figure is understated as a result of the ADT understatement and that an estimate of .5 minutes, while probably still very conservative, is closer to reality.

Finally, the EA assumes that the trains will be running through Wichita at a constant speed of 30 m.p.h. Given current slow orders, the fact that a train yard exists at the beginning of this segment, and the general congestion in Wichita, Wichita and Sedgwick County have assumed that UP/SP trains will average approximately 15 m.p.h. through the City. 24

Based on these factors, Wichita and Sedgwick County have assumed that a fair representation of the delay to vehicles attributable to a passing train in Wichita may be stated in the following forumla: D = L/(V x 88) + .88 + .5 where:

D = Delay to vehicles;

L = Length of the train in feet;

V = Average train speed in m.p.h.;

88 = Conversion factor from m.p.h. to feet per minute;

.88 = Average time in minutes for gate closing and opening and

.50 = Average time in minutes for traffic dissipation.

24 Freight train speed utilized in the EA analyses was not 30 MPH as stated by the commenter. The EA train speeds were the timetable speeds noted in response to comment #7, i.e., 10 MPH, 20 MPH, or 40 MPH.

Please refer to the response provided for comment #7 for the resulting delays computed from the above train speeds.

Utilizing 7,421 feet as the length of the train and 15 m.p.h. as the average speed of the train in this formula results in a "Delay to Vehicles" of seven minutes, not the 2.5 minutes assumed by the EA.

As noted supra, Wichita and Sedgwick County have utilized this seven minute per train estimate and have determined that the ten additional trains proposed by the applicants will result in streets being blocked for an additional 70 minutes per day. The total for 12 trains per day is streets being blocked for 84 minutes per day. The total would be even greater, if, as discussed above, UP/SP are actually planning to run more than 12 trains a day through Wichita and/or other railroads are given trackage rights through Wichita.

E. Accidents

The EA "concludes that the accident exposure in Kansas would range from an increase of 383 percent to a decrease of 100 percent, depending on rail segment."[49]

The calculations leading to this conclusion are not presented in the EA. However, this conclusion is counterintuitive, at best, and is contradicted by the conclusion elsewhere in the EA that "[s]ince the proposed merger would not result in any new grade crossings, the probability of increased accidents at grade crossings would depend on the increased number of trains on rail segments."[50] If the number of trains per day

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[49] EA, Volume 2 at 8-31.

[50] EA Volume 2 at 4-39.

25 Please refer to the response provided for comment #12 of this letter.

in the Lost Springs to Wichita segment is to increase from 1.9 to 11.9, EA Volume 1 at ES-9, the increase in trains, 10, represents a percentage increase of 526% and the probability of increased accidents at grade crossings would increase by that percentage, not by 383 percent.

Even assuming, arguendo, that the EA's 383 percent figure is correct, what does it mean in human terms? According to statistics compiled by Wichita and Sedgwick County, between May, 1990 and March, 1996, there were 15 accidents on the UP line in the City and the County, including two fatalities. If these figures are multiplied by 3.83, the EA is advising Wichita and Sedgwick County that, over the next six years, they can expect an additional 57 accidents and an additional eight fatalities as a result of the proposed rerouting by the UP/SP. This is over nine additional accidents per year and over one additional fatality per year. We note parenthetically that UP/SP estimate that their merger "could be expected to result in an additional 25 accidents per year."[12] Thus, over 1/3 of the total increase in accidents projected by the applicants would occur in Wichita and Sedgwick County.

THE EA'S MITIGATION PROPOSALS ARE INADEQUATE

Given the severity of the above-discussed environmental harms that would result from the proposed rerouting of traffic through Wichita and Sedgwick County, particularly in the area of public safety, there is only one mitigation order that is

[12] EA Volume 1 at 2-24.

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26 SEA has considered the commenter's recommended mitigation. SEA's recommended mitigation measures to address vehicle delay, emergency response, vehicle emissions, and accidents are discussed in Volume 1, Chapter 5 of the Post EA.

appropriate. The Board should prohibit the UP/SP from increasing the current number of trains per day through Wichita and Sedgwick County. 26

In contrast, the EA's mitigation proposals, Volume 2 at 8-33 through 8-35, are akin to substituting post hoc bandages for preventive surgery. We will address those proposals in the order in which they are presented by the EA.

Air Quality

The EA proposes that the UP/SP "consult" with various agencies concerning any possible mitigations measures to reduce any potential adverse emissions. The UP/SP are to advise the Section of Environmental Analysis ("SEA") of the results of those consultations.

Given that the proposed "consultations" would not be a condition precedent to approval of the merger and the proposed rerouting of unit trains, they are worthless to Wichita and Sedgwick County. Having already discussed the merger with the UP, we cannot conceive of the possibility that, under no duty imposed by the Board to do anything but talk, the UP/SP would do anything to eliminate the principal cause of air quality degradation, the lack of grade separations at the 20 grade crossings with high KDOT "exposure rates" (or at least the 12 crossings used by more than 5,000 vehicles per day).

Noise

1. The EA proposes that the UP/SP consult with appropriate agencies to reduce potential noise level impacts to sensitive

26 Refer to the previous page for response.

receptors. SEA is to be advised of the results of these consultations and is to be provided with a copy of any resulting noise abatement plans.

Again, this "mitigation" proposal is not a condition precedent to the merger proposal and there is no reason to believe that it would be useful to Wichita and Sedgwick County. As reflected in Director Brown's Table 1, Wichita alone has 842 residences, two schools, and nine churches, that are "sensitive receptors." What are we to discuss with UP/SP? If we ask them to avoid running trains at night, in order to allow the human beings in those 842 residences to sleep, the 12 (or 14 or 16) trains would run during daylight hours, causing untold problems for emergency service vehicles. If we ask them to avoid running trains during the day, all trains would run at night to the obvious detriment of sleep.

2. This mitigation proposal is applicable only to Kansas City.

Transportation and Safety

1. The EA proposes that UP/SP consult with Wichita about "safety and the potential effects of additional rail traffic on vehicular traffic." UP/SP are to advise SEA periodically of the status of these consultations and are to submit any final mitigation plans to SEA.

Once again, the EA proposes to give Wichita absolutely no bargaining leverage. If we cannot reach agreement with UP/SP,

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27 Please refer to the response provided for comment #12 of this letter. Using the FRA Accident Exposure Calculation methodology, grade separations proposed by the commentor for 13th, Murdock and Central Streets would reduce accidents in Wichita by a total of 0.77 accidents per year, based on the projected (post-merger) UP traffic alone.

they remain free to jeopardize the safety of our citizens and to degrade the quality of life in our community. 27

We note with interest that the EA proposes that, after up to 18 months of future consultations, the UP/SP be required to construct, in some unknown period, a minimum of three grade-separated crossings in Reno.[1] Since the ADTs in Wichita exceed the ADTs in Reno, if the Board wishes to consider mitigation short of prohibiting UP/SP to run more than the current number of trains per day in Wichita, it not only should require UP/SP to construct the necessary grade-separated crossings in Wichita, it should require that construction before permitting UP/SP to run any additional trains through Wichita.

Wichita and Sedgwick County further note in this regard that in the April 11, 1996 Final Environmental Impact Statement in Finance Docket No. 30186 (Sub-No. 2), Tongue River Railroad Company - Construction and Operation - of an Additional Rail Line From Ashland to Decker, Montana, the Board required the applicant to comply with the Montana Department of Highway's Railroad Crossing Protection Policy. As noted above, compliance with Kansas policy would require grade separation at 20 grade crossings in Wichita and Sedgwick County. Fully ten of the grade crossings in Wichita would have "exposure rates" ten times

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[1] EA Volume 2, errata at 12-15. It appears that eleven streets are to be given "first consideration for selection." It further appears that the peak traffic level for these Reno streets is 15,200 vehicles per day. RENO-4, Fact Finding Report, Appendix C, Figure 11. Wichita has three crossings with daily traffic levels greater than 15,200.

27 Refer to the previous page for response.

Under any reasoned application of these definitions and considerations, approval of a railroad merger that would result in the rerouting of at least ten trains per day through the heart of Wichita (a) severely jeopardizing the ability of public safety personnel to perform their functions, (b) negatively affecting air quality to the degree that Wichita could fall into the nonattainment category, and (c) negatively affecting noise levels, traffic, and other quality of life elements is one "significantly affecting the quality of the human environment."

As explained in State Of Idaho By & Thru Idaho Pub Util. v. I.C.C., 35 F.3d 585, 595 (D.C. Cir. 1994), the court's review of a refusal by the Board to prepare an EIS would consider four criteria:

> (1) whether the agency took a "hard look" at the problem; (2) whether the agency identified the relevant areas of environmental concern; (3) as to the problems studied and identified, whether the agency made a convincing case that the impact was insignificant; and (4) if there was impact of true significance, whether the agency convincingly established that changes in the project sufficiently reduced it to a minimum. (footnote omitted)

A review of the EA establishes that the Board's refusal to prepare an EIS would fail all four criteria. The failure of the EA to consider, among other issues, public safety considerations would result in the conclusion that the Board did not take a "hard look" at the problem. That same failure would result in the conclusion that the Board did not even identify "relevant areas of environmental concern." The EA's dramatic

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28 SEA has concluded that, based on the level of impacts identified, an EA with recommended mitigation measures is appropriate. An EIS is not warranted.

28

understatement of problems it considered, e.g., air quality and noise, would result in the conclusion that the EA has not made a convincing case that impacts are insignificant. And, a review of the EA's proposed post hoc "discussion" mitigation requirements would lead to the conclusion that the environmental degradations caused by the UP/SP rerouting proposal have not been reduced "to a minimum."[1/]

Missouri Mining, Inc. v. I.C.C., 33 F.3d 980 (8th Cir. 1994) also teaches that the Board must consider all appropriate alternatives. However, as noted above, the EA has not done so. Rather, it has considered only the "merger" or "no merger" alternatives. This approach ignores the fact that not only are other routings possible for the freight at issue, but one of those routings is being used by the applicants today. Moreover, given that the applicants' rationale for the rerouting of this traffic through Wichita is nothing more than a desire to reduce "congestion" in Kansas City, applicants clearly cannot maintain that the present routing through Kansas City is not either a reasonable or a feasible alternative to consider in an EIS.

In brief, if the Board is not prepared at this time to prohibit the UP/SP from running more than the current number of trains per day through Wichita, it must prepare the environmental impact statement mandated by NEPA, the Board's regulations, and applicable precedent.

[1/] Indeed, there appears to be little in the EA's proposed discussion conditions that differ from those which the Idaho court found inadsquate. Id. at 595-596.

28 Refer to the previous page for response.

4 June, 1996

Elaine K. Kaiser, Esq.
Chief, section of Environmental Analysis
Surface Transportation Board
12th & Constitution Ave., N.W.
Washington, DC 20423-0001

Re: Union Pacific -- Control and Merger -- Southern Pacific, Finance Dkt. 32760 – Abandonment of Hope to Bridgeport Line in Kansas, AB-3 (Sub-no. 131) and AB-8 (Sub-no. 37)

Dear Ms. Kaiser:

This letter, on behalf of Serenata Farms Equestrian Therapy Foundation (SFETF) is in response to the environmental assessment required by the Surface Transportation Board in the above proceeding. SFETF is a non-profit corporation specializing in preserving out of service rail lines for future transportation purposes in the state. SFETF is the holding organization for the Union Pacific line between Osawatomie and Herington Kansas and would like to preserve this property as one continuous corridor. SFETF intends to use this corridor for compatible interim public uses, including especially use as recreational trails. The Hope to Bridgeport line would be a logical extension of our Osawatomie to Herington project.

Loss of important transportation corridors unequivocally would constitute a significant adverse environmental impact flowing from the merger proceeding. A full EIS evaluating the merger-related abandonment should be prepared to ensure the adverse impacts of loss are fully mitigated. The only way to avoid the EIS requirement would be to condition the merger authority so as to ensure that the various corridors are preserved for railbanking/interim trail use purposes, at least in all instances in which a qualified entity files a "statement of Willingness" as provided in 49 C.F.R. § 1152.29 (invocation of Trails Act). The Commission has broad authority to condition mergers to protect the public interest, and this extends to authority to require mitigation of adverse consequences flowing from merger-related abandonments. SFETF is filing a statement of willingness in connection with the Hope to Bridgeport line in AB-3 (Sub-no. 131).

The Kansas Horse Council, Kansas Horse Foundation, Kansas Trails Council, and SFETF all support preservation of the Bridgeport to Hope line as a railbanked trail.

1 SEA acknowledges the Serenata Farms Equestrian Therapy Foundation's position on preserving the UP line between Osawatomie and Herington, Kansas for interim public uses.

2 SEA acknowledges the Foundation's position that an EIS is needed unless corridors are preserved for railbanking/interim trail use. SEA believes that an EIS is not appropriate or required. The EA identifies and evaluates impacts of the proposed merger and describes recommended mitigation measures to reduce impacts.

3 SEA acknowledges the Foundation's willingness to assume financial responsibility for the Bridgeport to Hope, KS segment proposed for abandonment. Please refer to SEA's general statement on Rail-to-Trails in Volume 1, Chapter 4 of the Post EA.

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DANNYE W. MALONE
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318-226-6947
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April 24, 1996

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

Dear Ms. Donsky:

In response to your latter request to me dated April 9, 1996, my departmental directors inform me we have no concerns based on the five information topics contained in your letter. 1

Our Parks Director indicated that a Parish Nature Park is within three miles of the railway but indicated that no apparent impact to the Park should result from the merger. A copy of his memo is attached.

Thank you for the opportunity to respond to your request. If there is anything I can do for you in the future, please do not hesitate to contact me.

Yours truly,

Judy Durham

Judy Durham
Caddo Parish Administrator
and Chief Executive Officer

JD/cp

1 SEA acknowledges the Parish's comment of no concerns in regard to the subject rail segment.

REDACTED - To Be Filed on the Public Record STRC-8

BEFORE THE

SURFACE TRANSPORTATION BOARD

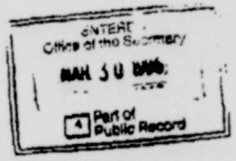
WASHINGTON, D.C.



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

: Finance Docket No. 32760

COMMENTS, EVIDENCE, AND REQUEST FOR MERGER CONDITIONS OR TO DENY APPLICATION BY SAVE THE ROCK ISLAND COMMITTEE, INC.



William P. Jackson, Jr.
Attorney for Save the Rock Island Committee, Inc.

OF COUNSEL:

JACKSON & JESSUP, P.C.
Post Office Box 1240
Arlington, VA 22210
(703) 525-4050

Due and Dated: March 29, 1996

Leeds Junction-Pleasant Hill line segment. As far back as 1980, in the ICC's Incorcari decision, it was recognized that the SSW line between Kansas City and St. Louis, including the segment between Leeds Junction and Pleasant Hill, needs extensive rehabilitation if it is to be used in overhead freight operations. Yet the 12 corridor upgrades discussed in the Operating Plan do not include any mention of projects involving the Leeds Junction-Pleasant Hill line segment. See Application, Vol. 3 at 216-22.[24]

Moreover, the Environmental Report that accompanies the Application makes no mention of the Leeds Junction-Pleasant Hill line segment, which is quite surprising. The line segment has not been operated since prior to its acquisition by SSW in 1980. Thus, any reactivation of the segment as a result of the proposed merger will trigger the air quality and noise thresholds for impact analysis, set forth at 49 C.F.R. Section 1105.7(e)(5)(i) and (ii) for ambient air quality and 49 C.F.R. Section 1105.7(e)(6) for noise levels. While the Application's Environmental Report recognizes the applicability of those standards to line segments in this proceeding, see Application, Vol. 6, Part 1 at 4-5, it does not include the Leeds Junction-Pleasant Hill line segment as one of the 70 line segments that meet or exceed one or more of the applicable thresholds. Id. at 11-13.[25] Consequently, the environmental impact of post-merger reactivation of the line segment is not examined in the Environmental Report. See Application, Vol. 6, Part 2.

1

[24] The least expensive of those corridor upgrades will cost $1.7 million, an amount which is considerably less than the likely cost to Applicants of restoring the Leeds Junction-Pleasant Hill line segment to operable condition for overhead traffic.

[25] Nor does the Environmental Report state whether the Leeds Junction-Pleasant Hill line segment was one of the 389 line segments "evaluated" during preparation of the Environmental Report. Application, Vol. 6, Part 1 at 25.

1 SEA acknowledges the Committee's comment on the Leeds Junction-Pleasant Hill line segment. The segment was not included in the Application for Merger and Control and therefore was not subject to analysis in the EA.

Churchill County Administration Office

May 15, 1996

Elaine Kaiser, Esquire
Chief
Section of Environmental Analysis
Surface Transportation Board
12th and Constitution Avenue NW
Washington, DC 20423-0001

Re: Union Pacific Control and Merger
Finance Docket No. 32760

Dear Ms. Kaiser:

The Board of Churchill County Commissioners, Fallon, Nevada, submits these comments and requests for consideration. Churchill County, Nevada consists of approximately 4,900 square miles or approximately 3,144,320 acres. Topography consists of the typical basin and range features found in much of northern Nevada. Vast tracks of this acreage were a part of ancient Lake Lahontan dating to North America's last glaciation period which ended some 10,000 years ago.

At this time there is only one major population center in the county. There are approximately 22,000 inhabitants in Churchill County. The City of Fallon, the County seat, has approximately 8,000 inhabitants with the balance of the county's population (approximately 14,000 residents) located within a 15 mile radius of the city.

The railroad played an important role in Churchill County aiding the development of the first U.S. Bureau of Reclamation irrigation system to be implemented in this country shortly after the adoption of the Reclamation Act of 1902. At that time the railroad was the main transportation medium serving Churchill County at the mainline terminal located at Hazen, Nevada, also in Churchill County. Hazen at one time had 10,000 inhabitants and was the disembarkation point for workers on the dam and irrigation system, settlers and miners going eastward to farms around Fallon and further to gold and silver boomtowns. Now, Hazen is nothing more than a memory with a few residences and a small general store.

190 WEST FIRST STREET • FALLON, NEVADA 89406 • (702) 423-5136 FAX 423-0717

Elaine Kaiser, Esquire
Chief
Section of Environmental Analysis
May 15, 1996
Page 2

The Southern Pacific mainline enters Churchill County on the northern boundary between Churchill County and adjoining Pershing County and traverses Churchill County generally from the northeast to the southwest. Southern Pacific has 41.84 miles of mainline track in Churchill County according to the State of Nevada Department of Taxation, Division of Central Assessments. There is only one mainline highway crossing located approximately 23 miles north of the City of Fallon on U.S. Highway 95. This crossing is protected by gates and flashing lights. Traffic on U.S. Highway 95 is relatively sparse. However, with the increasing number of trains crossing Highway 95 at this point the potential for accidents may rise. Two branchlines originate in Hazen off the mainline and are not part of these comments. 1

Although the mainline is a considerable distance from the major population center in Churchill County (the City of Fallon), we are concerned that the increases expected in railroad traffic, especially the number of trains carrying hazardous materials, may intensify the level of potential injury exposure to our residents as a result of hazardous materials accidents involving the railroad. More specifically, we are concerned that the volunteer fire department which serves the needs of our residents may be sorely put upon as first responders in the event of a railroad accident, especially those accidents involving hazardous materials. A similar case in point a number of years ago, involved an over-the-road truck and tractor traversing Churchill County on Interstate 80 on the northern boundary of our county. The truck was involved in an accident spilling its cargo of hazardous material requiring a response by the Fallon Volunteer Fire Department. Although a hazardous materials management firm was dispatched to the accident site by the trucking firm, the initial exposure and subsequent potentially fatal consequences of incorrectly re-packaging the spilled materials due to a mistake by the hazardous materials specialist, unnecessarily exposed our volunteer fire department members to injury. Additionally, equipment utilized by our fire department in controlling the accident scene was damaged by exposure to the materials to the point they were no longer usable. To add insult to injury, the county, in order to recover the costs expended in controlling this accident, was forced to go to court resulting in additional costs for legal counsel as well as delay in reimbursement for our out-of-pocket costs. 2 3

The readiness and training of our volunteer fire department is superior and allows us to enjoy some of the lowest ISO (Insurance Services Office) ratings in the state of Nevada, including a number of paid departments, resulting in relatively low fire insurance rates. Yet, the unnecessary exposure to potentially harmful or fatal hazards resulting from the increased likelihood of railroad accidents involving hazardous materials has our Board of County Commissioners concerned. In the board 4

1 SEA acknowledges the County's concern about increased potential for accidents at US Highway 95. SEA's review of the Federal Railroad Administration's data base indicates that the crossing currently has adequate crossing control safety devices and there is no apparent history of problems at the location.

2 SEA acknowledges the County's concern over increased potential exposure to hazardous materials accidents. Subsequent to issuance of the EA, in response to a request from SEA, the Applicant generated a more detailed output from its traffic model, which indicates the number of carloads of hazardous materials before and after the merger. This information indicated that the Winnemucca to Sparks line would experience an increase of 60 percent in hazardous materials carloadings. The traffic increase resulting from the merger exceeds both historic levels and the increase that could reasonably be expected from the upward swing of a single business cycle. SEA's recommended mitigation measures for the transport of hazardous materials are reported in Volume 1, Chapter 5 of the Post EA.

3 SEA recognizes the County's suggestion for adequate training of local emergency responders. This issue does not fall within the jurisdiction of the Surface Transportation Board in considering the proposed merger. The respondent should forward this concern directly to the Applicant. UP/SP has expressed a willingness to provide additional training to emergency response personnel.

4 SEA acknowledges the County's position with regard to liability, reimbursement costs, and training. These issues do not fall within the jurisdiction of the Surface Transportation Board in considering the proposed merger. The respondent should forward these concerns directly to the Applicant.

Elaine Kaiser, Esquire
Chief
Section of Environmental Analysis
May 15, 1996
Page 3

members' minds, the potential harm to our volunteers coupled together with the possible loss of equipment are of primary concern in this merger proposal. Furthermore, the question of liability and reimbursement of out-of-pocket costs for providing equipment and necessary training for our volunteer fire crews is likewise of paramount importance. Therefore, we respectfully request that the Surface Transportation Board, prior to taking an action to confirm the proposed merger, seek answers to the questions posed with regard to hazardous materials exposure and liability for control of accidents on the railroad mainline requiring response by our volunteer fire department. Implementation of insurance and bonding requirements plus provision of safety training, equipment and response protocols should be mandated for the new carrier. 4 5

Sincerely,

BJORN P. SELINDER
County Manager

BPS:wg

4 Refer to the previous page for response.

5 SEA recognizes the County's request for insurance and bonding, and safety training and equipment. These issues do not fall within the jurisdiction of the Surface Transportation Board in considering the proposed merger. The respondent should forward these concerns directly to the Applicant.

ROGER M. HALL
2678 IDLEWILD DR.
RENO, NEVADA 89509
702/323-6929

4/15/96

TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS
1201 CONSTITUTION AVE. NW.
ROOM 3219
WASHINGTON, DC 20423

Dear Sirs,

I am writing you this letter to state my opposition to the rail merger with Southern Pacific for the reasons listed below.

1. Increased rail traffic would detrimentally effect my:
   Real Estate value of my home due to increased noise and danger of a hazardous spill in the Reno area. 1
2. Decrease the quality of life in Reno and along the whole line due to the increased rail traffic. 2
4. Increase combustion emissions from cars and diesels. 3
5. Block access to various parts of Reno because crossing would be blocked twice as long as before. 4
6. The merger would create a monopoly. 5

Please decline to approve this merger.

Sincerely

Roger M. Hall
cc:files

1 SEA recognizes the respondent's concern for changes in property value. Such changes do not fall within the scope of SEA's environmental review. SEA has assessed the potential noise impact of increased train traffic for the line segment that includes Reno. The noise increase in this segment was below the 3 dB threshold at which mitigation would be warranted. A noise increase of 2.6 dBA would extend the 65 dB noise contour line by 190 feet from its present distance of 480 feet from the rail line.

The noise analysis is described in Volume 1, Chapter 4 of the Post EA. In response to a request from SEA, the Applicant generated a more detailed traffic model analysis, which indicates the number of carloads of hazardous materials before and after the merger. This information indicated that the Donner route through Reno would experience an increase of 60 percent in hazardous materials car loadings. The traffic increase resulting from the merger exceeds historic levels or the increase that could reasonably be expected from the upward swing of a single business cycle. Mitigation measures that are proposed for the transport of hazardous materials are reported in Volume 1, Chapter 5 of the Post EA.

2 Quality of life issues are not within the scope of SEA's environmental review. The respondent should forward this concern directly to the Applicant.

3 In response to this and other comments on estimated emissions increased from the proposed merger, SEA calculated total net emissions changes for all air quality control regions (ACQRs). These net emissions impacts by AQCR are shown in Table 3-6 in Volume 1, Chapter 3 of the Post EA. These calculations incorporate those rail line segments that do not exceed Surface Transportation Board's threshold for analysis as well as those segments where rail traffic is expected to decrease. Based on this analysis, the total net increase for all calculated pollutants would be less than 8 tons per year. These increases are below EPA's General Conformity thresholds, therefore mitigation is not required. With respect to emissions from idling vehicles at grade crossings, SEA has performed additional analysis and concludes that, as stated in the EA, these emissions would be insubstantial. Further discussion of vehicular emissions at grade crossing is included in Volume 1, Chapter 3 of the Post EA and in Appendix G.

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

5 This economic/financial issue is not within the scope of SEA's environmental review, however, the Surface Transportation Board will consider economic and competitive issues in its deliberations on the merger.

VERIFIED STATEMENT

OF

D. STEPHEN WEST

1.0 INTRODUCTION/QUALIFICATIONS

My name is D. Stephen West. I am the City Manager/City Engineer ("Manager") for the City of Winnemucca, Nevada ("City"). I am responsible for the day to day management of the affairs of the City, including streets, traffic and certain emergency services. As Manager, I have been authorized to submit this Verified Statement setting forth the position of the City of Winnemucca and the County of Humboldt (collectively referred to herein sometimes as "Winnemucca") relating to the proposed Union Pacific/ Southern Pacific ("UP/SP") merger.

I have a Bachelors Degree in Civil Engineering. After graduation I was employed from 1977 to 1982 with a private consulting engineering firm. In 1982 I accepted employment with Winnemucca as the City Engineer, a position I held until 1986 when I assumed additional responsibility as City Manager. I have been the City Manager/City Engineer for Winnemucca since 1986.

2.0 AREA PROFILE

Humboldt County ("County") is situated in north central Nevada encompassing an area of approximately 9625 square miles. The City of Winnemucca, the only incorporated city in the County, is located in the southeasterly portion of the County occupying an approximate 5.45 square mile area. Situated on the Humboldt River, the City is approximately 165 miles east of Reno, 265 miles southwest of Boise, Idaho, and 360 miles west of Salt Lake City, Utah. The City is bisected in a northeast to southwest direction by Interstate 80 freeway ("I80"), by Union Pacific Railroad ("UP") and by Southern Pacific Railroad ("SP"). A portion of the City is bisected in a north/south direction by U.S. Highway 95. Appendix A contains a map illustrating the transportation routes.

The County has an approximate population of 16,000, with an estimated 7,500 residents living within the City limits. The population for Winnemucca has increased 7.8% in the last year, 25% in the last five (5) years, and 40% in the last decade.

Historically, the principal economy has been agriculture and mining. Mining, agribusiness, recreation and tourism are the principal economic influences today.

The UP/SP merger application characterizes Winnemucca as a town where there are two grade crossings. There appear to be residences to both sides of the line, with a large residential

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1 In Post EA analysis, SEA has incorporated the City's comment that there are five grade crossings, not two as reported in the EA.

area to the south of the tracks at the south end of town." This description of Winnemucca is neither accurate nor complete. The City is a growing regional business and transportation center that supports expanding mining and agribusiness activities throughout northern Nevada. Commercial, industrial and residential development have been expanding accordingly.

The UP route skirts the northern edge of the City, while the SP line bisects the central core of Winnemucca. Local roads cross the UP twice at grade and the SP three times. The busiest grade crossing is Bridge Street, situated on the SP line in the heart of the City. Located within two to three blocks of this crossing are the City Fire Station, the Rural Fire Station, and the Police Station. The Elementary School, Hospital, City Park, Recreation Center, and Swimming Pool are between one and two blocks from the main line tracks. Immediately adjacent to the main line tracks are the Junior High School, the Little League Baseball Complex, and Haskell Street, which is a primary collector street.

The Municipal Airport, the BLM Fire Unit (based at the airport), and the Care-Flights, which transport hospital patients to and from Reno, are accessed using the Airport Road grade crossing. Public safety vehicles are already delayed in responding to a large portion of the County when waiting for trains at the crossing or when forced to use another more distant crossing.

3.0 FACT FINDING REPORT

Winnemucca retained the services of Nolte and Associates ("Nolte") and Kleinfelder to perform a study on the proposed UP/SP merger and determine the effects of the proposed merger on the County and City. The study involved City and County staff, railroad personnel, engineering professionals, legal experts and in-house railroad specialists. Information on transportation issues relating to the railroad through Winnemucca was obtained. Additionally, historical data and the UP/SP merger application were examined and used to develop estimates on the rail traffic changes. The objective of the study was to determine the pertinent facts surrounding the effects of the merger on the City and to assist the City and County in establishing a position on the merger.

During the time the study was being conducted, the UP/SP group held a town meeting in Winnemucca to discuss the proposed merger with City and County officials and the general public. At the meeting, several concerns and proposals relating to the UP/SP merger were discussed. Two of the proposals received consideration by UP/SP personnel and are discussed later in this statement.

4.0 WINNEMUCCA TRANSPORTATION PROFILE

4.01 Railroad Operations in General

Railroad operations through northern Nevada and Winnemucca utilize two main line routes. The first is the UP's line from Sacramento through Winnemucca via the Feather River

1

1 Refer to the previous page for response.

canyon. The second is the SP route from Roseville through Winnemucca via the Donner pass. The UP and SP lines converge at the Weso station, 3 miles east of the City. East of Weso, SP and UP share double track main lines for about 182 miles to the Alazon station.

The SP route is at least 136 miles[1] shorter than the UP route between Oakland and Salt Lake City, saving an estimated two crews per train between those points. The UP line consists of single track (except Weso to Alazon) with maximum 1% grade over the Sierras, while the SP line is predominantly double track with maximum 2.6% grade over Donner Summit. The section of SP track through Winnemucca is single track with a siding for meeting and passing trains. The gradients of both the SP track and the UP track through Winnemucca are less than 0.6% grade and slope away from downtown to the west. The UP route is cleared for maximum-height double-stacked containers, the SP route is not.[1] Appendix A contains route maps and track charts illustrating these lines.

4.02 Current SP Winnemucca Operations

Winnemucca is located on the Nevada District Control Region of the SP at Mile Post (MP) 417.3.[1] Two tracks pass through downtown Winnemucca, identified as the mainline and the siding. Centralized Traffic Control (CTC) governs train movements from MP 406.8 (Rose Creek) to MP 420.9 (Weso). Established train operating rules mandate maximum train speeds of 40 mph for both passenger and freight as they pass between MP 417.4 and MP 417.9.

Presently, Amtrak operates 4 trains east and 4 trains west through Winnemucca each week. These trains are generally about 1,200 to 1,500 feet long including locomotives. Winnemucca is a regular station stop for intercity passenger trains.

Approximately 13 freight trains[2] presently operate on SP tracks through Winnemucca each day. SP train density records from 1994 validate this number. These trains consist of expedited automobile, intermodal, manifest (box car), unit grain, and coal trains operating 24 hours per day, seven days per week. Train lengths vary depending on train type, tonnage, and commodity. Auto and intermodal trains are generally 5,000 to 6,000 feet long and generally operate at faster speeds than the heavier, longer manifest and unit trains. The manifest trains can range from 5,000 to 8,000 feet long and are much heavier. Unit grain and coal trains usually operate with 65 to 75 cars and weigh approximately 7,500 to 10,000 tons at lengths ranging from 5,000 to over 6,000 feet.

An actual 24-hour lineup of trains through Winnemucca on February 8, 1996, showed 16 trains including one local engine that performs industry work. The same lineup on January 22, 1996, showed a total of 14 trains. These trains included all categories of passenger and freight

2

[1] The merger application indicates the costs of increasing overhead clearances on SP=s route to be $18 million. A similar program was completed on UP=s route around 1990.
[2] This number was generated from an analysis of SP train density records showing train traffic on the division during two representative days in 1994.

2 SEA acknowledges the City's comments on train counts at locations for specific dates. Analysis of impacts is based on UP/SP's estimates of train traffic by segments. SEA finds that the projected number of trains provided in the Applicant's Operating Plan, adjusted to consider the BN/Santa Fe-1 Settlement Agreement, are reasonable. The Applicant's Rebuttal, filed on April 29, 1996, confirms that the post-merger Operating Plan would have 22 freight trains, one Amtrak train and six BN/Santa Fe trains on the SP line through Winnemucca, and six trains per day on the UP line.

(BNSF) trains[3] or local UP or SP operations. The Plan calls for an increase in train tonnage and movements on the SP line through Winnemucca from the present level of 22 million to 35 million gross tons per year, an increase of 58%. The increase comes from diversion of trains off the UP route resulting in a decrease in gross tons per year on the UP of 62%. No provision is included for post-merger rail traffic growth or for the BNSF trains.

It is estimated that actual post-merger traffic will be 34 through-freight, 2 passenger (on average), and 2 local trains per day on the SP route through Winnemucca resulting in 38 trains per day.[4] Historical trends factored into this estimate take into account the 22 trains per day moving on the SP route through Winnemucca in 1980,[5] the former Western Pacific Railroad (WP) operation of 6 trains per day, anticipated BNSF traffic of 6 trains per day,[6] expected and historic passenger train activity at 2 trains per day on average, and 2 movements of the local switch engine through town. This projection also takes into account the anticipated growth in rail traffic resulting from Port of Oakland expansion plans that envision 6% average annual growth in rail demand. With UP's enhanced competitive position over the central corridor brought on by this merger, intermodal traffic through Winnemucca should grow at a rate at least equivalent to this rate.[7]

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

Hazardous materials are most generally handled in manifest trains under strict positioning rules and regulations. Cars must be placarded identifying the commodity or chemical being moved. According to statistics from the American Association of Railroads (AAR) movement of these chemicals by rail is considerably safer than movement over the highway. It is possible

[3] Verified statement of Mr. Neal D. Owen in BN/Santa Fe's Comments on the Primary Application, Dec. 29, 1996.
[4] Based on the knowledge of Nolte railroad operations specialists and historical trends in northern Nevada.
[5] A time of peak traffic on the SP route as evidenced by the 1980 Reno trainway bond issue vote.
[6] Verified statement of Mr. Neal D. Owen in BN/Santa Fe's Comments on the Primary Application, Dec. 29, 1996, representing a possible diversion from their southern Calif. to Chicago route. This study assumes all 6 BNSF trains will use the Donner Pass route due to its reduced operating costs. Diversion to the Feather River route would reduce this number; however, increases due to additional business could offset these reductions.
[7] Western Region Automotive Intermodal Terminal Rationalization, Revised 9/21/95, Page 13, indicates that 50,000 additional containers will be handled through the Oakland railroad intermodal yards per year, post merger, due to truck to rail traffic diversions.
[8] According to a former SP Sacramento Division operating superintendent.

3 SEA has assessed comments on a different number of anticipated trains in the area. Refer to response #2 of this letter.

4 The standard train length of 5,000 ft. as reported by the Applicant, has generally been used throughout the system. The effects of a 6,000-foot train have been calculated, and the increased delay and emission impacts were found to be minimal. Trains vary in length considerably, and while some may be quite long, others can be short. While it is feasible to operate a train of 8,000 feet in length, it presents operating difficulties. Following an examination of UP/SP's procedures, SEA concluded that 5,000 feet is a reasonable average train length.

that a modest increase of this traffic will occur through Winnemucca as a result of this merger. The heavier and slower manifest trains most likely to carry these commodities will probably be routed through the Feather River (UP) line to avoid delaying the expedited intermodal and auto trains using the Donner route. Similarly, unit coal, grain, and ore trains (80 to 90 cars, 12,000 tons, 5,000 feet) will also probably operate via the Feather River (UP) route.

5.02 Traffic Effects

As part of the Nolte study, the team calculated the average time crossing gates would be down at Bridge Street. It was determined that a 6,000 foot train traveling at 40 mph would result in gates down for 2.3 minutes; a 6,500 foot train would hold gates down for 2.4 minutes; a 7,000 foot train would hold gates down for 2.5 minutes; an 8,000 foot train would hold gates down for 2.8 minutes; and a 1,500 passenger or local freight train would keep gates down for 1 minute. The Nolte study estimated that current gate down time based on 13 trains per day (11 freight, 1 passenger, and 2 local switching movements) would be 2 hours per day. Post-merger gate down time, using these same calculations applied to anticipated train traffic levels, would be 1.43 hours per day or 278% of present levels. 5

The crossing blockage estimate does not account for a situation where two trains simultaneously converge on the downtown area. In such case the crossing gates would stay down for up to 5.5 minutes. It also does not account for a train entering or leaving the siding. For instance, a 7,000 foot train traveling at 10 MPH into or out of the siding would block Bridge Street for at least 8.5 minutes. If this train was entering or leaving the siding immediately before or after the passage of a main line train, the crossing could be blocked for 11 minutes or more.

5.03 Environmental Assessment Thresholds

The ICC requires an environmental analysis when increases in rail traffic exceed the thresholds established in 49 CFR 1105.79(e)(5)(i) and (ii). These thresholds include air quality for line segments with increases of 8 trains per day in attainment areas and 3 trains per day in non-attainment areas. They also include noise for line segments with increases of 15 trains per day or 100% of annual gross ton miles. The SP route through Winnemucca exceeds these thresholds. The merger application therefore includes an air quality and noise analysis for the increased rail traffic through Winnemucca.

5.04 Air Quality

The merger application indicates an increase in air pollutants from locomotives working between Winnemucca and Sparks that is proportional to the anticipated increase in train traffic.[7] These additional pollutants include 44.14 tons per year of HC (Hydrocarbons), 137.24 tons per year of CO (Carbon Monoxide), 22.27 tons per year of PM (Particulate Matter), 1027.26 tons per year of NO$_x$ (Nitrogen Oxides), and 74.44 tons per year of SO$_x$ (Sulfur Dioxide). The Air Quality Control Region (AQCR) 147, which includes Winnemucca, is in a non-attainment (NA) status for PM and SO$_x$. However, if these pollution numbers are adjusted for the correct number 6

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5 SEA has reviewed concerns relating to gate down time. SEA conducted a site visit to Winnemucca and performed Post EA analysis of traffic conditions and projected impacts of additional rail traffic.

Average delay per vehicle at grade crossings would increase from pre-merger values of 1 to 2 seconds to post-merger values of 3 to 4 seconds. SEA views this level of decrease in service, associated with the post-merger level of freight operations, as minimal and no mitigation is proposed. The vehicle traffic methodology is described in Volume 1, Chapter 4 of the Post EA.

6 The air quality assessment performed in the EA is based upon the Applicant's Operating Plan, adjusted to consider the BN/Santa Fe-1 Settlement Agreement. The air quality analysis methodology is described in Volume 1, Chapter 4 of the Post EA.

of anticipated trains, they would need to be increased by approximately 121%. These figures do not include added air pollutants from idling vehicles trapped in queues behind the crossing gates which may triple over current levels.

Kleinfelder estimated vehicular air emissions resulting from an increase in the number of trains traveling through Reno, Nevada. Emissions of volatile organic compounds (VOC), carbon monoxide (CO), oxides of nitrogen (NO_x), and particulate matter with aerodynamic diameter less than 10 microns (PM_{10}) occur when vehicles decelerate to a train crossing, idle, and then accelerate from the train crossing. The number of train trips through the Reno area is expected to closely match Winnemucca.

The results of emissions calculations for Reno for VOC, CO, NO_x, and PM_{10} were 85.4 tons/year, 1112 tons/year, 24.8 tons/year, and 0.55 tons/year, respectively.* Vehicular emissions due to increased train traffic in Winnemucca would surely be significantly less than these figures. However, the merger application should be revised to account for this added source of air pollution in downtown Winnemucca and throughout Humboldt County, especially in light of AQCR 147's non-attainment status on PM. 7

5.05 Noise

The merger application indicates a substantial increase in railroad-generated noise in Winnemucca due to the UP/SP merger. The number of sensitive receptors (i.e. schools, churches, and residences) in town receiving over 65 decibels (dBA) of railroad noise, plus sensitive receptors with increases of more than 3 dBA over current levels, increased as a result of the merger. The number of sensitive receptors go from 44 (43 residences and 1 church) to 123 (120 residences, 1 school, and 2 churches) according to the application.[1]

The merger application, however, may be based on buildings shown on a 7.5 minute USGS map which is not current. The result of using this map would be to substantially understate the number of sensitive receptors affected by the merged train traffic levels. For instance, it appears that 2 schools and many more residences were not included in the noise influence zone that was used in the railroad application. The application should be revised to reflect current land uses and development in downtown Winnemucca. 8

5.06 Emergency Services-Public Safety

Emergency service in the City of Winnemucca will be impacted to a great extent by the proposed merger of Union Pacific and Southern Pacific Railroads. This community has developed around the railroad; however, the significant increase in utilization of the SP corridor by the post-merger Union Pacific operation and the additional traffic from the BNSF will increase the danger and adverse impact of the rail operation in the downtown area. Local safety and law enforcement professionals are very concerned about hazards the trains will present to the numerous children who will cross the tracks each day. They also indicate a substantial detrimental effect on emergency response times (police, sheriff, fire, and ambulance) due to 9 10

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7 SEA's environmental rules specify air quality assessments on a regional basis, as reported in the EA. The rules do not include assessments of localized emissions.

8 SEA has reviewed comments on areas affected by noise. An additional residential area west of Winnemucca, referred to locally as Grass Valley, was reviewed during the post EA period. Revised pre- and post-merger receptors falling within the 65 L_{dn} noise contour are estimated as follows. The revised number of residences falling within the 65 L_{dn} noise contour are estimated to be 136 (pre-merger) and 301 (post-merger). The number of schools within the 65 L_{dn} noise contour pre- and post-merger are 0 and 2, respectively. A single church is within the contour in either scenario. The projected increase in train traffic for this rail segment is 12.4 trains per day, which result in a noise level increase of 2.98 dB. This increase does not exceed SEA's noise threshold of 3.0 dB, so no mitigation is recommended. SEA's noise methodology is described in Volume 1, Chapter 4 of the Post EA.

9 SEA has reviewed concerns about emergency response. There are two grade separations in Winnemucca, at Hanson Street and at US 40, each about seven blocks from Bridge Street. They provide access across the SP line when it is occupied. Grade crossings of the UP line are at Rhinehart Dam Road and Weso. Total crossing delays over a 24-hour period at grade crossings with speeds of 40 mph (such as Bridge Street) are expected to increase from 29 minutes to 55 minutes. The maximum queue length per train during peak hour is expected to be 11 vehicles, with a corresponding delay of 1.35 minutes per vehicle (or 14.85 minutes (11 x 1.35) maximum). When such delay occurs, dispatchers could route emergency vehicles to the existing grade separations at either Hanson Street or US 40. SEA's traffic methodology is described in Volume 1, Chapter 4 of the Post EA.

10 SEA acknowledges the City's concerns about pedestrian crossings. Pedestrian crossings of the tracks are an existing safety condition that may be worsened with increased train traffic. SEA recommends general mitigation measures to improve pedestrian safety in Volume 1, Chapter 5 of the Post EA.

Bridge Street blockages and subsequent rerouting to other crossings. None of these effects were discussed in the merger application.

5.07 Economic Effects of Merger on the Railroad

The combined UP/SP route between Oakland and Chicago will be shorter than the UP or the SP route. Mileage reductions will come from combining parts of the UP and SP routes to create a new route that is much shorter than either railroad's present system. Oakland to Chicago, via the combined route, will show a reduction of 388 miles from SP's present route and 189 miles from UP's line.[9]

This merger will generate significant net savings to UP. Overall benefit to the merged system will be approximately $750 million annually.[9]

6.0 CONCLUSION AND DISCUSSION

6.01 Problem Statement

The City and County, through the Nolte study, attempted to more sharply focus the challenges caused by the merger into a concise problem statement. It was determined that along with the problems brought on by a significant increase in train traffic through Winnemucca there is an opportunity to solve a long-standing problem, now brought into the spotlight. This problem statement has evolved into the following:

Increased train traffic through downtown Winnemucca as a result of the UP/SP merger will increase grade crossing blockages, noise, and air pollution beyond acceptable limits, but also creates the opportunity to reshape the railroad transportation infrastructure of Winnemucca to realize significant railroad operations, land use, and economic benefits.

6.02 Potential Solutions

Vehicle/train interference at Bridge Street can be mitigated in two ways as follows:

1. A grade separation at Bridge Street
2. Rerouting main line railroad traffic to the UP line with a new connection to the SP near Rose Creek (including a new bridge across the Humboldt River)

A new grade separation at Bridge Street at a location near the present center of town appears feasible. It would be extremely disruptive to emergency services and general downtown

[9] Ibid., Page 93.

11 SEA has assessed the request for a grade separation at Bridge Street. The Applicant has indicated a willingness to discuss joint funding under the financial constraints of Nevada law, but the City has indicated that its share of either a $4 million underpass or a $25.2 million bypass cannot be met. There is an existing grade crossing at Hanson Street, seven blocks south of Bridge Street. There is an underpass at US 40, approximately the same distance north.

Additional analysis of traffic in Winnemucca indicates that the average vehicle delay would increase from 1 to 2 seconds (pre-merger) to 2 to 3 seconds (post-merger). SEA finds the accompanying effect on level of service (LOS) associated with the post-merger level of operations is minimal. No mitigation is proposed.

12 SEA has reviewed the proposed rerouting of mainline traffic from the middle of Winnemucca to the UP line. A site visit was conducted by SEA. The proposed new alignment would also have to cross the Humboldt River and associated wetlands. The estimated cost of construction reported by the Applicant to County officials is $25.5 million. SEA concludes that the costs of construction needed to implement rerouting would be excessive and this proposed mitigation is not viable.

TOM FRANSWAY
1996 Chairman
JOHN H. MILTON III
1996 Vice Chairman
RONALD E. SCHREMPP
Commissioner

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VIA FEDERAL EXPRESS

May 1, 1996

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

RE: COMMENTS TO ENVIRONMENTAL ASSESSMENT - UP/SP RAILROAD MERGER FINANCE DOCKET NO. 32760

Dear Ms. Kaiser:

City of Winnemucca and Humboldt County, Nevada officials have reviewed the above-referenced Environmental Assessment and wish to make the following comments:

Chapter 12.0, Rail Line Segment, Rail Yard, and Intermodal Facility Impacts, Nevada:

A copy of the Verified Statement of D. Stephen West filed with the Surface Transportation Board on behalf of the City of Winnemucca, a Nevada municipal corporation, and the County of Humboldt, a political subdivision of the State of Nevada is attached (ref. Attachment I). This document shall serve as City of Winnemucca and Humboldt County comments on Chapter 12.0 of this Environmental Assessment. This Verified Statement was also filed with Dames & Moore on April 3, 1996 as input for this Environmental Assessment process.

Volume 2, 12.8 SEA Recommended Mitigation:
Transportation and Safety

We believe that the recommendation for UP/SP to conduct individual traffic/safety "studies" in consultation with the City of Winnemucca to assess safety and highway traffic impact associated with the proposed merger, and specify site-specific mitigation, as appropriate, is insufficient to ensure that the negative impacts on transportation and safety in Winnemucca/Humboldt County are addressed. The Winnemucca City County and Humboldt County Commissioners have already met with UP/SP representatives and received the attached written response to their requests for mitigation assistance (ref. Attachment II).

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1 SEA acknowledges the concerns regarding the proposed increase in train traffic, and proposed mitigation in the EA. A further examination of the conditions and the proposed increased level of rail traffic have resulted in a different conclusion. SEA conducted a site visit and performed a post EA analysis of traffic conditions and projected impacts of additional rail traffic. Average delay per vehicle at grade crossings would increase from pre-merger values of 1 to 2 seconds to post-merger values of 3 to 4 seconds. SEA concludes that the effect of this change in the level of service would be minimal, and no mitigation is proposed.

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
May 1, 1996
Page Two

Reno is recognized in the EA as having "unique characteristics" and the Environmental Assessment requires that UP/SP continue to negotiate with the City of Reno to develop a final plan and agreement. If these negotiations are not successful within one and one-half years, the EA recommends that UP/SP be required to construct a minimum of three grade-separated crossings for the City of Reno. 2

We firmly believe that the Winnemucca/Humboldt County area also has many "unique characteristics" that warrant a similar recommendation in the EA that UP/SP negotiate with the City of Winnemucca/Humboldt County to develop a final plan and agreement to address transportation and safety issues. If these negotiations are not successful within one and one-half years, UP-SP should be required to similarly mitigate negative impacts.

In Section 6.02 of the attached Verified Statement potential mitigation measures are identified which include: 1. Construction of a grade separation at Bridge Street in Winnemucca (near center of town), and 2. Rerouting main line railroad traffic to the UP line with a new connection to the SP near Rose Creek (including a new bridge across the Humboldt River). 3

Volume 5, Appendices D and E:

On two occasions Humboldt County submitted written comments to Dames & Moore in response to requests for input in this Environmental Assessment process. Copies of those comments are attached (ref. Attachments III & IV).

Thank you for the opportunity to review and comment on this Environmental Assessment. If you have any questions, please feel free to contact us at the above addresses.

Sincerely,

Kerry L. Hawkins
Humboldt County Administrator

D. Steph[illegible] West
Winnemu[illegible]a City Manager

xc: County Commissioners
City Council
District Attorney
City Attorney

Attachments: I -IV

2 SEA acknowledges the request by the City of Winnemucca and Humboldt County to be treated in the same manner as the City of Reno. The magnitude of impacts identified for Winnemucca from a site visit and supplemented by additional traffic analysis, do not indicate that mitigation is warranted. The City's request for a grade separation at Bridge Street is not recommended by SEA because there are two existing grade separations approximately seven blocks on either side of Bridge Street. The City's proposal to relocate traffic from the SP line through town to the UP line north of town cannot be recommended by SEA because of the associated environmental impacts from a new crossing of the Humboldt River and associated wetlands. Additionally, because the estimated cost of this project may be $25.5 million, SEA does not consider this proposed mitigation to be viable.

3 Responses to comments of the verified statement attached to this letter are provided in the response to the letter from the City of Winnemucca dated March 28, 1996.

HARRY REID
NEVADA

United States Senate
WASHINGTON, DC 20510-2803

BEFORE THE
SURFACE TRANSPORTATION BOARD

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

COMMENT AND REQUEST FOR CONDITIONS

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BEFORE THE
SURFACE TRANSPORTATION BOARD

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

COMMENT AND REQUEST FOR CONDITIONS

SUMMARY

INTRODUCTION. As the senior United States Senator from Nevada, I submit these comments to oppose the merger of Union Pacific Railroad with Southern Pacific Railroad because of the merger's implication for the City of Reno. Reno functions as a regional nucleus for all of northern Nevada and northeastern California. The railroad tracks of Southern Pacific Railroad run directly through the center of the city and has historically been both a positive and negative influence on the downtown area. Since the proposal of the merger, the City of Reno has studied the impacts of the merger on the community and found severe negative consequences, discussed below. 1

ISSUES. The merger of Union Pacific Railroad and Southern Pacific Railroad, as proposed, will create a substantial hardship on the City of Reno. The significance of the merger's proposal and the negative implications to the City of Reno cannot be underestimated. Adverse safety, environmental, and economic effects have all been substantiated by the city.

Because the merger will expand the number of trains per day from 14 to 38 on the 2

1 SEA recognizes the Senator's opposition to the proposed merger because of impacts to the City of Reno.

2 SEA acknowledges the Senator's concern about increased train traffic and associated air quality impacts. In response to the concern expressed by the City of Reno over conflicting train projections, SEA reviewed train data to affirm the proper number. Based upon the Applicant's data, the total number of daily trains (freight and passenger) would increase from 13.8 to 25.1, not to 38 trains per day. This is an increase of 11.3 trains per day. These affirmed numbers, which included the BN/Santa Fe-1 Settlement Agreement, were used in the EA. Subsequent to circulation of the EA, the Applicant reached a Settlement Agreement with the Chemical Manufacturers' Association (CMA). The final train numbers, which account for the CMA Agreement, are shown in Volume 1, Chapter 3 of the Post EA.

SEA has reviewed estimates of merger-related increases in locomotive emissions by Air Quality Control Region and track segment. The total net emissions increase for the region would be eight tons, which is below the EPA threshold, so mitigation is not required. Volume 1, Chapter 3 of the Post EA describes the analysis methodology. With regard to motor vehicle pollution, SEA performed an analysis at 10 intersections in downtown Reno for which the average daily traffic per crossing is 11,267 vehicles. SEA's findings for the 10 crossings (between Keystone and Lake) are that annual emissions, in tons, would be: 1.6 (HC), 20.0 (CO), 0.4 (NO_x), 0.01 (SO_2), and 0.01 (PM_{10}). SEA concludes this level of emission is not substantial and would not require mitigation.

railroad tracks that extend through the downtown area, there will be an increase in the air pollution from motor vehicle and train pollution, emergency and public safety vehicle responses will be significantly hindered; and the risk to the environment will be notably escalated. Consequently, as the new Union Pacific - Southern Pacific corporation enjoy annual benefits of approximately $750 million annually, Reno and adjoining communities will see marked diminishment of the local and area economy. The railroad tracks lay through the middle of the city and consequently this merger will distinctly and permanently mar the very character of Reno. For these reasons, discussed further herein, the merger of Union Pacific Railroads and Southern Pacific Railroads is opposed.

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MITIGATION DIALOGUE. Union Pacific Railroad management has agreed to meet with the city officials to find agreement on mitigation measures to the problems that the merger will create. There are options that are being jointly reviewed in relation to engineering possibilities, city infrastructure compatibility, and financial feasibility. However, since these talks have not yet produced any definite mitigation proposal, I must oppose the merger until the outstanding issues are resolved by Union Pacific and the City of Reno.

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DISCUSSION OF ISSUES

PUBLIC SAFETY PROBLEMS. There are a number of reasons which lead to the conclusion that the public safety of Reno is jeopardized by the post-merger railroad traffic. First, because of the location of the tracks through the center of the city, the ability of the public service vehicles to respond to emergencies is severely limited. In recent years, train traffic has increasingly become a hindrance to responding police vehicles, fire units and paramedics. While population growth, increased requests for police assistance, and a declining number of officers all create stress for public safety personnel, it is the avoidance of trains that often requires the time consuming rerouting of public safety units and personnel to efficiently react to citizens' needs. The post-merger increase in train traffic, length, delays in movement will significantly compromise the effectiveness of public safety personnel. Indeed, it is estimated that fire and

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

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

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

ambulance response calls are increased by approximately 25% per call due to railroad blockages, which undermines the preferred goal of four minute responses. As emergency response units can attest that even a minute lost in the reaction to an emergency can be life-threatening. The city anticipates that response to traffic accidents, fellow officers needing backup assistance, and other citizen injury calls will all suffer serious delays.

Second, there will be an increase in the traffic violations and railroad crossing injuries and death. Historically there have been impatient motor vehicle drivers who, anxious to avoid the delays of the trains, will try to beat oncoming trains across the tracks, make u-turns, or proceed in the opposite direction of one way streets in anticipation of finding a route that avoids the hindrance of train traffic. Also, due to the location of the railroad tracks pedestrians are bound to congregate in precariously close proximity to the tracks. Post-merger enlargement of the number of trains, the amount of train cars and the duration of motor vehicle delay in the city will simply intensify circumstances that ought to be alleviated.

Third, another consequence of the merger that puts the safety of Reno's citizens at risk is the criminal population that find haven by and on the railroad tracks. The crossing arms, underpasses and train cars, when they have paused long enough, are gathering sites for criminals and are made temporary shelters by homeless persons and panhandlers. Downtown property owners have justifiably prohibited loitering on their property making the railroad property a refuge area for drifters, unruly crowds and drug dealers. Because the railroad does not monitor the tracks, this atmosphere is both unsafe and deteriorating for downtown Reno. In a community that relies upon tourism and recreation industries, the inevitability of violent crimes striking visitors increases as the circumstances continue unabated or train lengths and delays swell due to the merger.

In sum, the safety problems for the citizens of Reno that arise due to the proposed post-merger activity of Union Pacific Railroads and Southern Pacific Railroad compels opposition to the merger. There is no justification for proceeding with a merger whose activities will inherently place an undue burden on the community to provide for the health and safety of its citizens. Moreover, a merger that creates hazardous conditions in an otherwise prosperous, cultural, and tourist community is unwarranted and should be rejected.

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4 SEA recognizes the Senator's position to oppose the merger until issues are resolved by the Applicant and the City of Reno.

5 SEA acknowledges the Senator's concerns for public safety. Please refer to the response to comment #3.

6 SEA recognizes the Senator's comments on driver actions. The Surface Transportation Board cannot preclude intentional traffic violations.

7 SEA acknowledges the concern for security issues. However, security issues are not within the jurisdiction of the Board. The Senator should forward this concern directly to the Applicant.

8 SEA acknowledges the Senator's position in opposition to the proposed merger because of burdens placed on the community. Please refer to the response to comment #3.

ENVIRONMENTAL RISKS. The implications of the merger of Union Pacific and Southern Pacific dramatically increase the environmental risks and concerns to the City of Reno. Air and noise pollution will both increase significantly in the downtown area because of the post-merger railroad activities.

The city's efforts to shed it's "non-attainment status" and comply with EPA standards will be frustrated if the vehicular delay caused by trains compels idling motor vehicles to emit approximately 11,000 additional tons of carbon monoxide into the air. This estimation of new air pollution are premised on the conclusion that the merger will delay motor vehicle traffic up to 339%. Furthermore, the engineers have found that the additional trains incorporated by the post-merger activity will add approximately 247 tons of pollution per year to the air. To subject a city to this environmental affliction for the sake of a corporate merger is unreasonable.

Noise pollution from the railroad track traffic is also expected to increase considerably if the proposed post-merger activity progresses. While the railroad noise levels of the increased amount and length of trains cannot be specifically quantified; within 1,500 feet of the railroad tracks are approximately 9,000 hospitals, hotels, churches, schools and growing number of residences all currently affected by the noise of railroad traffic. Railroad traffic at night will also produce agitation for the many hospital and hotel tenants, as well as residences along the track.

Finally, an environmental risk of the increased railroad traffic is the exposure of the principle water supply of the city to any railroad accident, spill, or leakage. The current railroad tracks subject the Truckee River to jeopardy from any railroad-connected accident, which would deprive Reno of potable drinking water for an indefinite period of time. Of the services of local government, providing drinking water is considered a fundamental utility of the municipality. To place in peril such an essential need for the purposes of a corporate merger is untenable.

ECONOMIC IMPACT. The economy of Reno is rooted in the tourism-recreation industry. The studies made of the economic impact of the post-merger activity conclude that the consequences of the negative impacts of the merger, discussed above, would depreciate property values, undermine special events and impair recreational enjoyment.

6

9

SEA acknowledges the Senator's concerns about air quality. Please refer to the response to comment #2 for air quality information, and to Volume 1, Chapter 3 and Chapter 4 containing detailed discussions of air quality issues.

10

SEA recognizes the Senator's concerns about noise and acknowledges the large number of potential receptors located near the rail line. The difference in total sensitive receptors reported in the EA versus more than 9,000 contained in the comment attributed to the large number of hotel rooms included in the 9,000 figure. These rooms were not considered as residences (or any other noise-sensitive category) contained in the Board's environmental rules at 1105.7 (e) and thus not counted as sensitive noise receptors. The noise level due to UP/SP and BN/Santa Fe traffic is expected to increase by 2.8 decibels, based on pre- and post-merger train volume of 12.7 and 24 trains per day, respectively (does not include passenger trains). Regardless of the number of affected sensitive receivers, this noise increase is less than the threshold of significance outlined in the Surface Transportation Board's environmental rules. Also, if grade separations are eventually implemented as part of SEA's mitigation recommendations, noise benefits would accrue.

11

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

CONCLUSION

The merger of Union Pacific Railroad with Southern Pacific Railroad is the largest railroad transactions in modern railroad history. There may be some who would argue that the effects on a single city in northern Nevada should not impede such a prominent event and the many corporate benefits of the merger. On the contrary, the fact that the City of Reno is confronting such negative ramifications as direct consequences of the merger is evidence that the merger must be reexamined in light of the communities so impacted.

The public safety, environmental health, and economic state of a community should not be sacrificed in the cause of the railroad marketplace. The current location of the railroad tracks already greatly influence the tourism and trade patterns of the city. With the proposed merger Reno's citizens will unquestionably face significant unfavorable changes to their lifestyles, commerce, and standard of living if the merger proceeds without mitigating measures being taken by Union Pacific Railroad.

As noted in the SUMMARY, Reno's issues are currently being studied jointly by city representatives and Union Pacific management. The mitigation agreement to which they assent should be made a qualifying condition for approval of the merger application. Consequently, if no such accord is reached, then the application should be denied. 12

Dated this 28th day of March 1996.

Respectfully submitted,

Harry Reid

Harry Reid
United States Senator

12 SEA acknowledges the Senator's position that issues under joint study by the Applicant and City of Reno should be the basis of a mitigation agreement. This is consistent with SEA's recommended mitigation, reported in Volume 1, Chapter 5 of the Post EA.

RENO-5

United States of America

Before the

SURFACE TRANSPORTATION BOARD

F.D. NO. 32760

Union Pacific Corporation et al. --
Control and Merger -- Southern Pacific Corporation et al.

COMMENTS

ON

PRELIMINARY DRAFT ENVIRONMENTAL ASSESSMENT

(served April 12, 1996)

BY

CITY OF RENO

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Counsel for City of Reno

Dated: May 3, 1996

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KECK, MAHIN & CATE

FILE NUMBER 48189-001

DIRECT DIAL 202-789-8931

May 23, 1996

VIA FAX AND MAIL

Ms. Elaine K. Kaiser
Chief, Section of Environmental Analysis
Surface Transportation Board
1201 Constitution Ave., N.W.
Washington, D.C. 20423

Re: F.D.No. 32760 UPSP/Merger
(Environmental Impact Statement
and Conformity Determination)

Dear Ms. Kaiser:

On behalf of the City of Reno, a party participant in the above proceeding, I request that an environmental impact statement (EIS) and conformity determination be undertaken for the environmental impacts in the Reno/Sparks/Truckee Meadows Basin. 1

The "EIS" request is based on the Surface Transportation Board's (STB) responsibilities under the National Environmental Policies Act (NEPA) 42 USC 4321 et seq. specifically 4332(2) and applicable regulations thereunder in 40 CFR Parts 1500-1508. 2

The "conformity determination" request is based on STB responsibilities under the Clean Air Act (CAA), 42 USC 7401 et seq., specifically 7506(c)(1), and regulations in 40 CFR Part 51, Subpart W. 51.850-.860. 3

After the site visit in the Reno/Sparks/Truckee Meadows Basin I am reasonably certain that the SEA should conclude that only an EIS undertaking will fully and fairly address the significant and adverse impacts to the public health, safety and environment of

1 SEA notes the City's request that an EIS be conducted for the environmental impacts in the Reno/Sparks/Truckee Basin. Based on an independent review of the proposed merger, SEA concludes that an EA, with the recommended mitigation measures, is appropriate. The EA and Post EA identify and evaluate impacts of the proposed merger and describe recommended mitigation measures to address potential impacts.

2 SEA does not believe an EIS is needed for the proposed merger. Environmental impacts have been sufficiently evaluated in the EA, per the Board's environmental rules at 49 CFR Part 1105, to meet the Surface Transportation Board's NEPA responsibilities.

3 Consultation with the Environmental Protection Agency confirms that a conformity determination is not required as part of the Surface Transportation Board's environmental analysis. The Board has no on-going enforcement authority in air quality matters. Please refer to the discussion of air quality in Volume 1, Chapter 4 of the Post EA.

COMMENTS ON PRELIMINARY DRAFT ENVIRONMENTAL ASSESSMENT (PDEA), served APRIL 12, 1996

The City of Reno submits comment on the Preliminary Draft Environmental Assessment (PDEA), served April 12, 1996, in two Parts: Part A contains general comments on the process and substance of the PDEA, and Part B contains specific comments on the PDEA and those portions related to the City of Reno, and the Reno/Sparks/Truckee Meadows Basin.

The conclusion of these comments is that because of inadequacies both in process and substance regarding the investigation, evaluation and mitigation of the adverse environmental consequences of the railroad merger proposed by the applicants, an environmental impact statement (EIS), rather than an environmental assessment (EA) is required for the City of Reno and the Reno/Sparks/Truckee Meadows Basin.

The City of Reno strongly disagrees with the PDEA's FONSI conclusion that "as currently proposed, the proposed merger and related construction and abandonment proposals would not significantly affect the quality of the human environment." The City also strongly disagrees with the PDEA's implication that adequate, viable mitigation of the demonstrable adverse environmental consequences have been evaluated as required.

1

SEA acknowledges the City's position on the need for an EIS for the City and Reno/Sparks/Truckee Meadows Basin. After reviewing the potential environmental impacts of the proposed merger, SEA concludes that an EA is appropriate. With the mitigation measures described in Volume 1, Chapter 5 of the Post EA, SEA finds that an EIS is not required for the Surface Transportation Board to consider approval of the proposed merger. By including recommended mitigation measures in the EA and Post EA, SEA has prepared a complete environmental document in compliance with NEPA and the Surface Transportation Board's NEPA guidelines. SEA's environmental review considered three geographic levels of potential environmental impacts: systemwide, corridor-specific, and local or regional. Accordingly, SEA's recommended conditions are structured to mitigate potentially significant impacts at each of the three levels. See the general statement on the Environmental Assessment in Volume 1, Chapter 4 of the Post EA.

2

SEA has conducted a thorough environmental review of the proposed merger, including a specific review of impacts to the Reno/Sparks/Truckee Meadows area. SEA reviewed and verified information provided by UP/SP in the November 30, 1995 Environmental Report. Where necessary, SEA conducted additional site visits (including a visit to Reno the week of February 26, 1996), agency consultations, and data analysis to fully consider national, regional, and local impacts that might arise from the proposed merger. The results of this review and proposed mitigation measures were published in the April 12, 1996 Environmental Assessment (EA), which was circulated for public review.

Since publication of the EA, SEA has received approximately 160 comments on the EA. SEA has had extensive discussions with Reno, UP/SP, and agency representatives to develop an effective mitigation approach. SEA has consulted with federal, state, and local officials, verified environmental data and train traffic numbers, and reevaluated air, noise, traffic delay, and safety analyses for Reno and other communities. SEA visited Reno again the week of May 13, 1996. The results of work since the EA are published in this Post EA, along with a more specific, comprehensive set of mitigation measures. Based on all of the information available, SEA has concluded, that as currently proposed, the proposed merger and related construction and abandonment proposals, when conditioned on the mitigation measures included in Volume 1, Chapter 5 of the Post EA, would not significantly affect the quality of the human environment. The Post EA recommends that the Board include SEA's recommended mitigation measures as conditions of any approval of the proposed merger.

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May 23, 1996

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RENO-5

United States of America

Before the

SURFACE TRANSPORTATION BOARD

F.D. NO. 32760

Union Pacific Corporation et al. --
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COMMENTS

ON

PRELIMINARY DRAFT ENVIRONMENTAL ASSESSMENT

(served April 12, 1996)

BY

CITY OF RENO

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Dated: May 3, 1996

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The conclusion of these comments is that because of inadequacies both in process and substance regarding the investigation, evaluation and mitigation of the adverse environmental consequences of the railroad merger proposed by the applicants, an environmental impact statement (EIS), rather than an environmental assessment (EA) is required for the City of Reno and the Reno/Sparks/Truckee Meadows Basin.

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SEA acknowledges the City's position on the need for an EIS for the City and Reno/Sparks/Truckee Meadows Basin. After reviewing the potential environmental impacts of the proposed merger, SEA concludes that an EA is appropriate. With the mitigation measures described in Volume 1, Chapter 5 of the Post EA, SEA finds that an EIS is not required for the Surface Transportation Board to consider approval of the proposed merger. By including recommended mitigation measures in the EA and Post EA, SEA has prepared a complete environmental document in compliance with NEPA and the Surface Transportation Board's NEPA guidelines. SEA's environmental review considered three geographic levels of potential environmental impacts: systemwide, corridor-specific, and local or regional. Accordingly, SEA's recommended conditions are structured to mitigate potentially significant impacts at each of the three levels. See the general statement on the Environmental Assessment in Volume 1, Chapter 4 of the Post EA.

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Since publication of the EA, SEA has received approximately 160 comments on the EA. SEA has had extensive discussions with Reno, UP/SP, and agency representatives to develop an effective mitigation approach. SEA has consulted with federal, state, and local officials, verified environmental data and train traffic numbers, and reevaluated air, noise, traffic delay, and safety analyses for Reno and other communities. SEA visited Reno again the week of May 13, 1996. The results of work since the EA are published in this Post EA, along with a more specific, comprehensive set of mitigation measures. Based on all of the information available, SEA has concluded, that as currently proposed, the proposed merger and related construction and abandonment proposals, when conditioned on the mitigation measures included in Volume 1, Chapter 5 of the Post EA, would not significantly affect the quality of the human environment. The Post EA recommends that the Board include SEA's recommended mitigation measures as conditions of any approval of the proposed merger.

Part A

An environmental impact statement (EIS) is not merely more appropriate than an environmental assessment (EA), it is required in the circumstances of this case. 3

1. Governing Policies and Principles.

As the preliminary draft environmental assessment (PDEA) recognizes, the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 et seq., and regulations issued thereunder, notably 40 C.F.R. Parts 1500-1508, provide governing policies and principles for evaluation and remediation of environmental consequences of any major Federal action, such as the regulatory approval of the railroad control and merger transaction here proposed by the application filed November 30, 1995 before the Interstate Commerce Commission (ICC).

The ICC Termination Act of 1995 (ICCTA), PL 104-88, 109 Stat. 803, effective January 1, 1996, abolished the ICC and established the Surface Transportation Board (STB or Board) as well as its jurisdiction over railroad merger approval functions. The Board was also authorized to continue ICC regulations applicable to the regulatory functions retained in the Board.

As a result of ICCTA, the STB is the lead agency for regulatory approval of the rail merger proposed. The regulations in 49 C.F.R. Part 1105, Procedures for Implementation of Environmental Laws, represent the lead agency's protocol to ensure compliance with its responsibilities under NEPA.

- 3 -

3 SEA acknowledges the City's position on the need for an EIS for the City and Reno/Sparks/Truckee Meadows Basin. After reviewing the potential environmental impacts of the proposed merger, SEA concludes that an EA is appropriate. With the mitigation measures described in Volume 1, Chapter 5 of the Post EA, SEA finds that an EIS is not required for the Surface Transportation Board to consider approval of the proposed merger. By including recommended mitigation measures in the EA and Post EA, SEA has prepared a complete environmental document in compliance with NEPA and the Surface Transportation Board's NEPA guidelines. SEA's environmental review considered three geographic levels of potential environmental impacts: systemwide, corridor-specific, and local or regional. Accordingly, SEA's recommended conditions are structured to mitigate potentially significant impacts at each of the three levels. See the general statement on the Environmental Assessment in Volume 1, Chapter 4 of the Post EA.

The STB regulations in turn impose obligations on an applicant seeking regulatory approval to initially provide an environmental report (ER) sufficient to inform the agency and the public of the proposed action, the environmental consequences of the proposal, and present appropriate mitigation measures. 49 CFR 1105.7.

NEPA calls for an environmental impact assessment (EIS) to be made in any case involving a "major Federal action". 42 U.S.C. 4332 (2)(C). The Act requires an EIS to enable the government and public to take a "hard look" at the environmental consequences of any such action. The "hard look" requirement is a reasonable yet dynamic, continuing investigatory obligation, not a static, snap-shot-in-time process. 42 USC §4331; 40 CFR 1502.9(c). NEPA encourages application of environmental policies early in the regulatory process. 40 CFR 1501.2. The hallmark of the policy and its process is one of inclusion - opening the process to cooperating governmental agencies and public interests. The "scoping" process is a particularly useful vehicle for this purpose. 40 CFR 1501.7.

2. Procedural and Substantive Inadequacies of PDEA.

At this juncture in proceedings before the Board, the process and substance, as evidenced by the PDEA, is seriously flawed. The only remedy as it relates to the City of Reno and surrounding region is preparation of an EIS.

4

(a) Procedural failures Requires EIS

The procedural failures not only begin with the applicants, they continue to be compounded by the applicants.

- 4 -

4

SEA acknowledges the City's position on the need for an EIS for the City and Reno/Sparks/Truckee Meadows Basin. After reviewing the potential environmental impacts of the proposed merger, SEA concludes that an EA is appropriate. With the mitigation measures described in Volume 1, Chapter 5 of the Post EA, SEA finds that an EIS is not required for the Surface Transportation Board to consider approval of the proposed merger. By including recommended mitigation measures in the EA and Post EA, SEA has prepared a complete environmental document in compliance with NEPA and the Surface Transportation Board's environmental regulations. SEA's environmental review considered three geographic levels of potential environmental impacts: systemwide, corridor-specific, and local or regional. Accordingly, SEA's recommended conditions are structured to mitigate potentially significant impacts at each of the three levels. See the general statement on the Environmental Assessment in Volume 1, Chapter 4 of the Post EA.

Any fair reading of the November 30, 1995 environmental report (ER) accompanying the application demonstrates applicants' failure to comply with 49 CFR 1105.7. The applicants' ER discusses and dismisses most environmental consequences, burying them in a "systemwide" analysis or an "offsetting" fashion. The ER otherwise fails to provide sufficient details about issues in areas where applicants had reason to know that adverse environmental impact thresholds would be exceeded. The ER provides no information concerning hazardous materials.

The applicants have served the Reno/Sparks/Truckee Meadows Basin for decades. They are well familiar with the high desert environment of the basin, the delicate water supply and watershed, noise and air quality issues, atmospheric and climatic concerns. The applicants were surely aware of the public health and safety issues as a result of the known density of resident and tourist pedestrian and vehicular traffic that traverse 10 of the 15 at grade rail crossing in Reno's 24-hour downtown environment.

Although the City of Reno was not initially noticed or included in the environmental investigatory process until the City itself became a party before the Board, the applicants actively solicited support included in their application from interests throughout the Reno/Sparks/Truckee Meadows area.[1]

[1] In addition to failure to notify the City of Reno of environmental consequences, the applicants did not attempt to notify the City of Sparks or the Tribal Council of the Reno-Sparks Indian Colony.

5

6

5 SEA acknowledges the City's comment on UP/SP's Environmental Report (ER). UP/SP attested to the validity of information in its ER when it was submitted. SEA independently reviewed the information contained in the ER for reasonableness and veracity before, and in the course of, conducting the EA. SEA also conducted extensive analyses of local impacts on air quality, noise, safety, and local traffic including Reno. SEA sought and received additional information from UP/SP as needed to conduct the EA. For instance, in response to a request from SEA about the transport of hazardous materials, UP/SP generated a more detailed output from its traffic model, which indicates the number of carloads of hazardous materials before and after the proposed merger.

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

6 SEA acknowledges comments with regard to notification. SEA conducted notifications in compliance with the process set forth in the NEPA implementing regulations and the environmental regulations of the Surface Transportation Board, at 49 CFR Part 1105. Since publication of the EA, SEA has continued to consult with agencies and local interests—including Reno—to conduct further analysis and identify appropriate mitigation. SEA has contacted the City of Sparks and added the Tribal Council to the distribution list. Please refer to Volume 2, Appendix D of the Post EA for the EA distribution list.

After becoming a party January 16, 1996, and reviewing the application, including the BNSF trackage rights agreement and the BNSF comments filed December 29, 1995, the substantial adverse impacts to the public health and safety of the City and its citizens as a result of the proposed post-merger rail operations became evident.

On February 16, 1966, the City wrote to the SEA unit of the Board inquiring why a required environmental report (ER) was not filed regarding the BNSF agreement. On March 5, 1996 the SEA wrote to advise the applicants to file an environmental assessment (EA) regarding the BNSF agreement by March 29, 1996, the same date the City and other public comments were due on the application. Obviously, the City and other public comments could not then address the supplemental BNSF-related environmental report (ER) simultaneously filed. The City's request for extension of time beyond March 29 in which to comment was opposed by the applicants and ultimately denied by the Board. Decision No. 21, (served March 20, 1996).[2]

7

An ER accurately reporting the post-merger rail traffic anticipated on the line segment through the City of Reno is an obviously critical, material element in this case. Train frequency not only benchmarks environmental thresholds but also forms the basis for calculations in the evaluation of certain impacts.

---

[2] It is noteworthy that while the PDEA does not include any of the information provided by the City of Reno in its March 29 comments, the PDEA does include that of applicants in their supplemental ER information filed March 29.

7

SEA acknowledges the City's concern about the availability of the BN/Santa Fe Settlement Agreement for comment. UP/SP filed a Preliminary Draft Environmental Assessment (PDEA) in support of the Settlement Agreement on March 29, 1996. The full text of the PDEA was reproduced in Volume 5 of the April 12, 1996 EA, which was available during the public comment period.

Not only did the applicants fail to project train frequencies in their November 29, 1995 filing, their subsequent March 29, 1996 filing argues that the BNSF Agreement has little environmental impact and was factored in originally. The applicants "estimates" of trains per day frequency has continually increased.[3]

Now in rebuttal comments filed April 29, applicants finally acknowledge that BNSF would run at least 2-5 loaded trains per day. See Vol. 2 and 3, RVS Ongerth and Peterson. Peterson notes that "in late April" applicants agreed to give BNSF new trackage rights that "will further improve BN/Santa Fe's Central Corridor operations, allowing much faster and more direct movement of trains from the Donner Pass line to Stockton." Peterson also points out that "BN/Santa Fe's new Chicago-Richmond/Oakland and Chicago-Stockton intermodal trains will allow it to take pressure off its busy Southern corridor main line and provide new single line service to important intermodal locations enroute at Reno, Salt Lake City, Denver and Omaha." RVS Peterson at 148, n.54.

BNSF's own December 1995 filing had stated its intention to operate not less than 6 through trains per day over the Central Corridor Donner Pass. BNSF-1, VS Owen.

The applicants have consistently attempted to hide the ball and mislead the Board and the SEA. For environmental purposes the applicants minimize the BNSF agreement but for competitive purposes

[3] The original filing based on 1994 in volume 3 (Operating Plan) projected a 20 train per day frequency in Reno, in Volume 6 (Environmental Report) 22.6 train per day were projected, and on March 29, 1996, 25.1 trains per day were projected.

8

SEA acknowledges the comment regarding the validity of train numbers. The initial submission by UP/SP did not include BN/Santa Fe trains, which, when included at the request of SEA, raised the total of proposed trains. Both the initial submission and the revision required analysis of potential impacts. In response to the concern expressed by the City over conflicting train projections, SEA reviewed train data to affirm the proper number. These affirmed numbers, which included the BN/Santa Fe Settlement Agreement, were used in the EA. Subsequent to circulation of the EA, UP/SP reached a Settlement Agreement with the Chemical Manufacturer's Association (CMA). The "final" train numbers, which account for the CMA Settlement Agreement, are shown in Volume 1, Chapter 3 of the Post EA. The CMA Agreement did not change freight train numbers in the Nevada area from those used in the EA. The freight train numbers used in noise and air analyses for Reno are as follows: UP/SP intends to operate 20 freight trains per day; BN/Santa Fe proposes to operate four freight trains, for a total of 24 freight trains. This number focuses the analysis on the increment or change attributable to the proposed merger (an increase of 11.3 trains per day). For SEA's supplemental traffic analysis of intersection delay performed in response to City concerns, passenger train traffic (1.1 trains per day) was included to provide an approximation of day-to-day traffic impacts.

9

SEA's analysis relies, in part, on the verified operating plan submitted to the Board by UP/SP. SEA has reviewed the train traffic, safety, accident, and environmental information included in the verified statements and submittals. In many cases, SEA has conducted independent analyses to determine systemwide, corridor, and local impacts. SEA has concluded that the train traffic information used to conduct the environmental analysis is a reasonable representation of post-merger circumstances.

the applicants emphasize there will be significant competition for traffic in the Central Corridor as a result of the BNSF agreement. Surely a two BNSF trains per day frequency for environmental purposes does not support a claim of vigorous competition in the Central Corridor over Donner Pass for competitive purposes.

But while the applicants may have mislead the Board, the procedures adopted by the Board itself in these proceedings also compromise the adequacy of the NEPA investigatory process.

The Board's expedited procedural schedule, combined with the lack of early notice reasonably designed to include those who would be impacted, results in a failed process - a process that does not comply with NEPA requirements or Board regulations. The only remedy for such procedural failing now must be the preparation of an EIS for the City of Reno and the Reno/Sparks/Truckee Meadows Basin.[4]

(b) Substantive Failures Require EIS.

As noted, NEPA anticipates preparation of an EIS in all major Federal actions. NEPA regulations provide guidance regarding when to prepare an EA in contrast to an EIS. CF. 40 CFR 1501.3 and 1501.4. In each instance, lead agency regulations that comply with NEPA are a reference point.

[4] The proposed transaction has both national and local environmental consequences. Notice and investigatory procedures employed should have contemplated both levels. 40 CFR 1506.6. Geographic site or region specific EIS evaluations are appropriate. 40 CFR 1502.4(C)(1).

9 Refer to the previous page for response.

10 SEA has made every effort to maintain an open and responsive environmental review process within an ambitious schedule. SEA has reviewed and considered all comments and filings related to the environmental review, including comments submitted after the formal closing of the comment period. SEA has also conducted numerous site visits and discussed potential impacts and possible mitigation measures with communities potentially affected by the proposed merger. SEA visited Reno the week of February 26, 1996 and again the week of May 13, 1996. See also the response to comments #1 and #6.

In proceedings before the Board, the regulations in Part 1105 provide "determinative criteria" and "classification of actions" for EA and EIS purposes. See 49 CFR 1105.5 and 1105.6.

Section 1105.6(b)(4) notes that an EA will normally be prepared for "(i) operational changes that would exceed the thresholds established in Sections 1105.7(e)(4) or (5); or (ii) an action that would normally require an environmental documentation." (Environmental thresholds for air and noise in Sections 1105.7(e)(4) and (5) are obviously exceeded for the City of Reno, and the Reno/Sparks/Truckee Meadows Basin).

Section 1105.6(d) further provides that "for actions generally requiring an EA, the Commission may prepare a full EIS where the probability of significant impacts from particular proposal is high enough to warrant an EIS."

Such is precisely the case for the City of Reno and the Reno/Sparks/Truckee Meadow Basin as the discussion in Part B specifically demonstrates regarding various NEPA elements.[5]

The NEPA regulations encourage utilizing an EA (here a PDEA) to determine the appropriateness of preparation of an EIS - particularly if "the nature of the action proposed is one without precedent." 40 CFR 1501.4(c) and (e). The proposed UP/SP merger transaction with the companion BNSF trackage rights agreement is without precedent in scale, scope or impact.

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[5] For NEPA-related definitions of "cumulative impact" see 49 CFR 1508.7, for "effects" - Section 1508.8, of "human environment"-1508.14, or "significantly" - 1503.27 and of "mitigation" - 1508.20.

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11 SEA has prepared the EA consistent with the regulations cited by the City, particularly language that notes that an EA would *normally* be prepared for this type of project and an EIS *may* be prepared. SEA's additional local analysis of potential impacts unique to Reno has identified recommended systemwide and local mitigation measures as described in Volume 1, Chapter 5 of the Post EA. SEA concludes, as stated in comment #1, that an EIS is not required.

At present only an EIS for the City of Reno and the Reno/Sparks Truckee Meadows Basin will satisfy the policy, purpose and mandate of NEPA, 49 USC 4332, and its regulations, 40 CFR 1500.1-.3. As pointed out NEPA regulations encourage EIS evaluations "geographically," 40 CFR 1502(c)(1) with an appropriate "scope", and "tiering". Sections 1508.25 and 1508.28. Undoubtedly, an EIS for the City of Reno and the Reno/Sparks/Truckee Meadows Basin fits well within the NEPA policy, purposes and mandate.

Comparison of the content of an EA with an EIS demonstrates that only an EIS for the City of Reno and the Reno/Sparks/Truckee Meadows Basin will contain the requisite "full and fair discussion of significant environmental impacts" necessary to sufficiently "inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of human environment." 49 CFR 1502.1.

The PDEA, as presently drafted, is mainly built upon the applicants' ER and is little more than a "disclosure document"- not an action-forcing device to ensure that NEPA policies are infused into the process. The procedural failures to date have resulted in a substantive "notice only" approach. Part B contains analysis and discussion of the critical portions specific to the City of Reno, and is testimony to the deficiencies of the PDEA process to date.

Given the inadequacy of procedures, the resultant conflict of material fact, and the crucial absence of discussion of mitigation central to the case, it would be unreasonable not to undertake EIS

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11 Refer to the previous page for response.

procedures. This is especially true when significant environmental impact thresholds have been exceeded, as they have been in the City of Reno and the Reno/Sparks/Truckee Meadow Basin by the proposed action, and there have been no mitigation proposals offered by the applicants nor critically evaluated by discussions in the PDEA. Only by an EIS will the Board satisfy substantive compliance with NEPA requirements. 40 CFR Part 1507.

In addition, as lead agency, the Board must necessarily coordinate with other agencies which have special expertise and by law are authorized to develop or enforce environmental, public health and safety requirements. 40 CFR 1501.5-.6 and 1508.26. Such other agencies are Federal and state Environmental Protection Agencies and Federal Railroad Administration (FRA). A systematic, interdisciplinary approach that ensures integration of natural and social sciences and environmental design arts is mandatory. 42 USC 4332(2)(A).

Moreover, based upon the PDEA presentation it would be unreasonable to make a "finding of no significant environmental impact" (FONSI) for the City of Reno or the Reno/Sparks/Truckee Meadows Basin. The PDEA is not a concise document that contains sufficient information for determining whether to make a finding of no significant environmental impact. 49 CFR 1105.4(d) and 40 CFR 1508.9(a)(1). Accordingly, it would be unreasonable to do so, or to have done so in this instance.

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11 Refer to the previous page for response.

12 As the lead agency, the Surface Transportation Board has coordinated with other appropriate agencies. SEA has met with representatives from FRA and EPA and discussed relevant issues. Please refer to Volume 5, Appendix D of the EA for consultation correspondence initiated by SEA and responses received as a result of initial consultation. Additional consultation correspondence is contained in Appendix A of the Post EA.

13 SEA acknowledges the City's position on the need for an EIS for the City and Reno/Sparks/Truckee Meadows Basin. After reviewing the potential environmental impacts of the proposed merger, SEA concludes that an EA is appropriate. With the mitigation measures described in Volume 1, Chapter 5 of the Post EA, SEA finds that an EIS is not required for the Surface Transportation Board to consider approval of the proposed merger. By including recommended mitigation measures in the EA and Post EA, SEA has prepared a complete environmental document in compliance with NEPA and the Surface Transportation Board's NEPA guidelines. SEA's environmental review considered three geographic levels of potential environmental impacts: systemwide, corridor-specific, and local or regional. Accordingly, SEA's recommended conditions are structured to mitigate potentially significant impacts at each of the three levels. See the general statement on the Environmental Assessment in Volume 1, Chapter 4 of the Post EA.

3. Conclusion

Under NEPA and Board policies an EIS is now required for the City of Reno and the Reno/Sparks/Truckee Meadows Basin. For reasons detailed in Part B the PDEA process and product to-date fails the basic NEPA responsibility to provide a detailed statement on:

- the environmental impact of the proposed action,
- any adverse environmental effects which cannot be avoided should the proposal be implemented,
- alternatives to the proposed action,
- the relationship between local short-term uses of man's environment and the maintenance enhancement of longterm productivity
- any reversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented; or
- study, development and description of appropriate alternatives to recommend in courses of action in any proposal which involves unresolved conflicts concerning alternative use of available resources.

42 USC 4332(2)(C) and (E).

Respectfully submitted May 3, 1996.

By _____
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KECK, MAHIN & CATE
1201 New York Ave., N.W.
Suite PH
Washington, D.C. 2005-3919

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14 See response to comments #1 and #2.

15 See response to comments #1 and #2.

16 Alternatives to the proposed action were described in the EA. The alternatives are summarized in Volume 1, Chapter 1 of the Post EA.

17 See response to comments #1 and #2.

18 The EA and Post EA identify the commitment of environmental resources which would be involved in the proposed merger and the recommended mitigation measures to reduce the impacts of the proposed merger on those resources.

19 The EA contains a description of an alternative to the proposed action and impact analyses of the alternative by state. Where impacts were identified, the EA identified mitigation measures that would reduce impacts or meet other regulatory requirements.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Comment of the City of Reno (RENO-5) on Arvid E. Roach, II and Paul A. Cunningham, Esq. by messenger and on all other parties of record on the service list in this proceeding by first class mail, postage prepaid, this 3rd day of May 1996.

Paul H. Lamboley

CITY OF RENO
Comment Document

Environmental Assessment
Finance Docket No. 32760

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

-Control and Merger-

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

Submitted to:

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Service Date: April 12, 1996
Comment Due Date: May 3, 1996
Submission Date: May 2, 1996

Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corporation, and the Denver & Rio Grande Western Railroad Company. *Errata to Environmental Assessment*. April 18, 1996. Surface Transportation Board, Washington, D.C.

Railroad Merger Study. March 15, 1996. Nolte and Associates, Inc., Strategic Management, Inc. Kleinfelder, and SEA, Incorporated. Copy on file, Reno Redevelopment Agency, Reno, Nevada.

Reno Downtown Traffic/Parking Study. December 1995. Barton-Aschman Associates, Inc., Strategic Project Management, Inc., and Lumos & Associates, Inc. Copy on file, Reno Redevelopment Agency, Reno, Nevada.

The comments and information contained in this review document are in addition to the *Comments and Verified Statement of the City of Reno*, submitted to the STB, dated March 29, 1996, incorporated and made part of this document by reference. This document was not reflected in the EA, although other documents with the same date (BN/Santa Fe Preliminary Draft Environmental Assessment [STB, 1996a]) were.

The City of Reno opposes approval of the proposed Merger of the Union Pacific (UP) and Southern Pacific (SP) Railroads as currently proposed because the post-merger operations proposed by UP/SP (the "Applicants") will have significant adverse impact on the environment and public health and safety, as well as commerce of the City of Reno, and neither the application, nor the Applicant, propose action that will adequately safeguard the environment, public health and safety, and mitigate the adverse impacts of the proposed Merger, in accordance with the requirements of NEPA. Based on the analysis contained within this document, it is clear that the EA prepared for the proposed Merger is not adequate in several respects, that it cannot be made to comply with the provisions of NEPA, and as a result, an Environmental Impact Statement (EIS) for the Reno/Sparks/Truckee Meadows area is more appropriate and is required.

20

As promulgated under 40 CFR 1502.4(c)(1) - Major Federal Actions Requiring the Preparation of Environmental Impacts Statements, federal agencies may find it useful to evaluate the proposed action geographically, including components of the proposed action which would occur within the same general location or region. Implementation of this provision would focus the analysis in the EIS to significantly affected regions, including the Reno/Sparks/Truckee Meadows area.

20 SEA acknowledges the City's position on the need for an EIS for the City and Reno/Sparks/Truckee Meadows Basin. After reviewing the potential environmental impacts of the proposed merger, SEA concludes that an EA is appropriate. With the mitigation measures described in Volume 1, Chapter 5 of the Post EA, SEA finds that an EIS is not required for the Surface Transportation Board to consider approval of the proposed merger. By including recommended mitigation measures in the EA and Post EA, SEA has prepared a complete environmental document in compliance with NEPA and the Surface Transportation Board's NEPA guidelines. SEA's environmental review considered three geographic levels of potential environmental impacts: systemwide, corridor-specific, and local or regional. Accordingly, SEA's recommended conditions are structured to mitigate potentially significant impacts at each of the three levels. See the general statement on the Environmental Assessment in Volume 1, Chapter 4 of the Post EA.

The specific basis for the City of Reno's position relating to the EA is contained in the following chapters of this document.

1.2 ORGANIZATION OF COMMENTS

This comment document has been organized to provide comments on the EA in a logical manner, generally following the structure of the EA. Comments contained in this document are focused on the 139.0 mile rail line segment between Roseville, California and Sparks, Nevada, and specifically the portion of this line segment traversing the corporate limits of the City of Reno. In cases where impact categories are not affected by political boundaries, such as air quality, the comments address a broader impact area.

Comments on the EA are evaluated in the following chapters of this document:

2.0 NEPA Procedural Issues

3.0 Adequacy of Environmental Assessment - Vol. 1, Chapter 1.0 - Description of the Proposed Action and Alternatives

4.0 Adequacy of Environmental Assessment - Vol. 2, Chapter 12.0 - Rail Line Segment, Rail Yard, and Intermodal Facility Impacts - Nevada

5.0 Adequacy of Environmental Assessment - Proposed Mitigation Measures

6.0 Adequacy of Conclusion - No Significant Effect on the Quality of the Human Environment

7.0 Conclusions/City of Reno's Requested Action

8.0 References

Comment letters received from public agencies affected by the proposed Merger, not previously submitted, are included in the Appendix of this document.

2.0 NEPA PROCEDURAL ISSUES

2.1 NEPA IMPLEMENTATION - STB/ICC REGULATIONS

The National Environmental Policy Act (NEPA) is the United States' basic national charter for protection of the environment and is the governing environmental protection law. NEPA establishes environmental policy for the nation, provides an interdisciplinary framework for federal agencies to prevent environmental damage and degradation, and contains procedures to ensure that federal agency decision-makers consider environmental factors in the decision making process (42 U.S.C. 4321 et seq.; 40 CFR 1500.1).

In order to effectively implement NEPA, the CEQ established NEPA regulations for guidance to federal agencies under 40 CFR 1500-1508. In addition, 40 CFR 1507.3(a) requires that every federal agency prepare procedures to supplement NEPA and the NEPA regulations. The STB has adopted the ICC's environmental regulations for implementation of NEPA (49 CFR 1105), and the STB's SEA retained a third party consultant to prepare the EA. The STB NEPA implementing regulations are not consistent with NEPA and the NEPA regulations, in that they substantially focus the requirements for impact analysis, resulting in unevaluated significant environmental factors.

21

In preparing the EA, STB was required to identify the issues and areas of potential environmental impact; analyze the potential impacts of the proposed Merger; consider alternatives to the proposed Merger; review and incorporate public comments into the EA; consult with affected federal, state, and local agencies to incorporate their concerns into the assessment; and develop mitigation measures to avoid, or reduce to less than significant, impacts on the environment. The EA does not adequately assess and incorporate the above outlined mandatory factors into the analysis and conclusion of the document. Each issue is discussed in detail in the following sections.

Part 1105.7 of Chapter 49 of the Code of Federal Regulations, the STB NEPA implementing regulations, require the Applicant to submit an environmental report on the proposed action containing the information specified by 49 CFR 1105.7(e). The Applicant's environmental report does not contain the mandatory provisions of subsection (e), and as a result, is not adequate to function as the baseline document for the EA.

22

21 SEA has reviewed the list of EA comments cited by the City. Each of the items is discussed in the EA and Post EA. See also responses to comments #1, #2, #6, and #19.

22 SEA has reviewed the information provided in UP/SP's ER. Whenever additional information was required to complete the environmental review, SEA requested that information of UP/SP and incorporated the

NEPA PROCEDURAL ISSUES

2.2 PROCEDURAL ISSUES

Although the City of Reno was never formally consulted under the requirements of NEPA, the NEPA Regulations, and the STB Environmental Regulations, formal comments and verified statements were transmitted to the STB for consideration and incorporation into the EA on March 29, 1996. A thorough review of the EA has revealed that none of the comments submitted by the City of Reno, including the verified statements and associated City department and regional agency comment letters, were incorporated into the EA.

23

NEPA defines an EA as a concise public document that a lead agency prepares when a project is not covered by a categorical exclusion, and the lead agency does not know whether the impacts will be significant (40 CFR 1508.9(a)). The EA has three purposes, outlined as follows: 1) that it provides sufficient evidence and analysis to determine whether an EIS is required; 2) that it supports an agency's compliance with NEPA when no EIS is required; and 3) that it facilitates preparation of an EIS when one is required. The five volume, over 1,000 page EA is not a concise public document, and warrants an extension of time to allow the City of Reno to provide meaningful comments to the STB. Part 1501.4(e)(2) supports the concept of lead agencies allowing for adequate review time, although the STB has ignored the City of Reno's repeated requests for an extension of time.

24

2.3 PUBLIC INVOLVEMENT/SCOPING

Public involvement is an important part of the NEPA process, and is encouraged during the preparation of complex, controversial EAs to achieve full disclosure (40 CFR 1506.6(a)). Although not technically required for an EA, a scoping meeting should have been conducted prior to preparation of the EA for the proposed Merger, to obtain important input relative to environmental factors to be evaluated and alternatives to be considered. At a minimum, scoping meetings should have been conducted in areas which were forecast to be impacted the greatest by the proposed Merger. The lack of impact and alternatives analysis in the EA relative to significant issues of concern to the City of Reno clearly demonstrates the value of scoping. In addition, the Reno-Sparks Indian Colony, a Native American organization, was not consulted, as required by 40 CFR 1501.7(a)(1).

25

2.4 INTERNAL CONSISTENCY

All NEPA documents, including EAs, must be prepared so that the relationship between the proposed action, environmental setting, impact analysis, mitigation measures, and comparison of alternatives remains internally consistent. An incorrect or misleading proposed action has a direct effect on the analysis contained within the body of the EA, resulting in inadequate

23 Issues raised by the City and information provided by the City were considered and evaluated in the EA. Please refer to Volume 5, Appendix E, Exhibit E-11, pages E-92 to E-94 for copies of correspondence from the City's legal representative. Copies of correspondence from State Agencies are shown in Volume 5, Appendix E, Exhibit E-9, pages E-35 through E-48, and Exhibit E-10, page E-61. To allow time for printing, only comments received by March 15, 1996 were included in the EA.

24 See response to comments #1 and #12. The organization of the EA into volumes, arranged by category of proposed action and further subdivided by state, provided reviewers a means to focus on issues and analysis on a topical and geographic basis. See the General Statement on the EA in Volume 1, Chapter 4 of the Post EA.

25 SEA conducted agency coordination in compliance with NEPA requirements. SEA also conducted numerous site visits and met with local representatives in communities where potential impacts appeared to be substantial. Additional outreach and analysis since publication of the EA has included expanded consultation and responses to issues raised during public comments. See also the response to comment #6.

NEPA PROCEDURAL ISSUES

mitigation measures and alternatives. Several impact assessment areas within the EA use conflicting methodologies and assumptions, resulting in a document which is internally inconsistent. Specific examples of these inconsistencies are documented in Chapters 3.0, 4.0, and 5.0 of this document.

26

2.5 ESTABLISHED THRESHOLDS

NEPA requires that an EIS be prepared when a proposed federal action has the potential to significantly affect the quality of the human environment. The key components of the EA used to determine if the proposed action would have the potential to affect the quality of the human environment are the established thresholds. While some environmental factors have quantifiable thresholds, such as air quality and traffic, other thresholds are more subjectively related to the region and unique characteristics of the area of potential affect.

A review of the impact analysis portion of the EA has revealed numerous errors and flaws in methodology which will result in several of the established significance thresholds being exceeded. Several of the environmental factors evaluated have no defined thresholds, making any analysis of the significance of impacts impossible. Part 1105.7(e) of Chapter 40 of the Code of Federal Regulations specifically excludes significance thresholds for most of the identified environmental factors. In addition, many of the environmental factors not evaluated in the EA, including energy, cultural resources, land use, socioeconomics, water resources, and biological resources have established significance thresholds which may be exceeded by the proposed action. Adequate mitigation measures have not been proposed to avoid or reduce these impacts to less than significant, and as a result, the findings of the EA that the proposed action would not significantly affect the quality of the human environment are not supportable.

27

Chapters 3.0, 4.0, and 5.0 of this document identify specific examples of internal inconsistency, threshold exceedance, and meaningless, open-ended mitigation measures.

26 See responses to comments #2 and #5. See also SEA's description of methodologies in Volume 1, Chapter 4 of the Post EA.

27 The EA includes all evaluations specified in the Surface Transportation Board's environmental rules at 49 CFR 1105 *Ex Parte* No. 55. See response to comment #2.

3.0 ADEQUACY OF ENVIRONMENTAL ASSESSMENT - VOL. 1, CHAPTER 1.0 - DESCRIPTION OF THE PROPOSED ACTION AND ALTERNATIVES

3.1 MANDATORY ENVIRONMENTAL ASSESSMENT COMPONENTS

An EA must include a discussion of four (4) primary components including: 1) the need for the proposed action; 2) feasible alternatives; 3) the environmental impacts of the proposed action and the alternatives; and 4) a list of agencies and persons consulted. The EA prepared for the proposed Merger is not adequate in all four of the above outlined areas. The EA does not adequately describe the need for the proposed action, does not include feasible alternatives identified by the City of Reno, does not adequately evaluate the impacts of the proposed action, does not evaluate the impacts of feasible alternatives since none are proposed, and though a list of agencies and persons consulted is included it is not comprehensive (the City of Reno was not formally consulted). The following sections of this document contain a discussion of the above outlined inadequacies of the EA.

28

3.2 PROPOSED ACTION/PROJECT DESCRIPTION

The proposed action, as it relates to the City of Reno, is described in Vol. 1, pages 1-7 through 1-15. Vol. 1, page 1-11, Table 1-3 describes the rail line segments which meet or exceed environmental analysis thresholds, resulting in the requirement for additional impact analysis in the EA.

The rail segment which would affect the City of Reno is identified as Roseville, California to Sparks, Nevada. The table indicates that the referenced rail segment is currently operated by SP, and has a length of 139.0 miles. Pre-merger train traffic is shown as 13.8 trains per day, with post-merger train traffic of 25.1 trains per day, for an increase of 11.3 trains per day. In addition, the gross ton-miles per year is shown as increasing 78.7 percent. Since no rail yards, intermodal operations, abandonments or construction projects are proposed for this line segment, the EA purports that the identified increase in trains per day and ton-miles per year represents the entire proposed action as it relates to this segment and the City of Reno (see Section 3.2.2 of this document for a discussion of abandonment components of the proposed action in the Reno vicinity).

29

3.2.1 ROSEVILLE, CALIFORNIA TO SPARKS, NEVADA RAIL SEGMENT

An evaluation of all of the applications, settlement agreements, Vol. 1, Chapter 1.0 of the EA, and related documents reveal that none of the documents contain information on the characteristics of existing or future rail traffic for the Roseville, California to Sparks, Nevada

30

28 The four primary components of an EA highlighted by the City were included in the EA. These four components are further described in this Post EA. See also the response to comment #2.

29 Consolidating, closing, or phasing out rail yards and intermodal facilities (as is planned for the UP intermodal facility in Reno) are not considered "abandonments" in the EA. Such closures do not preclude a future use of the site for railroad purposes. The term "abandonment", as used throughout the EA, applies only to rail line segments. Abandonment of a rail line is a legal process for discontinuance of rail service on the segments and the salvaging (i.e., removal) of railroad-related facilities for reuse, sale, and/or disposal. Changes at rail yards and intermodal facilities are discussed in Volume 2 of the EA.

30 SEA acknowledges the concern about the basis of evaluation. Please refer to response to comments #5 and #8. Final train numbers are shown in Volume 1, Chapter 3 of this Post EA. See Volume 1, Chapter 4 of the Post EA for a discussion of evaluation methodologies.

ADEQUACY OF ENVIRONMENTAL ASSESSMENT

rail segment, upon which the analysis in the EA must be based. Missing, underestimated, and overestimated post-merger train characteristics include: 1) total number of trains; 2) average train length; and 3) average train speed of trains. Without this basic information, the impact analysis portion of the EA, as it relates to the City of Reno, is meaningless. All three of these assumptions, upon which the entirety of the impact analysis section of the EA appear to be based, are incorrect.

30

Number of Trains

The EA significantly underestimates the increase in the number trains per day and gross ton-miles per year.

31

> Volume 3 of the *Railroad Merger Application, ICC Finance Docket No. 32760* states that the rail line segment between Roseville, California and Sparks, Nevada, has currently 13 trains per day with a post-merger total of 20 (STB, 1995:384-5).
>
> Volume 6, Part 1, Table 1-1, of the *Railroad Merger Application, ICC Finance Docket No. 32760* states that the rail line segment between Roseville, California and Sparks, Nevada, has currently 13.6 trains per day with a post-merger total of 22.6 (STB, 1995:7).
>
> Table 1-1 p. 7 of Attachment A of the *Applicants' Submission of Preliminary Draft Environmental Assessment Concerning Settlement with BN/Santa Fe* states current levels at 13.8 trains per day with a post-merger total of 25.1 (STB, 1996a:).
>
> Vol. 1, page 1-11, Table 1-3, line 13 of said table's data, the pre-merger trains per day are *13.8*[2] and the post-merger trains per day are *25.1*.

The correct post-merger total number of trains per day, which should have been used for analysis in the EA is thirty-eight (38), based on current levels of operations reported by (Barton-Aschman et al., 1996; Nolte et al., 1996) and apportioned as follows:

22	historical freight trains per day assumed to be an accurate baseline condition
6	Western Pacific freight trains per day
6	Burlington Northern/Santa Fe (BN/Santa Fe) settlement agreement trains per day
2	Amtrak trains per day
2	local movement trains per day

[2] 1994 base year SP statistic.

30Q Refer to the previous page for response.

31 The alleged discrepancies cited appear to stem from counting passenger and freight trains, without distinguishing which are included in each statement. The correct train counts for the Roseville to Sparks segment are 13.8 trains per day pre-merger and 25.1 trains per day post-merger. The pre-merger count includes 12.7 SP trains and 1.1 passenger trains per day. The post-merger train count includes 20 UP/SP trains, 4 BN/Santa Fe trains, and 1.1 passenger trains. For the analysis, local trains were assumed to remain constant before and after the proposed merger. Please refer to response to comment #8.

ADEQUACY OF ENVIRONMENTAL ASSESSMENT

This represents an increase of 24.2 trains per day (175 percent increase in the number of trains and ton-miles over existing train traffic), or a total post-merger volume of 13,870 trains per year, as compared to the incorrect proposed action outlined in Vol. 1, Chapter 1.0 of the EA.

Speed of Trains

The EA uses a variety of overestimated train speeds for various analyses:

20 mph Vol. 2, page 12-10, ¶ 4, line 4

30 mph Vol. 2, page 1-25, Note on Table 1-3
Vol. 5, page H-10, ¶ 1, line 1
Vol. 5, page H-14, ¶ 3, line 2

40 mph Vol. 2, page 12-10, ¶ 4, line 6

50 mph Vol. 1, page 2-15, Note to Table 2-7
Vol. 5, page H-10, ¶ 1, line 1
Vol. 5, page H-14, ¶ 3, line 2

The correct per-merger and post-merger trains speed is 20 mph within the City of Reno. The Public Service Commission reports that the train speed limit through downtown Reno is set by SP and is described in the SP's Timetable #1 (see Page 38, Roseville, Subdivision, Sp Timetable #1). Speed are Eastbound (MP 242-243.1) 20 mph; Westbound (MP 243.2-242) 20 mph. The track in the downtown Reno area is Class 2, which according to 49 CFR 213.9 provides for maximum allowable speeds of 25 mph for freight trains and 30 mph for passenger trains (PSC, 1996).

Length of Trains

The EA uses a variety of underestimated train lengths for various analyses:

Vol. 1, page 2-3, § 2.1.1, ¶ 1, line 4: *"Often two or more of these locomotives are combined to pull a train of 50* [3,500 feet] *to 100* [7,000 feet] *or more cars."*

Vol. 5, page H-9, ¶ 3, line 1: *"The 'standard train' used by the Applicant for the consolidation analysis is 3-1/2 locomotives and 5000 feet of rail cars. The assumptions of 70 cars per consist is consistent with the Applicant's, for a representative car length of 70 feet.*

31 Refer to the previous page for response.

32 SEA acknowledges the concern about a variety of train speeds. The speeds quoted are contained in the methodological explanations (Volume 5 of the EA) that would be applicable in a variety of systemwide conditions. Clanfication of the train speeds within Reno is appreciated. For downtown Reno, the analysis assumed a speed of 20 mph.

33 SEA has reviewed the City's comment about train lengths. For Central Corridor operations, which include the Roseville, CA to Sparks, NV line segment, the average of 5,000 feet represents a mixture of shorter (less than 3,000 feet) and longer (more than 7,000 feet) trains. To address the City's concern about the impact of longer trains, supplemental analyses was performed for 6,000-foot trains. Use of the longer train lengths did not increase the impact to traffic delay; please refer to Volume 1, Chapter 4 of the Post EA for details of the analysis. SEA consulted with UP/SP regarding the viability of 6,500-foot trains. Although such lengths are physically possible, currently operating policy does not favor this length. With little likelihood of this train length being used, analysis of this length was not performed.

ADEQUACY OF ENVIRONMENTAL ASSESSMENT

Vol. 5, page I-4, ¶ 1, line 5: *"L = Length of the train in feet, assumed to be 5,000 feet."*

The correct post-merger train length is variable. The City of Reno has used a number of 6,500 feet based upon the following assumptions (Nolte et al., 1996):

> Historically, trains operating over Donner Summit (approximately 33 miles west of Reno, at 7,239 feet above mean sea level) ranged up to 8,000 feet in length. Trains of 7,000 feet in length or greater generally required helper locomotives to negotiate the 2.6 percent grade and heavy curvature.
>
> Southern Pacific trains historically averaged around 6,000 feet in length, according to a former SP Sacramento Division operating superintendent.
>
> Union Pacific operating personnel have indicated that they will probably operate most trains on this route without helper locomotives, indicating that most trains will not exceed 7,000 feet.

The City of Reno believes the average post-merger train lengths will be approximately 6,500 feet long, with a few trains approximately 7,000 feet to 8,000 feet in length using helper locomotives. Union Pacific could, however, choose to operate standard length 8,000-foot trains should business and locomotive availability favor the use of helper locomotives on this route segment. This statement is further bolstered by the fact that the Port of Oakland is currently undergoing a major expansion to accommodate an increase in the size and volume (48 percent) of cargo ships. Distribution of post-merger cargo shipments from the Port of Oakland to points east would require the use of the Central Corridor over Donner Summit, passing through the Reno/Sparks/Truckee Meadows area.

33

3.2.2 UNION PACIFIC TOFC YARD

Union Pacific operates a TOFC (trailer on flat car) yard in North Reno off Old North Virginia Street/Alt 395 and Parr Blvd at Union Pacific Lane. It is stated in several places in the EA, as follows:

> Attachment 1 - Union Pacific/Southern Pacific Proposed Merger Environmental Information Package (State-by-State Overview), page 3, § 3, ¶ 2, line 1: *"Intermodal facilities that may warrant evaluation of potential environmental impacts in Oregon [sic] include: Reno/Sparks: (Phaseout of Existing UP Facility; Consolidation of Intermodal Traffic at SP Facility)."*

34

33 Refer to the previous page for response.

34 Phase out or closing of rail yards or intermodal facilities is not an abandonment. Please refer to the response to comment #29. The consolidation of intermodal activities in Reno and Sparks would not exceed the Surface Transportation Board's thresholds for environmental analysis, so it was not part of the detailed evaluation.

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Vol. 2, page 12-13, ¶ 5, line 1: *"SEA notes that the UP/SP operating plan states that the UP TOFC yard in Reno would be closed."*

Vol. 5, page C-13, ¶ 2, line 2: *"Nevada: Reno/Sparks: (Phaseout of Existing UP Facility; Consolidation of Intermodal Traffic at SP Facility)"* Note: This is the STB SEA Fact Sheet Regarding the Proposed Merger of the Union Pacific and Southern Pacific Railroads.

Vol. 5, page C-21, ¶ 5, line 1: *"Nevada: Reno/Sparks: (Phaseout of Existing UP Facility; Consolidation of Intermodal Traffic at SP Facility)"* Note: This is the STB SEA Proposed Merger Fact Sheet.

Vol. 5, page E-60, Nevada State SHPO Letter, ¶ 4, line 1: *"The UP Facility in Reno, Nevada, has not been surveyed."*

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It would appear that either the description of the proposed action for the Nevada portion of the proposed Merger is incorrect or the impacts of this closure/"abandonment"/phaseout of the UP yard have not been evaluated in Vol. 3 of the EA.

3.2.3 EFFECTS OF INADEQUATE PROPOSED ACTION/PROJECT DESCRIPTION

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The incorporation of the above outlined correct assumptions into the impact assessment modeling would result in a substantially greater level of impact than reported in the EA. In other words, the impact analysis conclusions contained in the EA significantly underestimate the severity of impacts associated with the proposed Merger. It appears that, based on the above outlined correct assumptions, proposed Merger impacts to air quality and noise are likely to exceed significance thresholds. A detailed discussion of the adequacy of environmental impacts, including air quality and noise, is contained in Chapter 4.0 of this document.

The Proposed Action/Project Description is inaccurate, misleading, and results in an EA which underestimates the effects of the proposed Merger on the City of Reno, and violates numerous provisions contained in NEPA. The Proposed Action/Project Description must be revised to reflect the correct proposed action, the impact analysis recalculated and rewritten to reflect the correct characteristics of the proposed action, additional mitigation measures proposed to reduce merger-related impacts to less than significant, and the revised EA recirculated to affected parties for meaningful comments.

34 Refer to the previous page for response.

35 The City's contention that the basis of analysis is flawed is addressed in responses to comments #28 through #33. The proposed merger, its anticipated impacts, and appropriate mitigation measures were accurately described and reported in the EA. Supplemental information and analyses are provide in Volume 1, Chapters 3 and 4 of the Post EA. Mitigation measures are reported in Volume 1, Chapter 5 of the Post EA.

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3.3 CUMULATIVE IMPACT ANALYSIS

An Environmental Assessment must consider the cumulative effects of a proposed action, in conjunction with reasonably anticipated related projects and actions, when determining whether a proposed action significantly effects environmental quality (40 CFR 1508.25(c)). Vol. 1, Chapter 1.0, page 1-2 of the EA states:

> *"In other actions related to the proposed merger, six parties (three railroads, two utilities, and one transit agency) filed responsive applications seeking the Board's authority for trackage rights and/or acquisition of specific UP/SP rail lines (see Section 1.4 below). This EA does not analyze the potential environmental impacts of these responsive applications because it appears, based upon verified statements submitted by the six parties, that the Board's environmental thresholds will not be met or exceeded, and no substantial increase in trains or other activities are expected as a result of thee proposals."* Underline added for emphasis.

The above quoted statement contained within the EA violates the provisions and intent of NEPA, and leads to an inaccurate and misleading Proposed Action/Project Description. The applications for trackage rights are either a portion of the proposed action or they must be considered related to the proposed action and evaluated as related projects, resulting in the potential for cumulative impacts. The EA ignores these related projects, and as a result, the proposed action and related impact analysis is not adequate.

In addition to the lack of analysis of cumulative railroad-related projects, the EA has not adequately considered other related actions or projects within the region which could result in cumulative effects to the environmental factors evaluated in the document. These related projects include, but are not limited to: 1) downtown development/redevelopment which would result in additional vehicular and pedestrian traffic; 2) regional growth which would result in additional vehicular and pedestrian traffic; 3) the general increase in Reno's tourism-based economy, which is reflected in the dramatic growth in passenger traffic at nearby Reno/Tahoe International Airport; and 4) increases in rail traffic along the Central Corridor as a result of port facilities expansion, including but not limited to the Port of Oakland.

3.4 ALTERNATIVES

NEPA requires that an EA evaluate feasible alternatives to the proposed action, which would result in the reduction of significant environmental effects associated with the proposed action. Vol. 1, Chapter 1.0, page 1-18 of the EA attempts to satisfy this mandatory requirement by evaluating only the "No Action" or "No Merger" alternative. While this

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36 SEA has reviewed the concern about the environmental impacts of other responsive applicants. Responsive applications propose alternative actions to the proposed merger on a limited geographic basis. In each case, the Surface Transportation Board's thresholds for analysis at 49 CFR Part 1105 would not be met. The number of trains proposed to be operated on the line segments would not exceed these thresholds. The analysis of the Roseville to Sparks segment included evaluation of BN/Santa Fe trains resulting from the BN/Santa Fe Settlement Agreement. The responsive applications from three railroads, two utilities, and one transit agency included the environmental analysis and review. 49 CFR Part 1105 provides for the use of verified statements by responsive applicants in the environmental process. SEA evaluated the potential environmental impacts of the proposed merger and related construction and abandonments as required by the regulations. The four issues cited by the City as cumulative impacts are not a result of the proposed merger.

37 The City's definition of "alternative" differs from that used by SEA. The alternative to the proposed merger is not to merge. The alternatives suggested by the City are actually mitigation options that would offset local impacts. SEA has considered these mitigation options in developing the recommended mitigation measures described in Volume 1, Chapter 5 of the Post EA.

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alternative is required to be evaluated under NEPA, it does not represent a reasonable range of feasible alternatives, particularly since the entirety of the alternatives analysis section consists of one short paragraph. Avoidance of an alternatives analysis is in conflict with the intent and provisions of NEPA, and must be addressed in the EA. This avoidance of alternatives analysis is of particular concern given the fact that the City of Reno has gone to great lengths and considerable expense to develop several feasible alternatives to the proposed action.

Three primary alternatives to the proposed action have been developed and submitted to the STB in a document entitled, "Reno Transportation Corridor Alternatives Study" March 1996. These alternatives include: 1) Interstate 80 Corridor; 2) full or partial lowering of the tracks through the downtown Reno corridor; and 3) at-grade tracks with street overpasses and underpasses. These alternatives, including detailed engineering and cost analysis, were available at the time of EA preparation, and should have been included in the analysis of alternatives.

The City of Reno's preferred mitigation alternative for the proposed merger is the relocation of the tracks from the downtown area to an alignment parallel to and south of Interstate 80. This 3.6 mile realignment, has been designed to meet the UP's design criteria for 40 MPH operation and provides adequate area for a maintenance road along with the fiber optic cable(s) and petroleum pipelines. This alternative provides the community with the greatest overall benefit by: 1) consolidating train and pipeline operations in the same corridor as Interstate 80; 2) permitting the redevelopment of the downtown railroad corridor; and 3) eliminating all at-grade crossings within the downtown Reno area.

The City of Reno also finds the full lowering of the tracks through the downtown corridor as an acceptable alternative to the proposed action. This alternative provides a substantial reduction in the level of environmental impact by eliminating at grade crossings in the downtown Reno area, eliminating vehicular/pedestrian - train conflicts and permitting the use of airspace above the tracks. This alternative would, however, expose the downtown area to some level of railroad noise and air quality impact.

The grade separation of three railroad-highway crossings of the 15 at-grade crossing within the City of Reno, is not adequate mitigation, and as a result, is not acceptable to the City of Reno.

37 Refer to the previous page for response.

4.0 ADEQUACY OF ENVIRONMENTAL ASSESSMENT - VOL. 2, CHAPTER 12.0 - RAIL LINE SEGMENT, RAIL YARD, AND INTERMODAL FACILITY IMPACTS - NEVADA

The City of Reno has reviewed the EA for the Union Pacific control and merger of Southern Pacific. Review of the EA is divided into general comments and specific comments. The specific comments are directed to individual passages in the document referenced by volume, page, section (§), paragraph (¶), and line.

4.1 SECTION 12.1 - AIR QUALITY ANALYSIS

EA Text Quote: Vol. 2, page 12-1, § 12.1, ¶ 1, line 5: *"SEA concludes that increased rail operation activities in these regions would result in increased emissions of nitrogen dioxide (NO_x), which contributes to the formation of ozone. Increases in emissions, however, would be partially offset by decreases in train activity on other segments."*

Comment #1: This cannot be substantiated because the offsets are not within the same air basin (e.g., Winnemucca, Nevada to Flanigan, Nevada segment is 175 miles away from Washoe County).

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4.1.1 SUBSECTION 12.1.2 - NORTHWEST NEVADA (AQCR 148)

EA Text Quote: Vol. 2, page 12-3, § 12.1.2, ¶ 1, line 6: *"SEA concludes that adverse impacts could result from increased rail segment activity in this AQCR."*

Comment #2: As indicated in Vol. 2, page 1-24, ¶ 1, line 2, *"Potential impacts in 'attainment' areas were evaluated using the criteria and standards established in the Prevention of Significant Deterioration (PSD) permitting program; any increase in emissions for a given pollutant of 250 tons per year or more is considered a significant impact."* As shown in comments below, errors in calculations have been made in the EA, and certain emissions (CO and NO_x) increase by at least 250 tons per year (TPY), therefore significant impacts would exacerbate an already unsatisfactory situation.

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EA Text Quote: Vol. 2, page 12-4, ¶ 1, line 1: *"The Northwest Nevada AQCR (148) includes the counties of Carson City, Douglas, Lyon, Storey, Washoe, and is designated as a nonattainment [sic] for total suspended particulates (TSP), particulate matter (PM-10), carbon monoxide (CO), and ozone (O_3)."*

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38 SEA acknowledges the concern about air quality offsets within the region. The portion of the rail line segment from Winnemucca to Flanigan west of Gerlach is located in Washoe County. There would, therefore, be an offsetting of emissions from that portion of the rail segment that is within the county and the AQCR.

39 Incorrect values for the Sparks to Winnemucca rail segment were included in the referenced table in the EA. The corrections shown in this response are accurate. Revised and corrected emissions estimates reflecting adjustments to the rail traffic have been calculated and are included in this Post EA. Net emissions that account for offsetting emissions from other rail lines within the same AQCR were also calculated. These revised estimates indicate that the EPA thresholds for general conformity would not be exceeded for any pollutants as a result of increased rail traffic from the proposed merger, so mitigation is not proposed.

40 SEA acknowledges clarification of the status of specific pollutants and attainment status. SEA utilized information provided at 40 CFR 81.329 (7/1/95 Edition) to report on attainment designations. Proposed rules in the Federal Register of January 30, 1996 indicate that the respondent is correct regarding EPA action on TSP and PM_{10}. For purposes of providing the reader with information on the attainment designation of each AQCR, SEA summarized by indicating an AQCR was in nonattainment status if any portion is so designated by EPA. Air quality mitigation measures are reported in Volume 1, Chapter 5 of the Post EA.

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Comment #3: Total suspended particulate (TSP) is no longer a regulated pollutant and has not been so in Nevada since December 26, 1991, when it was replaced by PM_{10}. Carbon monoxide (CO) is only in non-attainment for the Truckee Meadows (highly populated portion of Washoe County). Ozone (O_3) is only in non-attainment for Washoe County.

40 Refer to the previous page for response.

4.1.1.1 Subsection - Emissions from Increased Rail Segment Activity
EA Text Quote: Vol. 2, page 12-4, below ¶ 2 (an unnumbered table), line 4 of said table's data indicated percent change in TPY as: *-74%.*

Comment #4: As indicated in Vol. 1, page 1-12, Table 1-3 (continued), line 23 of said table's data, the percent change in gross ton-miles per year is 74.1 percent. This is an increase of 74 percent, not a decrease of 74 percent as indicated in the table (Vol. 2, page 12-4, below ¶ 2 (an unnumbered table), line 4 of said table's data).

41 The error is noted and has been corrected.

EA Text Quote: Vol. 2, page 12-4, below ¶ 3 (an unnumbered table), lines 1-3 of said table's data indicated below:

(Existing Unnumbered Table)

Rail Segment	AQCR (ID no.)	Estimated Increase in Emissions (tons per year)				
		HC	CO	NO_2	SO_2	PM_{10}
Roseville - Sparks	148	3.1	9.6	71.6	5.2	1.6
Sparks - Winnemucca	148	38.2	118.7	888.2	64.4	19.3
TOTAL		41.3	128.3	959.8	69.6	20.9

AQCR = Air Quality Control Region; HC = hydrocarbons (in air); CO = carbon monoxide; NO_2 = nitrogen dioxide; SO_2 = sulfur dioxide; PM_{10} = particulate matter (under 10 microns in diameter)

42 Air quality estimates have been revised and are reported in Volume 1, Chapter 3 of the Post EA.

Comment #5: As indicated in Vol. 1, page 2-6, Table 2-2 (continued), line 31 of said table's data, the pollutant emission for this segment are estimated in TPY, as follows: HC 12.7, CO 39.6, NO_2 296.1, SO_2 21.5, and PM_{10} 6.4, not as indicated in the table above (Vol. 2, page 12-4, below ¶ 3 (an unnumbered table), lines 1-3 of said table's data). The existing unnumbered table would appear as follows, with the correct TPY:

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(Existing Unnumbered Table - with correct TPY)

Rail Segment	AQCR (ID no.)	Estimated Increase in Emissions (tons per year)				
		HC	CO	NO_2	SO_2	PM_{10}
Roseville - Sparks	148	3.1	9.6	71.6	5.2	1.6
Sparks - Winnemucca	148	12.7	39.6	296.1	21.5	6.4
TOTAL		15.8	49.2	367.7	26.7	8.0

These numbers differ slightly from those indicated in Vol. 1, page 2-12, Table 2-5 (continued), line 19 of said table's data indicated below (underline added for emphasis):

AQCR	State	AQCR Name	Emissions increase (tons per year)				
			HC	CO	NO_2	SO_2	PM_{10}
148	NV	Northwest Nevada	15.8	49.1	367.6	26.6	8.0

4.1.1.2 Subsection - Analysis of Activity

EA Text Quote: Vol. 2, page 12-5, ¶ 1, line 2: *"These estimates of increased emissions are conservative, however, because they do not account for offsetting decreases that could result from truck-to-rail diversions."*

Comment #6: Truck-to-rail diversions in Nevada have not been indicated in the proposed action. This statement is not substantiated by facts as presented in the EA and cannot be used to reduce post-merger emission levels.

EA Text Quote: Vol. 2, page 12-5, ¶ 1, line 4: *"Overall, SEA concludes that while the proposed action is not subject to National Ambient Air Quality Standards General Conformity regulations, the proposed merger would result in increased levels of all pollutants in the Northwest Nevada AQCR, primarily from mobile rail segments emissions."*

As indicated in Vol. 2, page 12-2, ¶ 1, line 2: *"One of the two AQCRs in Nevada is in nonattainment [sic] for ozone."*

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42 Refer to the previous page for response.

43 SEA acknowledges the concern about air quality impacts of truck-to-rail diversions to the AQCR. As explained more fully in Volume 1, Chapter 4 of the Post EA, truck-to-rail diversions were not calculated for each individual AQCR or geographic region because trucks carrying goods would not necessarily traverse the same area that a train would. The calculations for the entire country indicate a positive air quality impact because the increased train traffic on the merged system would consist of goods shifted from other rail (where there would be a one-for-one emissions offset) or from truck (where there is typically a three-for-one emissions offset in favor of rail). In general, the emissions estimates for the proposed merger are conservative because they do not take into account these offsetting values. SEA recognizes that, for specific areas, these offsetting emissions could occur in other parts of the region or in other states. Air quality mitigation measures are presented in Volume 1, Chapter 5 of the Post EA.

44 The City's concern for specific nonattainment issues is noted. Please refer to response to comments #43.

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Further stated in Vol. 2, page 1-24, ¶ 2, line 1, *"Potential impacts in 'non-attainment' areas were assessed against the standards established in the General Conformity Regulations of the Clean Air Act. Under these regulations, increases in volatile organic compounds or nitrogen oxides are considered to be a significant impact if emissions exceed the following levels: 100 tons/year in Moderate Ozone Non-Attainment Areas."*

Comment #7: Washoe County Air Quality Management Division (WCAQMD) reports that the Truckee Meadows is in non-attainment for PM_{10} and carbon monoxide (CO) and all of Washoe County is in non-attainment for ozone (O_3). The implication of these three EA statements is the nitrogen dioxide (NO_2) will increase by 367.7 TPY, surpassing the thresholds as stated in Vol. 2, Chapter 1.0, Section 1.2.4 of the EA, therefore significant impacts would exacerbate an already unsatisfactory situation, based upon the existing unnumbered table with the correct TPY above (Vol. 2, page 12-4, § 12.1.2, ¶ 5 (an unnumbered table), lines 1-3 of said table's data).

The evaluation of the impacts of the post-merger rail traffic should address the Truckee Meadows non-attainment area for PM_{10} and carbon monoxide (CO), and all of Washoe County for ozone (O_3). The other areas of the AQCR should not be considered unless it can be shown that there is an impact from the proposed Merger in those areas.

4.2 SECTION 12.2 - AIR QUALITY IMPACTS AT GRADE CROSSINGS

EA Text Quote: Vol. 2, page 12-5, § 12.2, line 1: *"SEA assessed the overall air quality impacts of emissions from idling vehicles waiting at grade crossings. On average, annual emissions at a grade crossing with 5,000 vehicles per day would be 0.0021 ton of volatile organic compounds, 0.0013 ton of hydrocarbons, 0.0111 ton to carbon monoxide, and 0.0003 ton of nitrogen dioxide (NO_2) per train crossing. Traffic volumes of more than 5,000 vehicles per day would increase the estimated emissions accordingly."*

Comment #8: These numbers are not substantiated nor is the methodology given for the calculations. It is assumed that the "Crossing Delay per Vehicle" as described in Vol. 5, Appendix I, page I-4, of the EA was used. If this is the case, some of the basic assumptions in that calculation are in error. The length of the train in feet is assumed to be 5,000 feet. This is not the case in the City of Reno. The average length of trains is 6,500 feet (see Section 3.2.1, of this document above). The train speed in miles per hour (mph) is not given, though in other sections of the EA it is stated as either 20 mph, 30 mph, 40 mph, or 50 mph. The average speed of trains through the City of Reno is 20 mph (see Section 3.2.1,

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44 Refer to the previous page for response.

45 SEA acknowledges the comment on air quality at intersections. In response to this and other comments, SEA has performed air quality analysis at 10 intersections in downtown Reno. The average daily traffic at these locations is 11,267 vehicles. This calculation is based on a train speed of 20 mph for downtown Reno. SEA found that annual emissions increases, in tons, at these 10 crossings would be: 1.6 (HC), 20.0 (CO), 0.4 (NO_x), 0.01 (SO_2), and 0.01 (PM_{10}). The emissions increases at these 10 locations are not substantial when compared to the increases projected from rail segment emissions. SEA also analyzed the Nolte/Kleinfelder report and concludes that the estimates in this report are based on methodologies that over-predict traffic delay and emissions by a factor of 4. The air quality methodologies are described in Volume 1, Chapter 4 of the Post EA.

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of this document above). Therefore, if the "Crossing Delay per Vehicle" is calculated in error and the emissions calculations from those idling vehicles would also be in error (see Comment #22 through Comment #27 below for a complete discussion of crossing delay calculations).

In a recent study prepared for the City of Reno entitled *Railroad Merger Study* by Nolte et al., in March 1996, Kleinfelder estimated vehicular air emissions resulting from an increase in the number of trains using the U.S. Environmental Protection Agency's MOBILE5a model (Nolte et al., 1996; Spandau, 1996). The results of the emissions calculations are presented below, (as total estimated annual vehicular air emissions in TPY):

VOC	CO	NO_x	PM_{10}
19.2	234.0	5.2	0.11

VOC = volatile organic compound(s); CO = carbon monoxide; NO_x = nitrogen oxides; PM_{10} = particulate matter (under 10 microns in diameter)

These numbers are higher than the estimates provided in the above quoted EA text. A complete methodology and explanation of the data set is required, as this would appear to be a significant impact exacerbating an already unsatisfactory situation.

EA Text Quote: Vol. 2, page 12-5, § 12.2, line 5: *"Railroad crossings are usually grade-separated when roadway and/or train traffic volumes become high, so the air quality impacts at grade crossings would generally be relatively minor."*

Comment #9: This statement is without merit and assumptive. Streets within the City of Reno cross the existing SP main line tracks at-grade 15 times. The EA does not adequately characterize the existing environment in the City of Reno.

EA Text Quote: Vol. 2, page 12-5, § 12.2, line 7: *"In Nevada, most grade crossings carry 5,000 or fewer vehicles."*

Comment #10: On the contrary, the average daily traffic (ADT) at 9 of the 15 crossings in downtown Reno were recently monitored. The average roadway traffic was determined

45 Refer to previous page for response.

46 SEA acknowledges concerns about air impacts at grade crossings. The traffic volumes on roadways crossing railroad tracks are one of the key variables for deciding on grade separation. While there is no fixed threshold for necessary traffic volumes, and other variables affect the decision, in general those crossing roadways with higher traffic volumes are more likely to be grade-separated than those with lower volumes. SEA's analysis indicates that emissions from typical grade crossings are small when compared to the overall emissions increases projected from the proposed merger. Even aggregating emissions across 10 intersections within Reno results in emissions that are not substantial increases (see the response to comment #45). Traffic volumes at a grade crossing would have to be very high to generate substantial automotive emissions, and it is highly unlikely that such high volumes would be carried across the track at grade. Please note that conclusions reached in the EA reflect analysis of entire line segments, not local areas, which are the focus of the City's comments.

47 SEA acknowledges the City's comment on grade crossings. The EA correctly states that most, not all, grade crossings in Nevada carry less than 5,000 vehicles per day. Please note that conclusions reached in the EA reflect analysis of entire rail line segments, not local areas, which are the focus of the City's comments. The intent of the statement in the EA was to indicate that the vast majority of grade crossings on the UP and SP systems serve minimal numbers of roadway vehicles and would therefore not generate substantive levels of vehicular delay or air quality impacts. The intent was not to minimize the potential impacts at those locations that do serve a substantial number of vehicles. Of the grade crossings analyzed in Reno, six have ADT greater than 5,000 vehicles and two have ADT greater than 20,000 vehicles. See comment #45 for the analysis of Reno grade crossings.

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to be 10,000 ADT[3], with two separate at-grade crossings exceeding 20,000 ADT (Barton-Aschman et al., 1996; Hall, 1996; RTC, 1996c; Spandau, 1996). The EA does not adequately characterize the existing environment in the City of Reno.

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EA Text Quote: Vol. 2, page 12-5, § 12.2, line 8: *"SEA concludes that no adverse air quality impacts would results from increased grade crossing delays as a result of the proposed merger."*

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Comment #11: The overall air quality impacts of emissions from idling vehicles waiting at grade crossings must be included with the results of the rail segment emissions (above). The total impact on air quality can then be determined. It would appear from the information provided in the EA on rail segment emissions, the errors in calculating the emissions from idling vehicles, and the data presented above, that the standards established (Vol. 2, page 1-24, ¶ 1 & ¶ 2) would be violated and significant impacts may occur to air quality from increased carbon monoxide (CO) totaling 283.1 TPY and nitrogen oxides (NO_x) totaling 372.8 TPY emissions. The data presented above as well as in the EA are not detailed enough to come to a firm conclusion as to the significance of this issue. Without this additional information, the EA concludes without fact, that there will be no significant impacts related to air quality from increased grade crossing delays.

4.3 SECTION 12.3 - NOISE ANALYSIS

EA Text Quote: Vol. 2, page 12-5, ¶ 1, line 1: *"SEA performed noise analyses to identify noise-sensitive land uses where the proposed changes in operations could result in increases in noise exposure that meet or exceed the Board's environmental analysis thresholds at 49 CFR 1105.7(e)(6).*

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Comment #12: The noise analyses presented in the EA is based upon methodology provided in Vol. 5, Appendix H. Responding to the City of Reno's request for additional information dated April 25, 1996, Wilson, Ihrig & Associates, Inc. (WIA) the EA Consultants' subcontractor on noise, provided on May 1, 1996, color reproductions of maps

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[3] This is based on the average ADTs listed on Figure 11 from the December 1995 *Reno Downtown Traffic/Parking Study* (Barton-Aschman Associates et al., 1995) **10,733 ADT**; confirmed by the recent Barton-Aschman counts of 9 crossings averaging **10,611 ADT** (Hall, 1996); Kleinfelder, Inc.'s counts for the same 9 crossings averaging **10,537 ADT** (Spandau, 1996); and the Regional Transportation Commission's counts for the same 9 crossings averaging **12,116 ADT** (RTC, 1996c).

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48 The responses to comments #45 and #46 provide information on the estimated emissions from grade crossings. Combining air emissions from train traffic and idling traffic does not change the conclusion about air impacts that EPA conformity thresholds would not be exceeded. Air quality mitigation measures are discussed in Volume 1, Chapter 5 of the Post EA.

49 The City's provision of new mapping is appreciated. Additional noise analysis was conducted. The estimate of the numbers of receivers falling within the 65 L_{dn} post-merger contour defined by the City/Washoe County differ from those provided in the EA. The reason for the difference is that a more complex shape is assumed for noise contours in the vicinity of grade crossings than was assumed by Washoe County.

47 See response #47 above.

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with land-use descriptions and noise contours used by WIA for assessing the noise impact which would occur as a result of the proposed Merger.

The City of Reno is concerned that the base maps are outdated (1982) and do not specifically represent current land use. For example, the City of Reno's downtown west of Arlington to Keystone is residential in nature not commercial as indicated on WIA's maps.

In an attempt to accurately assess the noise impact, new contours were calculated (Comment #16, below) and mapped on aerial survey photographs (Great Basin Aerial Surveys, 1994), and new counts were generated (see Comment #18, below) based upon current (April 25, 1996) Washoe County Department of Comprehensive Planning land use maps.

EA Text Quote: Vol. 2, page 12-5, ¶ 1, line 1: *"The following discussion provides an estimate of the number of noise-sensitive receptors (e.g., residences, schools, churches) where the Board's thresholds would be exceeded, potentially causing an adverse increase in noise exposure."*

Comment #13: The EA uses noise-sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) which represents a very narrow category of land uses when estimating ultimate affects of noise. In addition, this category of land uses used in the EA is not consistent with the STB's own implementing regulations which define "receiving properties" as commercial and residential properties that receive the sound from railroad facility operations, but that is not owned or operated by a railroad (40 CFR 201(w)).

Part 201(e) of Chapter 40 of the Code of Federal Regulations defines commercial property as any property that is normally accessible to the public and that is used for any of the purposes described in the following standard land uses: retail trade; finance; insurance, real estate, personal, business and repair services; legal and other professional services; governmental services; welfare, charitable and other miscellaneous services; native exhibitions and other cultural activities; entertainment, public and other public assembly; and recreational, resort, park and other cultural activities.

Part 201(x) of Chapter 40 of the Code of Federal Regulations defines residential properties as any property that is used for any of the purposes described in the following standard land uses: residential; medical and other health services; educational services, religious activities;

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49 Refer to the previous page for response.

50 The noise-sensitive receptors as defined in the EA are consistent with the Board's environmental rules at 49 CFR 1105.7(e).

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and cultural activities. As documented, the STB's own implementing regulations offer a much broader category of land uses thus affecting a greater number of land uses located along the railroad tracks.

4.3.1 SUBSECTION 12.3.1 - INCREASED RAIL SEGMENT ACTIVITY

4.3.1.1 Subsection - Roseville, California to Sparks

EA Text Quote: Vol. 2, page 12-5, ¶ 4, line 1: *"This rail segment currently has 13.8 trains/day and would experience an increase of 11.3 trains/day (a change of 79 percent in gross ton-miles per year) as a result of the proposed merger."*

Comment #14: Using the correct number of post-merger trains per day, thirty-eight (38) (see Section 3.2.1, of this document above), the total increase of trains per day would be 24.2.

EA Text Quote: Vol. 2, page 12-5, ¶ 4, line 3: *"This change in through train activity would result in an increase in the L_{dn} of 2.6 dBA along the alignment."*

Comment #15: The calculations to obtain an increase of 2.6 dBA are based on using an increase of 11.3 trains per day. While the calculations were not conducted using the correct post-merger increase of 24.2 trains per day (see Section 3.2.1, of this document above), the post-merger train activity would most likely increase the dBA past the noise criteria significance threshold of 3 dBA which is the minimum level at which adverse impacts will occur.

EA Text Quote: Vol. 2, page 12-6, ¶ 1, line 3: *"Currently, the noise impacts at grade crossings extend approximately 480 feet perpendicular to the tracks, whereas after the merger the distance for noise impacts would increase to about 670 feet."*

Comment #16: Post-merger noise impacts would increase more than as stated in the EA. The noise impact projection using the 65 dBA L_{dn} distance contour (both with and without horns) was recalculated using the correct number of trains per day (38) and train speeds (15 mph to 20 mph) expected within the City of Reno (see Section 3.2.1, of this document above). For these calculations the same number of cars and locomotives and time of day of use were used as in the EA projections (70 cars, 3.5 locomotives, and a random day/night mix). The subsequent result indicated a 1,400 feet distance to the 65 dBA L_{dn} of post-merger

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50 Refer to the previous page for response.

51 The disparity in increases in number of trains has been clarified. See the response to comments # 8 and #31.

52 SEA acknowledges the City's contention that noise thresholds would be exceeded. The train numbers that are the basis of the noise analysis are in response to comment #8. Based upon these affirmed numbers, noise increases associated with the proposed merger would not exceed 3 dB. Since the 3 dB threshold would not be exceeded, no mitigation is proposed. See Volume 1, Chapter 3 of the Post EA for a discussion of the noise analysis.

53 The City's noise analysis yields different numbers than in the EA. These differences are addressed in responses to comments # 49 and #52.

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noise impacts from trains using horns and a 260 feet contour distance for trains not using horns (Giroux & Associates, 1996).

EA Text Quote: Vol. 2, page 12-6, ¶ 3, line 2: *"There are 15 grade crossings along the tracks."*

Comment #17: Streets within the City of Reno cross the existing SP main line tracks at-grade 15 times at Woodland, Del Curto, Keystone, Vine, Washington, Ralston, Arlington, West, Sierra, Virginia, Center, Lake, Morrill, Sutro, and Sage Streets.

EA Text Quote: Vol. 2, page 12-6, ¶ 3, line 7: *"An additional 58 residences would lie within the post-merger contour."*

Comment #18: A greater number of residential properties (40 CFR 201(x)) would be affected within the post-merger 65 dBA L_{dn} contour distance using the 1,400 feet contour distance specified in Comment #14. An additional 606 residential properties would lie within the post-merger contour.

EA Text Quote: Vol. 2, page 12-6, ¶ 5, line 3: *"With the proposed increase in train traffic, this would increase by 86 residences for a total of 242 residences and 2 churches within the post-merger 65 L_{dn} contour as shown below:"* (pertaining to the subsequent unnumbered table on page 12-7).

Comment #19: After incorporating the increase of 606 residential properties (40 CFR 201(x)), not even attempting to account for the hundreds of commercial properties (40 CFR 201(e)), into the calculations using the 1,400-foot post-merger 65 dBA L_{dn} contour (see Comment #16, above) the numbers of residences for the Nevada portion of the post-merger railway tracks, including Sparks and Verdi, increased accordingly. For the Nevada portion of the post-merger railway segment, residential properties would increase by 634 residential properties and the total number of residential properties would be 792.

4.4 SECTION 12.4 - TRANSPORTATION SYSTEMS

EA Text Quote: Vol. 2, page 12-10, ¶ 2, line 5: *"While the time of delay at grade crossings would increase proportionately with the increase in train traffic, most of the grade crossings in Nevada carry fewer 5,000 [sic] vehicles per day."*

53 Refer to the previous page for response.

54 SEA acknowledges the City's correction of the number of grade crossings. Supplemental analysis included all 15 grade crossings. The conclusion remains the same.

55 The City's noise analysis yields different numbers than those in the EA. These differences are addressed in responses to comments #49 and #52.

56 The City's noise analysis yields different numbers than those in the EA. These differences are addressed in responses to comments #49 and #52.

57 The City's position on grade crossings was addressed in response to comment #47. Of the 15 grade crossings in Reno, 11 crossings in the downtown area where supplemental analysis was conducted used traffic data provided by the City. The remaining four crossings were analyzed with traffic from the FRA database, with traffic varying from 80 vehicles per day to 12,000 vehicles per day.

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Comment #20: On the contrary, the average daily traffic (ADT) at 9 of the 15 crossings in downtown Reno were recently monitored. The average roadway traffic was determined to be 10,000 ADT[4], with two separate at-grade crossing exceeding 20,000 ADT (Barton-Aschman et al., 1996; Hall, 1996; RTC, 1996c; Spandau, 1996). Therefore, any subsequent calculation of the delay at grade crossings would be invalid. The EA does not adequately characterize the existing environment in the City of Reno.

EA Text Quote: Vol. 2, page 12-10, ¶ 2, line 5: *"SEA concludes that increases in vehicle delay and/or wait time due to merger-related operational changes would not be excessive."*

Comment #21: The EA concludes that there will be no significant impacts related to grade crossing delays, despite known facts that there will be impacts. See Comment #22 through Comment #27 for further information.

4.4.1 SUBSECTION 12.4.1 - GRADE CROSSINGS

EA Text Quote: Vol. 2, page 12-10, § 12.4.1, ¶ 1, line 4: *"While an increase in the number of trains would result in more crossing closings per day, the length of the queue at each individual crossing closing event would change only if the train length changes."*

Comment #22: Based upon the methodology as stated in Vol. 5, Appendix I, page I-4, of the EA, specifically "Crossing Delay per Train" the calculation of delays are inaccurate as they are based upon the length of the train in feet as 5,000 feet. This is not the case in the City of Reno. The average length of trains is 6,500 feet (see Section 3.2.1, of this document above). Therefore, the calculation for "Crossing Delay per Train" also shown as "TB" is incorrect.

4.4.1.1 Subsection - Roseville, California to Sparks

EA Text Quote: Vol. 2, page 12-10, ¶ 1, line 1: *"Average rail traffic on the Roseville, California to Sparks line would increase from 13.6 to 24.9 trains per day, a train volume increase of about 83 percent."*

[4] This is based on the average ADTs listed on Figure 11 from the December 1995 *Reno Downtown Traffic/Parking Study* (Barton-Aschman Associates et al., 1995) **10,733 ADT**; confirmed by the recent Barton-Aschman counts of 9 crossings averaging **10,611 ADT** (Hall, 1996); Kleinfelder, Inc.'s counts for the same 9 crossings averaging **10,537 ADT** (Spandau, 1996); and the Regional Transportation Commission's counts for the same 9 crossings averaging **12,116 ADT** (RTC, 1996c).

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57 Refer to the previous page for response.

For 5,000-foot trains, as assessed in the EA (please refer to response to comment #33), the total daily crossing delay at a typical street crossing would increase from 48 minutes pre-merger to 88 minutes post-merger. A crossing would typically be blocked approximately 3.5 minutes for each train. This corresponds to average delays per vehicle of 1.6 to 4.2 seconds pre-merger and 2.9 to 7.6 seconds post-merger. Corresponding peak-hour delays would be approximately twice these values, with associated Level of Service (LOS) B or C. (Refer to Volume 1, Chapter 4 of the Post EA for information on LOS calculations). In an urban context, these are not significant delays to auto traffic and require no mitigation.

58 SEA acknowledges the City's concerns about the potential impact of longer trains. When 6,000-foot trains were analyzed, the conclusions of response #58 did not change. With 6,000-foot trains, the total daily crossing delay at a typical street crossing would increase from 56 minutes pre-merger to 102 minutes post-merger. A crossing would typically be blocked approximately 4.1 minutes for each train. This corresponds to average delays per vehicle of 2.0 to 5.5 seconds pre-merger and 3.7 to 10.0 seconds post-merger. Corresponding peak-hour delays would be approximately twice these values, with associated LOS B or C. As with 5,000-foot trains, these are not significant delays to auto traffic in an urban context and require no mitigation. Analysis of 6,500-foot trains was not conducted for the reasons stated in response to comment #33.

59 The City's concern about train number is acknowledged and is addressed in response to comment #8.

60 Refer to the previous page for response.

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Comment #23: As indicated in Vol. 1, page 1-11, Table 1-3, line 13 of said table's data, the pre-merger trains per day are 13.8, the post-merger trains per day are 25.1, therefore the train volume increase is 82 percent as stated in the EA. As demonstrated in Section 3.2.1 of this document above, 38 trains per day is a more appropriate number.

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EA Text Quote: Vol. 2, page 12-10, ¶ 1, line 2: *"There are 18 grade crossings along this segment; 8 of these have Average Daily Traffic (ADT) counts greater than 5,000 vehicles per day."*

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Comment #24: Streets within the City of Reno cross the existing SP main line tracks at-grade 15 times (Woodland, Del Curto, Keystone, Vine, Washington, Ralston, Arlington, West, Sierra, Virginia, Center, Lake, Morrill, Sutro, and Sage).

EA Text Quote: Vol. 2, page 12-10, ¶ 1, line 4: *"At typical and low speed grade crossings along the route (e.g., train speed of 20 mph), delay to vehicle traffic would increase from 48 minutes (pre-merger) to 88 minutes (post-merger) over a 24-hour period."*

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Comment #25: Based upon the methodology as stated in Vol. 5, Appendix I, page I-4 of the EA, specifically "Increase in Total Crossing Delay per Day" was calculated with 5,000 foot trains, at 20 mph, for 25.1 trains. When these calculations are re-evaluated using the 6,500 foot trains, at 20 mph, for 38 trains (see Section 3.2.1, of this document above), the increase in total crossing delay per day increases significantly from the estimated 88 minutes (post-merger) to 166 minutes (post-merger).

The Regional Transportation Commission (RTC) which operates the public transportation system for Washoe County including the Cities of Reno and Sparks indicated that their buses cross the railroad tracks 704 times a day in Reno (10 of 24 routes), carrying an average of 8,713 passengers a day on these lines. Current rail traffic delays buses from 2 to 3 minutes according to RTC (RTC, 1996a; 1996b; 1996c).

Another transit issue involves trains blocking pedestrian access to the CitiCenter (the downtown transit transfer station) from points south of the tracks. Passengers transferring from one bus to another will often miss their connection due to crossing delays. This can mean a 1-hour delay to some passengers connecting with routes currently operated hourly. Delays caused by longer and more frequent trains would only exacerbate these problems (RTC, 1996a).

60 Refer to the previous page for response.

61 SEA acknowledges the correction of the citation. Analysis was conducted for 15 grade crossings within the City of Reno.

62 The City's analysis differs from that in the EA, because it uses different assumptions. Please refer to responses to comments #8 and #59. The trend in the rail industry is toward shorter and faster trains in order to better compete with trucks. Analysis of the 6,500-foot length was not conducted for the reasons stated in response to comment #33.

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EA Text Quote: Vol. 2, page 12-10, ¶ 1, line 7: *"At the highest speed grade crossings (e.g., train speed of 40 mph), delays to vehicle traffic would increase from 29 minutes (pre-merger) to 52 minutes (post-merger) over a 24-hour period."*

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Comment #26: It should be noted that the maximum train speed at all crossings in the City of Reno is 20 mph.

EA Text Quote: Vol. 2, page 12-10, ¶ 1, line 8: *"The maximum queue length per train due to peak-hour vehicle traffic would range from 1 to 80 vehicles, and the corresponding delay per vehicle would vary from 1.35 to 2.06 minutes."*

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Comment #27: The above information on maximum queue length appears to be incorrectly stated. It would appear that the above number of 80 could only be correct if the ADT used was 45,584. More likely, the number 80 is actually a typographical error for the number 8, which could be correct based upon 5,000 ADT, a TB of 3.51, and 4 total lanes of traffic. If we accept that the above is a typographical error and then re-evaluated the numbers using 10,000 ADT[5], a TB of 4.36, and 4 total lanes of traffic, then the maximum queue length is 21.8 vehicles, and the corresponding delay per vehicle would be 2.48 minutes. This length of queue indicates a serious gridlock affecting operations of adjacent businesses as well as safe circulation of pedestrian and vehicle traffic.

4.5 SECTION 12.5 - SAFETY

EA Text Quote: Vol. 2, page 12-11, § 12.5, ¶ 1: *"SEA assessed a number of safety issues associated with the proposed merger, including the probability of increased accidents at grade crossings, and the risks associated with increased shipments of hazardous commodities."*

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Comment #28: As indicated in Vol. 1, page 2-22, § 2.4.1, ¶ 1: *"Railroad operations may affect public health and safety as a result of: (1) accidents that occur at grade crossings, and (2) delays at grade crossings, which could affect the time required to respond to an emergency or could affect the judgement of motorists concerning safe crossing of the tracks."*

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[5] This is based on the average ADTs listed on Figure 11 from the December 1995 *Reno Downtown Traffic/Parking Study* (Barton-Aschman Associates et al., 1995) **10,733 ADT**; confirmed by the recent Barton-Aschman counts of 9 crossings averaging **10,611 ADT** (Hall, 1996); Kleinfelder, Inc.'s counts for the same 9 crossings averaging **10,537 ADT** (Spandau, 1996); and the Regional Transportation Commission's counts for the same 9 crossings averaging **12,116 ADT** (RTC, 1996c).

63 SEA acknowledges the comment regarding Reno train speeds. The 40 mph value is for the entire rail segment excluding the downtown area of Reno. Crossing blockage/delay analyses in Reno were performed using 20 mph train operating speeds.

64 The peak-hour queue lengths for 5,000-foot trains would be between 1 vehicle and 46 vehicles, depending on the crossing. The peak-hour queue lengths for 6,000-foot trains would be between 1 vehicle and 53 vehicles. The maximum queue would occur at Keystone.

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

With regard to increased risk of accidents, analysis using FRA grade crossing accident estimation methods projected an increase of less than one accident every two years in the Reno area. That is, at the 15 crossings, accident rates were projected to increase from 1.31 accidents per year pre-merger to 1.70 accidents per year post-merger.

SEA acknowledges the importance and potential impacts to emergency response vehicle delays. These issues and others are listed as principal reasons for the mitigation recommended by SEA for the City of Reno in Volume 1, Chapter 5 of the Post EA.

64 See response #64 above.

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It appears from the above passage that the EA failed to evaluate the effects of these impacts, even though the EA acknowledges the importance and potential impacts to emergency response vehicle delays. The increased public health and safety risks associated with emergency service vehicles delayed at crossings (at-grade) is a significant impact to the citizens of the City of Reno, specifically based on the underestimation of delays.

Any increase in number, length, or speed of trains, and the subsequent "Increase in Total Crossing Delay per Day" (see Vol. 5, Appendix I, page I-4 of the EA) will have a significant impact in the following areas:

Ambulance/Medical

The Regional Emergency Medical Services Authority (REMSA) indicates that they received 28,956 calls requesting service in 1995. Of these calls, 835 patients were transported code-3 to hospitals with life-threatening illness or injuries (REMSA, 1996).

Fire Protection

The City of Reno Fire Department (RFD) dispatches equipment and personnel based on the potential for the equipment to be blocked by a train. Multiple alarms in District #1 require the dispatch of a minimum of four (4) engines or trucks because of these potential delays. Fire Chief Larry S. Farr indicated that a total of 3,170 incidents in 1995, were affected by railroad crossings (RFD, 1996a; 1996b).

Police Protection

Chief Jim Weston, City of Reno Police Department (RPD) comments on the potential impacts of the proposed Merger:

> *Police response times will increase to emergency and non-emergency calls which are cross-dispatched. Cross-dispatching is routine and occurs 24 hours per day because of current police staffing shortages. Citizen response time complaints will increase.*
>
> *Officer safety and citizen safety will be impacted by delayed response of police units to assist officers needing cover, police response to injury related traffic accidents, or any other citizen injury type call.*
>
> *Special events management will deteriorate as trains bisect parades, static display street closures, and major special events.*
>
> *Intoxicated pedestrians (tourists, transients, and locals) currently race across tracks to avoid trains. Their impaired condition increases the potential for an injury. Massive special events crowds, combined with noise levels of the event, often force pedestrians too*

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65 Refer to the previous page for response.

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close to train tracks. Reno's entertainment industry often results in tourists and local citizens being intoxicated or under the influence of alcohol in the downtown area.

Increased train crossing traffic violations will occur. Currently, impatient drivers ignore crossing arms to beat oncoming trains, make U-turns, or drive the wrong way to find an escape route to avoid train delays. Additional train traffic will exacerbate this already dangerous situation (RPD, 1996).

As indicated in Vol. 1, page 2-22, § 2.4.1, ¶ 1: "*Railroad operations may affect public health and safety as a result of: (1) accidents that occur at grade crossings, and (2) delays at grade crossings, which could affect the time required to respond to an emergency or could affect the judgement of motorists concerning safe crossing of the tracks.*" It appears from the above passage, even though the EA acknowledges the importance and potential impacts to motorists concerning safe crossing of the tracks, they failed to evaluate the effects of these impacts.

4.5.1 SUBSECTION 12.5.1 - GRADE CROSSING SAFETY

EA Text Quote: Vol. 2, page 12-12, § 12.5.1, ¶ 1, line 1: "*Accidents at grade crossings are a function of the number of trains, train speed, number of train tracks, grade crossing condition and warning facilities, roadway condition and number of lanes, and amount of roadway traffic.*"

Comment #29: No methodology is available to support this assumption or to show how calculations were performed.

EA Text Quote: Vol. 2, page 12-12, § 12.5.1, ¶ 1, line 3: "*Since the proposed merger would not result in any new grade crossings and would affect only the number of trains passing through existing grade crossings, the probability of an increase in the number of accidents at grade crossing would depend on the increased number of on [sic] trains on rail segments.*"

Comment #30: This statement cannot be supported by the present information in the proposed action. If the speed of the trains is increased to 30 m[illegible]h or 40 mph, this statement would not hold true.

Reno's Police Chief comments, "Currently, impatient drivers ignore crossing arms to beat oncoming trains, make U-turns, or drive the wrong way to find an escape route to avoid train

65 Refer to the previous page for response.

66 Standard FRA procedures were used to calculate Accident Exposure Indices. See response to comment #65.

67 See responses to comments #63 and #65. For crossings with active warning devices, e.g., flashing lights or gates and flashing lights, the FRA accident prediction methodology does not include speed as a factor. For the City of Reno, where all crossings have active warning devices, the projected accident rate does not depend on train speed.

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delays. Additional train traffic will exacerbate this already dangerous situation" and "increased train crossing traffic violations will occur" (RPD, 1996).

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EA Text Quote: Vol. 2, page 12-12, § 12.5.1, ¶ 1, line 3: *"SEA concludes that the accident exposure in Nevada will range from an increase of 90 percent to a decrease of 52 percent depending on rail segment."*

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Comment #31: See Comment #29 above under Section 4.5.1 of this document. With a lack of methodology and no way to calculate the above percentages, these numbers have no validity. Several factors previously discussed in Section 3.2.1 of this document, would affect this calculation:

> The number of trains is stated in the EA as 25.1. As demonstrated in Section 3.2.1 of this document above, 38 trains per day is a more appropriate number.
>
> The length of the train in feet, is assumed to be 5,000 feet. This is not the case in the City of Reno. The average length of trains is 6,500 feet.
>
> The train speed in miles per hour is given as either 30 mph or 50 mph. This is not the case in the City of Reno. The average speed of trains through the City of Reno is 20 mph.

The Nevada Department of Transportation (NDOT), Railroad Safety Section, maintains data on railroad crossing vehicle collisions verified by the Reno Police Department (RPD). For the 25 year period ending in 1995, 3 fatalities occurred, 17 personal injuries, and 39 collisions with property damage. Additionally, three pedestrians have been killed and two more injured during this same period (NDOT, 1996). These figures do not include trespasser incidents between crossings.

4.5.2 SUBSECTION 12.5.2 - HAZARDOUS COMMODITIES

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EA Text Quote: Vol. 2, page 12-12, § 12.5.2, ¶ 1, line 1: *"The proposed merger is not expected to affect the policies or operation of UP/SP concerning the type or quantity of hazardous commodities transported or the method of handling."*

Comment #32: The U.S. Department of Energy (DOE) has recently announced plans for shipping foreign reactor nuclear fuel through the Port of Oakland, California to Idaho Falls, Idaho via Nevada. There are other routes DOE could use to transport this fuel, however, we must assume that the fuel has the potential to be transported through Reno, Nevada. It is the

67 Refer to the previous page for response.

68 See responses to comments #31, #33, #63, and #66. Of the factors cited, frequency is the only relevant one for accident prediction. Additionally, 38 trains per day is an inflated figure, the use of which would lead to an exaggerated number of accidents. The accident rates calculated for this study are consistent with the actual accident history in Reno given that the train frequencies through part of the 25-year period were more than twice those existing today.

69 The EA evaluated only the impacts of the proposed merger. Changes in the volume and type of all commodities, including hazardous material, will occur with or without the proposed merger, so they were not evaluated. Special train activity is not a result of the proposed merger and was not evaluated in the EA.

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understanding of the State of Nevada Agency for Nuclear Projects - Nuclear Waste Project Office (NWPO) in Carson City, Nevada that at least eight (8) rail shipments of spent nuclear fuel would be transported through Reno as early as late 1997 (NWPO, 1996). DOE has indicated that rail is the preferred mode of transportation for these shipments. The Agency for Nuclear Projects further states that while the number of shipments for the proposed campaign is modest and the shipments are one-time occurrences, the use of Concord, California as the port of entry could set a precedent for future shipments of spent fuel and/or high-level radioactive waste (NWPO, 1996).

Even as few as eight (8) shipments of spent fuel will require considerable planning, emergency preparedness, and training along the shipping route, especially in heavily populated areas such as Reno, Nevada. It is the City of Reno's opinion that this activity should be mentioned in the EA as additional rail activity in the future.

The EA should evaluate the impacts of special train activity and restrictions on railroad operations, the flow of rail traffic through the City of Reno, the potential for accidents, and other operational issues.

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EA Text Quote: Vol. 2, page 12-12, § 12.5.2, ¶ 1, line 3: *"A total of 420,000 and 305,000 hazardous commodity shipments were transported by UP and SP, respectively in 1994. These shipments resulted in 118 reportable incidents for UP and 35 incidents for SP. Therefore, 99.98 percent of the shipments arrived at their destination without incident."*

Comment #33: This statement documents a total of 153 separate UP and SP rail incidents involving hazardous commodity shipments occurring in 1994. As documented in 49 CFR 1105.7(ii): "If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react or form more hazardous compounds; safety practices (including any speed restrictions); the applicants' safety record on derailments, accidents, and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials. The EA does not document the majority of the items in 49 CFR 1105.7(ii). This is information that should be documented so the general public is informed as to the nature of incidents involving hazardous commodities.

69 Refer to the previous page for response.

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

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EA Text Quote: Vol. 2, page 12-12, § 12.5.2, ¶ 1, line 6: *"The applicants have noted that the consolidation of the companies will result in a 'best practice' approach to hazardous commodity handling."*

Comment #34: The term "'best practice' approach" is not defined in the EA's glossary so it is unclear as to the meaning of this term or approach. The EA should define this term as well as the methods associated with implementing this approach. The City of Reno is unable to determine if this "'best practice' approach" is the most strategic and environmentally sensitive approach to handling hazardous commodities and must assume that economics are the only factor considered with adopting this approach.

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EA Text Quote: Vol. 2, page 12-12, § 12.5.2, ¶ 1, line 8: *"SEA concludes that, using the same rate of safe transport, the projected increases in accidents and shipments of hazardous materials as a result of the proposed merger do not constitute a significant safety risk."*

Comment #35: A threshold for safety is never defined in the EA therefore, it is not possible to derive a conclusion that the proposed Merger does not constitute a significant safety risk.

The data presented above as well as in the EA is not detailed enough to come to a conclusion as to the significance of this issue. If additional information pertaining to these incidents involving hazardous commodities was incorporated into the EA, we could be in a position to determine if a total of 153 incidents violates thresholds related to transporting hazardous commodities and a threat involving public safety. Without this additional information, the EA is concluding, without fact, that there will be no significant impacts related to transporting hazardous commodities.

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4.6 SECTION 12.6 - SUMMARY OF AGENCY COMMENTS

Public involvement is an important part of the NEPA process, and is encouraged during the preparation of complex, controversial EAs to achieve full disclosure (40 CFR 1506.6(a)).

EA Text Quote: Vol. 2, page 12-13, ¶ 7, line 1: *"City of Reno is concerned that the proposed merger will almost double the train frequency (from 13 to 23/day) through the downtown Reno hotel/casino district. Frequency of UP/SP, BN/SF, Amtrak train service will be increased to more than 30 trains per pay, not including local service. Eight of the 15 at-grade crossings are located in downtown Reno which will affect substantial pedestrian and vehicular traffic, as well as police, fire and ambulance equipment movements. Environmental*

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71 The intent of the comment cited by the City was to acknowledge the improved level of hazardous materials management that would occur on SP lines by applying the UP management approach for training, inspections, maintenance, and response related to hazardous materials.

72 The Surface Transportation Board's environmental regulations do not specify specific environmental thresholds for safety or hazardous materials management. As noted in comment #70, there would be an increase in hazardous commodity handling on the Roseville to Sparks segment and SEA's recommended mitigation measures are described in Volume 1, Chapter 5 of the Post EA.

73 Comment on the EA by the other entities referred to by the City have been responded to in this Appendix.

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impacts on air quality, congestion, and noise levels are a result of the proposed merger are also under study."

Comment #36: The STB has solicited comments from the public (summary of the City of Reno's letters noted above), but has not responded to issues raised in the comments provided by the Nevada Department of Conservation and Natural Resources, Division of Environmental Protection Bureau of Air Quality, Nevada Department of Transportation, State Historic Preservation Office, and the City of Reno through their agent Paul H. Lamboley of Keck, Mahin & Cate (summarized in Vol. 2, Section 12.6 of the EA and provided in complete form in Vol. 5, Appendix E of the EA). Specific comments were received by the STB during the scoping phase of the EA process during mid-February 1996, in ample time to incorporate these concerns and issues into the environmental document.

4.7 ENVIRONMENTAL FACTORS NOT EVALUATED

Vol. 2, Chapter 12.0, of the EA evaluates a total of four (4) environmental factors which would potentially be affected by the proposed action, including: air quality, noise levels, transportation systems, and safety. A critical evaluation of these factors is included in Chapter 4.0 and 5.0 of this document. Several additional environmental factors, not evaluated in the EA, would be affected by the proposed Merger including: energy, cultural resources, land use, socioeconomics, water resources, and biological resources. The EA should be revised to include an evaluation of these environmental factors not considered.

4.7.1 ENERGY CONSUMPTION

EA Text Quote: Vol. 1, page 2-25, § 2.5, ¶ 1, line 1: *"The Board's environmental rules at 49 CFR 1105.7(e)(4) require a description of: the effect of the proposed action on transportation of energy resources and recyclable commodities."* and Vol. 1, page 2-25, § 2.5.1, ¶ 1, line 1: *"The applicants stated no change in the transport of energy-producing materials or recyclable commodities are planned as part of the proposed merger."*

Comment #37: This is another example of the EA utilizing information from the Applicant's Environmental Report without exercising independent review and analysis to determine the actual impacts. Sierra Pacific Power Company (SPPCo) provides electrical energy to the City of Reno and Washoe County, primarily through its North Valmy power plant, located between Winnemucca and Battle Mountain, Nevada. The North Valmy power plant and the secondary Pinion Pine power plant located in Tracy are coal-fired power plants and currently receive coal shipments from mines located in Colorado and Utah via several

73 Refer to the previous page for response.

74 The subject environmental factors were initially screened at the outset of preparation of the EA. Resource agencies (FWS, Corps, SHPOs, etc.) did not identify these issues as areas of concern that should be addressed in the EA. See agency comments at the beginning of this Appendix.

75 SEA acknowledges the concerns about energy impacts. UP/SP's note that the overall proposed merger is expected to save 35 million gallons of fuel per year. The commercial and competitive aspects of coal transportation are beyond the scope of SEA's environmental analysis, but it is noted that introduction of BN/Santa Fe into the area may actually open new opportunities for coal sources.

SEA has considered the energy consumption from delays at grade crossings. Grade crossing delay issues for Reno are discussed in comments #47 and #58. Systemwide, the increase in energy consumption from crossing delay is more than offset by the fuel savings from the proposed merger.

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alternative railroads and routes. Implementation of the proposed Merger could result in the elimination of alternative routes and railroad carriers for the transport of coal to both power plants. This facet of the proposed Merger would result in the creation of a monopoly, which would drive up the cost of coal transportation to SPPCo and ultimately result in increased energy costs to City of Reno residents and businesses. Any increase in transportation costs associated with the proposed Merger, which could create a monopoly, has been discussed in numerous studies prepared for other utility mergers. These studies have shown that energy prices increase between 8 percent and 15 percent to end-consumers following the merger of utilities.

In addition, the EA does not evaluate the waste of energy (gasoline) associated with the lengthy delays anticipated at the 15 at-grade crossings within the City of Reno.

Vol. 2, Chapter 12.0 of the EA which documents proposed Merger impacts to the State of Nevada, and in particular the City of Reno, does not contain a discussion of energy impacts. This is peculiar since it is a potential environmental impact indicated in Vol. 2, Chapter 1.0, Section 1.2 of the EA.

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4.7.2 CULTURAL RESOURCES

Comment #38: The EA does not consider the effects of the proposed Merger on cultural resources that might be located within, or adjacent to the railroad track right-of-way traversing the City of Reno. Cultural resources include, but are not limited to, historic properties, historic structures, archaeological sites, and the railroad line itself. According to a letter dated February 15, 1996, prepared by the Nevada State Historic Preservation Office (SHPO) submitted to the STB, they have expressed concerns regarding incomplete survey coverage for areas located within the City of Reno (Vol. 5, Appendix E, page E-60 of the EA). In an earlier letter dated January 4, 1996, the Nevada SHPO requested the ICC to initiate consultation with their office in Carson City, Nevada as required by Federal Law (Section 106 of the National Historic Preservation Act [NHPA] of 1966, as amended) (SHPO, 1996). Compliance with Federal law requires inventory, evaluation, and assessment of the effects of the undertaking on historic properties that are part of the proposed project.

In a letter dated October 24, 1995, prepared by the Nevada SHPO to the Applicant's consultant (Dames & Moore), SHPO mentioned the historic significance of the railroad route (SHPO, 1995). The STB's environmental consultant prepared written correspondence requesting information about existing cultural and historic resources (Dames & Moore, 1996).

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75 Refer to the previous page for response.

76 SEA acknowledges the concerns about cultural resources in the City. SEA initiated consultation with the Nevada State Historic Preservation Officer (SHPO) on January 29, 1996 regarding cultural and historic resources through Nevada. The Section 106 consultation between SEA and the SHPO continues. Mitigation measures related to the Section 106 process are addressed in Volume 1, Chapter 5 of the Post EA. Concerns about the UP yard in Reno are addressed in comments #29 and #34.

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Although some of this information has not been officially recorded in a database maintained by the SHPO, that does not excuse the Applicant or STB from adequately addressing the potential environmental issues affecting cultural resources in the EA.

The City of Reno is specifically referring to the UP Facility in North Reno which has been referenced in several reports and the STB's fact sheets (see Section 3.2.2, of the document above). It is our understanding that the rail activity associated with UP Facility in North Reno including the UP TOFC yard (located adjacent to Parr Boulevard) will be phased out of existence, which should be considered in the EA document as an abandonment. We have been unable to locate a section of the EA addressing the environmental impacts associated with abandonment of the UP Facility in North Reno including the UP TOFC yard. However, we have documentation in the form of the STB fact sheets mentioning the phasing out this facility.

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4.7.3 LAND USE

Comment #39: The EA limits its discussion of land use impacts associated with the proposed Merger to those directly related to existing land uses affected by merger-related air quality and noise impacts. As previously discussed in Chapter 4.0 of this document, the evaluation of merger-related air quality and noise impacts significantly underestimates the impacts to existing land uses as a result of a combination of flawed methodology and underestimated train characteristics (length, speed, etc.). In addition, the analysis focused on land uses identified as sensitive by the STB NEPA implementing regulations, and ignored the unique nature of other sensitive land uses within and adjacent to the rail corridor within the City of Reno.

As indicated in Section 4.3 of this document, the noise analysis significantly underestimates the number of sensitive land uses impacted by projected 65 L_{dn} dBA noise contour. The correct number of impacted sensitive land use receptors is as follows: single family residential (665 units), nursing homes (1), mobile home parks (7), apartment buildings/complexes (6 containing up to 120 units each), churches (3), and parks (5).

The analysis contained within the EA does not consider the major policy planning documents/programs, which contain the goals, objectives, and policies for the future orderly growth of the City of Reno and Washoe County. A review of these documents shows numerous sensitive land uses planned, but not currently built, within proximity to the rail

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76 Refer to the previous page for response.

77 SEA acknowledges the City's concern about impacts to land use and to planning documents. The Surface Transportation Board's environmental analysis requirements focus on the compatibility of the proposed action with adjoining land uses. The land use relationships between the railroad and adjoining properties is an existing condition that will not change as a result of the proposed merger. Issues related to noise impacts are addressed in response to comments #49 and #52.

ADEQUACY OF ENVIRONMENTAL ASSESSMENT

corridor which would be adversely affected by the proposed Merger. None of these policy planning considerations have been included in the EA for evaluation.

The City of Reno and related agencies and organizations sponsor numerous outdoor festivals, programs, and community events, which center around the primary natural resource within the City of Reno: the Truckee River. These events include concerts, expositions and themed events (Hot August Nights, Street Vibrations, Italian Festival, etc.) which are sensitive to all environmental impacts associated with increased rail traffic through the City of Reno. In addition, the casino district is heavily dependent on pedestrian and vehicular traffic to circulate unobstructed, to facilitate the continued revitalization of the downtown area. Implementation of the proposed Merger would have a substantially greater impact on existing and planned land uses than documented in the EA.

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4.7.4 SOCIOECONOMICS

Comment #40: The EA has not adequately examined the potential for tourism in the City of Reno to be negatively affected by the combined effects of the proposed Merger and the additional rail activity through the downtown area. In addition, the potential for tourism in the City of Reno to be negatively affected by the combined effects of the proposed Merger and potential shipments of spent nuclear fuel and radioactive waste has not been addressed in the EA.

The City of Reno believes that increased train traffic through the downtown area will result in tourist/visitor frustration related to increased crossing delays at at-grade crossings, and increased noise along Virginia Street where special events are planned several weekends a month. Increased noise experienced inside older hotels and motels located within several blocks of both sides of the tracks will negatively affect tourists and visitors who will choose to visit other destinations that are further away from the tracks to engage in legalized gambling (Comstock, 1996; Fitzgeralds, 1996; Harrah's, 1995; Sands, 1996; TRL, 1996).

Increased train traffic will also delay casino employees trying to get to work which would result in additional overtime as managers of the hotels hold employees longer to cover for other employees delayed by trains (Harrah's, 1995).

The EA does not attempt to address, discuss, quantify, or qualify the potential impacts associated with socioeconomics.

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77 Refer to the previous page for response.

78 Delays from congestion are a normal part of an urban environment and do not imply significant impacts. SEA has not evaluated economic or socioeconomic impacts of the proposed merger, consistent with the Board's environmental regulations. The Board will be considering economic and competition issues as part of its deliberations. See responses to comments #58 and #59.

ADEQUACY OF ENVIRONMENTAL ASSESSMENT

4.7.5 WATER RESOURCES

Comment #41: The EA has not adequately considered the probability of train derailments along the Truckee River, west of the City of Reno. Since the Donner Pass/Truckee River Canyon will be experiencing an increase in faster and longer trains, the EA should provide information and calculations on the probability of a train derailment along the Truckee River. The Truckee River currently supplies the City of Reno and surrounding communities sa its primary water source and mitigation measures are necessary to ensure protection of this source. The EA should, at a minimum, identify the potential travel route and velocity of a hazardous spill in the Truckee River. In addition, the EA should analyze the type and amount of equipment necessary to isolate a hazardous/toxic material spills before the spill enters the water supply treatment and distribution systems west of the City of Reno.

The EA also fails to address the potential for train engine leaks and spills which typically occur along railroad tracks. Accumulation of leaks and spills will create a potential toxic hazard which will eventually require clean-up measures. The EA should address this issue and should provide/offer mitigation measures to minimize the migration of leaks and spills into the Truckee River in the Truckee Canyon, and the groundwater supply in the City of Reno.

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4.7.6 BIOLOGICAL RESOURCES

Comment #42: As discussed under Section 4.7.5, of this document above, the risk of spills of hazardous materials from train derailments increases proportionally with the increase in the total number and length of trains. A spill of hazardous materials into the Truckee River would not only significantly impact the primary source of domestic and agricultural water for the metropolitan Reno area, it would also affect downstream terrestrial and aquatic wildlife. Of particular concern is the federally listed endangered fish, the Cui-ui (*Chasmistes cujus)* and the threatened Lahontan cutthroat trout (*Salmo clarki henshawi).* A derailment-related spill of hazardous materials into the Truckee River would rapidly flow downstream into Pyramid Lake, and have a devastating effect on the above referenced endangered and threatened species.

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4.7.7 ENVIRONMENTAL REMEDIATION

Comment #43: The EA has not adequately addressed or offered mitigation relating to environmental remediation of the UP TOFC yard located in North Reno. If this facility is be abandoned or phased-out and consolidated with the intermodal facility in Sparks, Nevada, then the TOFC yard in North Reno would require evaluation of environmental issues

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79 SEA acknowledges the City's concerns for potential impacts to the Truckee River from hazardous materials spills. Response procedures for hazardous spills are addressed in the UP and SP (and BN/Santa Fe) hazardous materials emergency response plans. Please refer to the mitigation recommendations in Volume 1, Chapter 5 of the Post EA. Please also see comments # 70 - #72.

80 SEA acknowledges the concerns for impacts to biological species from potential impacts to the Truckee River. The US Fish and Wildlife Service did not identify particular concerns about Truckee River biological resources during consultation. See response to comment #79.

81 SEA acknowledges the City's concerns about potential remediation at the TOFC Yard in North Reno. The proposed activity changes at this yard did not exceed the Surface Transportation Board's threshold for environmental analysis, so no assessment of activities at this site was conducted in the EA. See responses to comments #29 and #34.

ADEQUACY OF ENVIRONMENTAL ASSESSMENT

associated with remediation of chemicals, petroleum and other constituents that may have accumulated in the soils, on and adjacent to the facility.

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81 Refer to the previous page for response.

5.0 ADEQUACY OF ENVIRONMENTAL ASSESSMENT - PROPOSED MITIGATION MEASURES

A mitigation measure is basically a solution to a problem. To be adequate and effective, a mitigation measure must fit into one of five categories of activities including: 1) avoiding impacts; 2) minimizing impacts; 3) rectifying impacts; 4) reducing or eliminating impacts; or 5) compensating for impacts by replacing or providing substitute resources or environments. Mitigation measures that do not fall in one of the above mentioned categories are generally ineffective. The mitigation measures discussed in an EIS must cover the entire range of impacts of the proposal. The measures may include design changes to the proposal and alternative locations (40 CFR 1508.20).

The mitigation measures contained in the EA were formulated based on an incorrect assumption that the City must live with the anticipated impacts of the proposed project without consideration of other alternatives including: 1) Interstate 80 corridor alignment; 2) full lowering of the tracks through the downtown Reno corridor; and 3) at-grade tracks with street overpasses and underpasses. In addition to identification of alternatives to mitigate the significant impacts associated with the project, the Applicant should be responsible for the full costs associated with implementation of each mitigation measure. This would include time spent, on behalf of the City of Reno, to assist the STB or the Applicant by identifying offsets or mitigation, to be compensated by the Applicant.

In addition to identifying appropriate mitigation measures to offset impacts of the proposed action, the EA should analyze the impacts associated with the mitigation measures offered. Mitigation measures discussed must cover the range of impacts of the entire proposal. The measure may include such options as design alternatives that would decrease impacts (project and mitigation measures, to construction impacts) (40 CFR 1502.14(f), 1502.16(h), and 1508.14). Construction impacts include the potential impacts from mitigation measures offered as part of the project in the EA. For example, the proposed mitigation measure to grade separate three railroad-highway crossings, creates additional impacts which must be identified and mitigated in the EA.

The following mitigation measures have been offered in the EA.

5.1 AIR QUALITY

EA Text Quote: Vol. 1, page 2-13, ¶ 1, line 7: *"State and local agencies may find it necessary to find additional emissions reductions to offset the potential emissions increases."*

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82 SEA consulted with Reno and UP/SP regarding mitigation options for the Reno area. SEA has also stayed abreast of discussions between UP/SP and the City. SEA has considered the options presented by the City in its comments. Because it may take 10 years or more to complete a railroad bypass or depressed railbed, SEA has not specifically recommended them as mitigation for the proposed merger. SEA finds that the three options presented by the City warrant further analysis regarding their potential to address existing issues in Reno and mitigate potential impacts from the proposed merger. SEA's recommended mitigation related to Reno and Nevada issues is described in Volume 1, Chapter 5 of the Post EA.

83 SEA acknowledges the City's comments on the specificity of proposed mitigation. Please refer to Volume 1, Chapter 5 of the Post EA for mitigation measures.

ADEQUACY OF ENVIRONMENTAL ASSESSMENT

Comment #44: Though not specifically identified as a mitigation measure, this statement does not meet NEPA's definitions of mitigation because the EA is suggesting that state and local agencies identify additional emissions reductions to offset the potential increases when it is the responsibility of the Applicant.

The phrase "may be necessary" is not concrete or realistic. In addition, the financial burden should be placed on the Applicant and not on state and local agencies. This statement implies that the EA has not concluded whether the air quality impacts associated with the proposed Merger would be significant, in direct conflict with the conclusions of the EA.

EA Text Quote: Vol. 2, page 12-14, § 12.8, ¶ 2, line 1: *"UP/SP shall consult with appropriate Federal [sic], state and local agencies responsible for regulating air quality in AQCRs 147 and 148, concerning any possible mitigation measures to reduce any potential adverse emissions from the rail segments in these two regions. UP/SP shall advise SEA of the results of these consultations."*

Comment #45: This mitigation measure is neither adequate nor acceptable to the City of Reno. Specific mitigation measures should be identified to reduce the increase in air emissions associated with additional train and cars idling at railroad crossings in order to mitigate impacts to below levels of significance. According to the EA, air emissions have been quantified (although they are incorrect), therefore, specific mitigation to offset these impacts should be identified now and not in the future as recommended by the STB. If offsets cannot be identified, than air emissions must be considered significant and unmitigated therefore, requiring full environmental documentation in the form of an EIS.

NEPA regulations also prohibit deferring mitigation into the future. Air impacts have been quantified (although they are incorrect) and therefore mitigation should be offered in the EA which reduces air emissions.

5.2 NOISE

EA Text Quote: Vol. 2, page 12-14, § 12.8, ¶ 3, line 1: *"To reduce potential noise level impacts to sensitive receptors along the Roseville, California to Sparks, Sparks to Winnemucca, and Ogden, Utah, to Alazon rail line segments, UP/SP shall consult with appropriate state and local agencies to develop noise abatement plans. The Applicant shall advise SEA of the results of these consultations and provide SEA with a copy of any resulting noise abatement plans."*

83 Please refer to the previous page for response.

84 Please refer to the response to comment #83.

85 Refer to response #83.

ADEQUACY OF ENVIRONMENTAL ASSESSMENT

Comment #46: This mitigation measure is neither adequate nor acceptable to the City of Reno. Specific mitigation measures including alternatives to the proposed action should be identified to reduce the increase in noise and the number of sensitive receptors affected by additional trains in order to mitigate impacts to below levels of significance. According to the EA, noise impacts have been quantified (although they are incorrect), therefore, specific mitigation to offset these impacts should be identified now and not in the future. If noise impacts cannot be mitigated, then noise impacts must be considered significant and unmitigated therefore, requiring full environmental documentation in the form of an EIS.

NEPA regulations also prohibit deferring mitigation into the future. Noise impacts have been quantified (although they are incorrect) and therefore mitigation should be offered in the EA which reduce noise or sensitive receptors.

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85 Please refer to response on previous page.

5.3 TRANSPORTATION AND SAFETY

EA Text Quote: Vol. 2, page 12-14, § 12.8, ¶ 4, line 1: *"UP/SP shall conduct individual traffic/safety studies in consultation with the Cities of Sparks and Winnemucca, respectively. Each study shall assess safety and highway traffic impacts associated with the proposed merger, and specify site-specific mitigation, as appropriate. UP/SP shall periodically advise SEA of the status of the consultations and shall submit the final version of each study."*

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86 SEA acknowledges the City's position on mitigation measures reported in the EA. Please refer to Volume 1, Chapter 5 of the Post EA for mitigation measures.

Comment #47: This mitigation measure is neither adequate nor acceptable to the City of Reno. The EA should have acknowledged consultation with the City of Reno, in addition to consultation with the Cities of Sparks and Winnemucca. The EA specifies mitigation in the form of three grade separations to be constructed in the City of Reno, however, this alone does not mitigate impacts to the remaining 12 at-grade crossings that currently exist.

The findings of each individual study should clearly offer the mitigation necessary to alleviate significant impacts in order for decision makers to determine if the measures are realistic and feasible. "Paper" mitigation measures are not acceptable according to the NEPA regulations.

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87 SEA acknowledges the City's position on mitigation measures reported in the EA. Please refer to Volume 1, Chapter 5 of the Post EA for mitigation measures.

EA Text Quote: Vol. 2, page 12-15, ¶ 2: *"SEA recognizes the unique characteristics of the City of Reno. This includes tourism, heavy concentration of hotels, and high levels of rail, vehicular, and pedestrian traffic 24 hours a day. SEA is aware that the City of Reno is conducting studies and negotiations with the Applicants to develop plans to alleviate*

ADEQUACY OF ENVIRONMENTAL ASSESSMENT

railroad-highway grade crossing and pedestrian conflicts in the downtown region. SEA encourages these efforts, and recommends the following mitigation measures:"

"a. UP/SP shall continue to cooperate with the City of Reno in the development of a final plan and agreement. UP/SP shall negotiate a final agreement with the City of Reno within one and one-half years after the effective date of the merger, if approved. However, this deadline may be extended by the mutual consent of the City of Reno and UP/SP. UP/SP shall advise SEA whether or not a final agreement has been reached."

Comment #48: This mitigation measure is neither adequate nor acceptable to the City of Reno. This plan should be completed, reviewed, and agreed upon by the parties involved now, and not deferred into the future, in order for all of the impacts to be fully disclosed and mitigated. An 18 month negotiating timeframe is unacceptable and must be accomplished prior to the completion of the EA and issuance of a "Finding of No Significant Impacts" (FONSI). Again, mitigation must be offered and documented in the EA and not deferred to a future date.

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87 Refer to the previous page for response.

EA Text Quote: Vol. 2, page 12-15, ¶ 4: *"b. If no agreement can be reached within the time provided above, SEA recommends the following mitigation:"*

"In consultation with the City of Reno, UP/SP shall construct a minimum of three highway/railroad grade separations. The following streets are to be given first consideration for selection: Keystone Street, Vine Street, Evans Street, Washington Street, Ralston Street, West Street, Sierra Street, Virginia Street, Center Street, Lake Street, and Sutro Street. UP/SP shall consult with the City of Reno concerning the financing of these separations. SEA anticipates the City [of Reno] *would apply for shared funding for these separations from appropriate federal and state sources."*

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88 SEA acknowledges the City's position on mitigation measures reported in the EA. Please refer to Volume 1, Chapter 5 of the Post EA for mitigation measures.

Comment #49: This mitigation measure is neither adequate nor acceptable to the City of Reno and it does not offset the impacts identified in the EA regarding air quality, noise, transportation, or public safety. The city prefers one of three alternatives. Three primary alternatives have been developed and submitted to the STB in a document entitled, "Reno Transportation Corridor Alternatives Study" March, 1996. These alternatives include: 1) Interstate 80 Corridor realignment; 2) full or partial lowering of the tracks through the downtown Reno corridor; and 3) at-grade tracks with street overpasses and underpasses.

ADEQUACY OF ENVIRONMENTAL ASSESSMENT

The City of Reno's preferred mitigation alternative for the proposed Merger is the relocation of the tracks from the downtown area to an alignment parallel to and south of Interstate 80. This 3.6 mile realignment, has been designed to meet the UP's design criteria for 40 mph operation and provides adequate area for a maintenance road along with the fiber optic cable(s) and petroleum pipelines. This alternative provides the community with the greatest overall benefit by: 1) consolidating train and pipeline operations in the same corridor as Interstate 80; 2) permitting the redevelopment of the downtown railroad corridor; and 3) eliminating all at-grade crossings within the downtown Reno area.

The City of Reno also finds the full lowering of the tracks through the downtown corridor as an acceptable alternative to the proposed action. This alternative provides a substantial reduction in the level of environmental impact by eliminating at grade crossings in the downtown Reno area, eliminating vehicular/pedestrian-train conflicts and permitting the use of airspace above the tracks. This alternative would, however, expose the downtown area to some level of railroad noise and air quality impacts.

In addition, the concept of shared funding should be spelled out, with time spent by the City of Reno compensated by the Applicant. If funding is not available, additional mitigation should be offered, such as the Applicant paying the full cost for each grade separation project. The City of Reno should not be financially responsible for the majority of the cost of each grade separation.

EA Text Quote: Vol. 2, page 12-15, ¶ 6: *"UP/SP shall cooperate with the City of Reno in the location of the three grade separations. Selection criteria shall include, but not be limited to, safety, construction costs, highway traffic flows, downtown redevelopment plans, and aesthetics. The potential for street closings in conjunction with the new grade separations should also be studied."*

Comment #50: This mitigation measure is neither adequate nor acceptable to the City of Reno and street closures should be identified and agreed upon now and not in the future.

EA Text Quote: Vol. 2, page 12-15, ¶ 7: *"SEA recognizes the unique pedestrian-oriented nature of downtown Reno UP/SP shall retain an independent third party consultant to work under the direction and supervision of SEA to study the safety and adequacy of pedestrian circulation tin the downtown region. If found warranted by this study, UP/SP shall construct up to two pedestrian grade separations."*

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88 Refer to the previous page for response.

89 SEA acknowledges the City's position on mitigation measures reported in the EA. Please refer to Volume 1, Chapter 5 of the Post EA for mitigation measures.

90 SEA acknowledges the City's position on mitigation measures reported in the EA. Please refer to Volume 1, Chapter 5 of the Post EA for mitigation measures.

ADEQUACY OF ENVIRONMENTAL ASSESSMENT

Comment #51: Two pedestrian grade separations are neither adequate nor acceptable to the City of Reno. This issue, as well as the appropriate locations, should be documented in the EA and not deferred to a later date.

EA Text Quote: Vol. 2, page 12-16, ¶ 2: *"UP/SP, in consultation with the City of Reno, shall study the adequacy of existing warning devices for those highway-railroad crossings that remain at-grade. Based on this study, UP/SP shall upgrade warning devices as needed. Enhancements such as full barricade gating of traffic lanes, non-mountable curbs, and constant time systems for grade crossing warning signals shall be considered (these are signals capable of providing prior warning of approximately 20 to 25 seconds for trains approaching crossings at various speeds). UP/SP shall advise SEA of the results of the study."*

Comment #52: This mitigation measure is neither adequate nor acceptable to the City of Reno. The EA should determine and identify which intersections warrant special devices at grade crossings and when they will be implemented. Stating something like "as needed" is not specific enough. In addition, the results of constructing this mitigation measure could substantially alter EA findings pertaining to noise and public safety.

EA Text Quote: Vol. 2, page 12-16, ¶ 3: *"UP/SP shall maintain all rail line and grade crossing warning devices according to Federal Railroad Administration Standards (49 CFR Part 213)."*

Comment #53: This is not a mitigation measure. Specific Code requirements are part of the proposed action and must be complied with regardless of significance of impacts.

EA Text Quote: Vol. 2, page 12-16, ¶ 4: *"UP/SP shall transport all hazardous materials in compliance with the U.S. Department of Transportation Hazardous Materials Regulations (49 CFR Parts 171 to 180)."*

Comment #54: This is not a mitigation measure. Specific Code requirements are part of the proposed action and must be complied with regardless of significance of impacts.

EA Text Quote: Vol. 2, page 12-16, ¶ 5: *"In the case of a hazardous materials spill, UP/SP shall follow appropriate emergency response procedures outlined in their Emergency Response Plans."*

90 Refer to the previous page for response.

91 SEA acknowledges the City's position on mitigation measures reported in the EA. Please refer to Volume 1, Chapter 5 of the Post EA for mitigation measures.

92 SEA acknowledges the City's position on mitigation measures reported in the EA . Please refer to Volume 1, Chapter 5 of the Post EA for mitigation measures.

93 SEA acknowledges the City's position on mitigation measures reported in the EA . Please refer to Volume 1, Chapter 5 of the Post EA for mitigation measures.

94 SEA acknowledges the City's position on mitigation measures reported in the EA. Please refer to Volume 1, Chapter 5 of the Post EA for mitigation measures.

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Comment #55: This is not a mitigation measure. Specific Code requirements are part of the proposed action and must be complied with regardless of significance of impacts. The Emergency Response Plans are a part of the proposed action and should appear as such. Then, the City of Reno can comment on the plans' adequacy or applicability to hazardous materials spills in the Truckee Canyon.

94 Refer to the previous page for response.

6.0 ADEQUACY OF CONCLUSION - NO SIGNIFICANT EFFECT ON THE QUALITY OF THE HUMAN ENVIRONMENT

The EA, in a three sentence paragraph, documents the following conclusion based on the impact analysis and mitigation measures contained in the EA.

EA Text Quote: Vol. 1, page ES-19, § ES.8, ¶ 1: *"Based on its independent analysis, review of available information, and the recommended mitigation measures, SEA concludes that, as currently proposed, the proposed merger and related construction and abandonment proposals would not significantly affect the quality of the human environment. Accordingly, SEA recommends that the Board impose these mitigation measures as conditions to any final decision approving the proposed merger and related abandonments and construction projects. Therefore, the environmental impact statement process is unnecessary in this proceeding."*

Comment #56: As shown in the comments presented in the preceding Chapters (1.0 - 5.0) of this comment document, it is readily apparent that the EA has numerous procedural and analytical errors, omissions and misleading statements. As a result, the EA has not been prepared in compliance with the requirements of NEPA, the CEQ NEPA regulations (40 CFR 1500-1508), and the STB NEPA implementing regulations (49 CFR 1105), and as a result, cannot be used as the basis for the above referenced finding that the proposed Merger would not significantly affect the quality of the human environment.

In summary, the EA is not adequate for the following reasons:

- The EA does not comply with the procedural provisions of NEPA, including consultation with affected agencies and local jurisdictions, adequate review time, public involvement/scoping, internal consistency and incorporation of comments from affected agencies and local jurisdictions.
- The EA does not provide an adequate and complete description of the proposed action, upon which all impact analysis, mitigation measures, and level of significance determinations are based.
- The EA does not include and evaluate related projects which would result in cumulative impacts exceeding established significance thresholds.

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95 SEA acknowledges the City's position on the adequacy of the EA. Please refer to comment #2.

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ADEQUACY OF CONCLUSION

- The EA does not provide and evaluate a reasonable range of meaningful alternatives to the proposed action which would reduce or eliminate significant impacts associated with the proposed action.
- The EA does not include an adequate analysis of the impact of the proposed action on air quality.
- The EA does not prepare an adequate analysis of the impact of the proposed action on the noise environment.
- The EA does not provide an adequate analysis of the impact of the proposed action on safety.
- The EA does not include any analysis of the impact of the proposed project on energy, cultural resources, land use, socioeconomics, water resources, and biological resources.
- The EA does not propose adequate, enforceable mitigation measure to reduce or eliminate the significant impacts of the proposed action on air quality, noise, transportation, safety, energy, cultural resources, land use, socioeconomics, water resources, and biological resources.
- The EA does not adequately support the conclusion of EA pertaining to the proposed action not significantly affecting the quality of the human environment.

In conclusion, the EA as it is currently structured, in no way has the ability to support a Finding of No Significant Impact (FONSI), as promulgated by 40 CFR 1501.4(e), 1508.13.

7.0 CONCLUSIONS/CITY OF RENO'S REQUESTED ACTION

The City of Reno, Nevada has reviewed the EA prepared for the proposed Merger, and identified numerous deficiencies in the content, analysis and procedures utilized to prepare the document. The City of Reno opposes the approval of the proposed Merger as currently proposed because the post-merger operations proposed by the Applicant will have significant adverse impacts on the human environment and public health and safety, as well as commerce, of the City of Reno, and neither the Applicant nor the STB propose action that will adequately safeguard the environment, or mitigate the adverse impacts of the proposed Merger, in accordance with the requirements of NEPA. Based on the analysis contained in this comment document, it is clear that the EA prepared for the proposed Merger is inadequate in several respects, cannot be made to comply with the provisions of NEPA, and as a result, an Environmental Impact Statement is required.

The City of Reno formally requests the STB find that the EA has not been prepared in compliance with the provisions of NEPA, the NEPA regulations, the STB NEPA regulations, and requires the preparation of an Environmental Impact Statement.

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96 SEA acknowledges the City' s position on the need for an EIS. Please refer to comment #1.

F.D. 32760

COMMENTS OF THE CITY OF RENO

As comment on the application seeking approval for the merger of the railroad operations of the Union Pacific Corporation (UP) and the Southern Pacific Corporation (SP), the City of Reno (City) submits the following comments:

I. STATEMENT OF POSITION

The City of Reno opposes approval of the merger of UP and SP railroads because the post-merger operations proposed by the applicants will have substantial adverse impact on the environment, public health and safety, as well as the commerce, of the City and neither the application, nor the applicants, propose action that will adequately safeguard the environment, public health and safety, and mitigate the adverse impact of the proposed merged rail operation.[1] 1

Although the City and the UP are presently studying the engineering feasibility of options that may adequately protect the environment, public health and safety, and effectively mitigate the

[1] The City's official position is contained in Resolution No. 5216, adopted unanimously March 28, 1996, a true copy is attached and incorporated under Tab 2. The City's position is supported as well by the Washoe County Commission, a true copy of whose letter is attached and incorporated under Tab 3, and the Tribal Council of Reno Indian Colony, a true copy of whose letter is attached and incorporated under Tab 4.

1 SEA acknowledges the City of Reno's opposition to the proposed UP/SP merger.

adverse impact that will result from the post-merger operations proposed in the application, to date there is no agreement between the City and the applicant regarding any specific remedial action plan.[1]

Once reached, an agreement for mitigation normally would become a condition of any decision to approve the merger. However, absent agreement, it is difficult to envision that the Surface Transportation Board (STB) and/or the Section of Environmental Analysis (SEA) can craft or impose specific conditions that would adequately protect the environment, public health and safety, and effectively mitigate the adverse impact of rail operations proposed in this case. 2

Finally, because the applicants have failed to file environmental assessment reports that sufficiently identify the adverse impact and mitigation proposals regarding the UPSP merged operations and that permitted under the BNSF agreement, the application and supporting material do not satisfy the public interest requirement criteria of the Interstate Commerce Act (ICA) 49 U.S.C. § 11344, and environmental requirements of 49 C.F.R. Part 1105, and do nothing to assist the STB in carrying out its 3

[1] The City had requested Extension of Time in which to file these comments in order to allow the parties to complete the engineering study, and also to obtain preliminary draft environmental assessment (PDEA) materials regarding the BNSF operations permitted under the agreement with UP and SP. The UP opposed the request for extension of time and the Board denied the City's request in Decision No. 11, served March 20, 1996.

2 SEA acknowledges the City's position that mitigation would be required. SEA's recommended mitigation is described in Volume 1, Chapter 5 of the Post EA.

3 SEA recognizes the City's concern about the preparation of environmental documents. The Applicant filed the required Environmental Report concurrent with its Application for Merger and Control and filed a Preliminary Draft Environmental Assessment relative to the BN/Santa Fe-1 Settlement Agreement. In addition to these documents, the Applicant retained an independent third-party contractor to assist SEA in preparing its Environmental Assessment, issued April 12, 1996.

responsibilities under the National Environmental Protection Act (NEPA), 42 U.S.C. § 4321 et seq. with respect to the environmental, public health and safety issues raised by this application.

II. DISCUSSION

A. The City of Reno presents a uniquely obvious site for adverse impact to environment, public health and safety as a result of merged operations.

The applicant railroads have provided rail transportation services to and in the City of Reno for decades. They are well aware of the City's unique character and features. The fact that adverse impacts on the environment, public health and safety of the City will result from the post-merger operations proposed by the applicants can be no surprise.

The applicants propose to re-make the Central Corridor the "premier" corridor for rail service between Northern California and the Mid-West. The post-merger operations propose to reduce transit distance almost 400 miles, thus beneficially affecting transit time, fuel consumption, locomotive and fleet utilization, and crewing requirements. Efficient, competitive Central Corridor service is the centerpiece of this merger transaction. The line segment between the City of Reno lies at the heart of the transaction.

4 SEA acknowledges the City's comment.

Proposing to remove the physical "capacity constraints" in the Sierras through tunnel and track improvements, the applicants intend to effectively utilize the 190 mile, shorter SP Reno-Roseville route through the City for intermodal stack trains, automotive and certain manifest trains.

Description of the proposed operations, including that of the BNSF, demonstrate that substantial and dramatic change will occur on the rail lines passing through the 15 at-grade level crossings the lines that bisect the City and run through the center of the downtown metropolitan area. Those operations increase the train frequency threefold (from 13 to 38 trains per day), tonnage by almost 70% and train length from 6,000 to 8,000 feet.[1]

5

The City has a residential population of 283,000, and annual visitor population of 4.8 million. The University of Nevada campus located in the City has 12,000 students.

The City's principle economics and commerce is the tourism and hotel/casino industry, which operates on a 24-hour, never-close basis. The City's hotel/casino industry employs over 100,000 employees on a three-shift per day basis. City residents, visitors

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[1]The applicants acknowledge they transport hazardous materials, the volume of which will increase post-merger. However, the applicants here, as in the past, provide no information concerning the nature of the hazardous commodities being transported. Thus, the City's emergency response to an event is compromised.

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

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

6 SEA recognizes the City's concern for impacts associated with increases in the movement of hazardous materials. In response to a

and employees migrate throughout the City's downtown area as pedestrians or vehicular traffic, utilizing public or private transportation.

The SP line runs through the center of the City's downtown business district, as well as adjacent commercial and residential areas. City hospitals, university and schools are presently adversely impacted by rail operations, and surely will be more so in the future as a result of the result of a proposed post-merger operations.

The City is physically located on a high desert valley floor at a 4,400 foot elevation, ringed by mountains of significantly higher elevation. The valley forms a somewhat closed ecosystem. Atmospheric inversions occur year round which affect air quality. Noise, such as train whistles, reverberates around and throughout the valley. The watershed for municipal water is in the Sierras, and the upstream Truckee River frequently parallels the Reno-Roseville line segment.

3. The application and record established to date fail to address adverse impacts or propose mitigation measures.

With the evident adverse impact on the environment, public health and safety of the City of Reno that will result from proposed merged operations, the application does little more than serve notice that certain regulatory thresholds for air, noise,

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

7 SEA acknowledges the City's position that the Merger Application did not provide sufficient information. Volume 2, Chapter 12 of the EA reports SEA's analysis of environmental conditions in Nevada relative to the proposed merger, as well as recommended mitigation. This included information on impacts to air quality, noise, traffic, cultural resources, biological resources, and hazardous materials transport. In response to City concerns, SEA visited Reno to observe conditions and also conducted supplemental analyses. The results of supplemental analyses of traffic and air quality is reported in the responses to comments to this and other letters (elsewhere in this appendix) from the City. Volume 1, Chapters 3 and 4 of the Post EA also provide information on impacts. SEA's revised recommended mitigation is described in Volume 1, Chapter 5 of the Post EA.

public health and safety elements may be met by the rail operating plan of the proposed merger. However, no effort has been made to identify the adverse impacts on any of these elements in any detail. Discussion of mitigation measures is totally absent from the presentation despite the evident impact.

Also totally absent is any discussion of the impact the operations of the BNSF permitted under agreement with UP and SP, which agreement has been made an integral element and condition of the merger application to address competitive concerns raised by the merger. 8

The applicants have the burden to specifically identify those operational adverse impacts that meet thresholds of regulatory criteria, to propose measures that adequately protect the environment, public health and safety, and effectively mitigate adverse impacts, and to demonstrate that the measures will do so in the long term should the merger be approved in as much as the merger, if approved, is a "forever" event. The application and the record developed to date are not sufficient to adequately identify the adverse impacts, and are totally silent on any proposed mitigation measures. 9

In short, the applicants have simply failed to date sustain their burden to adequately identify impacts on public health, safety and environment, to propose mitigation measures, and to

-6-

8 SEA notes the City's concern about BN/Santa Fe operations not being included in the merger application. The EA and Post EA include the effects of operations associated with the BN/Santa Fe Settlement Agreement in all analyses.

9 SEA notes the City's comment that the merger application does not identify thresholds of impact. Where thresholds of impact have been defined, they have been provided in the EA and Post EA. Impact assessment was reported in the EA. The Post EA describes analysis subsequent to the EA and SEA's recommended mitigation measures.

demonstrate that those measures will effectively mitigate the adverse impacts that result from the merger transaction.'

C. The public interest criteria under the ICA and responsibility under NEPA cannot be satisfied on this record.

In evaluating application for merger, the STB is governed by the public interest criteria set out in the Interstate Commerce Act (ICA) 49 U.S.C. 11344. In addition, the Board has independent responsibility under the National Environmental Protection Act (NEPA) to safeguard environment, public health and safety. 49 C.F.R. Part 1105; 49 U.S.C. § 4321 et seq. 10

The record developed to data contains no basis for either crafting or imposing specific conditions which would adequately protect the environment, public health and safety, and effectively mitigate the evident adverse impacts in this case. 11

'By contrast, from its investigation, the City has concluded that of the several options, there are three mitigation measures worth pursuing: first and best, relocating the tracks to the I-80 transportation corridor, or elsewhere; second, fully depressing the tracks in their existing corridor; or third, partially depressing the tracks in a portion of the existing corridor in the downtown area and providing pedestrian and vehicular crossover/under's at certain other at-grade level crossing locations. The applicants appear to prefer to leave the tracks at-grade level in the downtown area. The obvious density of pedestrian and vehicular traffic on a 24 hour basis in the downtown hotel/casino area renders this a "take no action", "do nothing" approach in the face of evident public health, safety and environmental concerns which require remedial action. 12

-7-

10 SEA notes the City's position that the merger application does not meet public interest criteria. The Surface Transportation Board has met its responsibilities under NEPA by preparation and circulation of the EA.

11 SEA acknowledges the City's position that the merger application does not provide a basis for crafting or imposing conditions to protect the environment. The EA includes an assessment of impacts and recommended mitigation. SEA visited Reno to review conditions and conducted supplemental analyses subsequent to the issuance of the EA. Please refer to the response to comment #7. SEA's revised recommended mitigation is described in Volume 1, Chapter 5 of the Post EA.

12 SEA has considered the City's recommendations for mitigation. The magnitude of impacts identified in the EA do not support a requirement to implement any of the three options as mitigation. SEA has concluded that the three options warrant further investigation and discussion by the City, UP/SP, and SEA. Recommended mitigation measures for Reno are discussed in Volume 1, Chapter 5 of the Post EA.

Although parties often resolve such issues by agreement, no such agreement now exists. Absent agreement, crafting and/or imposing specific conditions to mitigate the adverse impacts would be extremely difficult, if not beyond the Board's present capabilities on the record in this case.

Without specific conditions to mitigate adverse impacts, approval is not justified in this case. Moreover, approval containing only generalized, non-specific conditions to mitigate adverse impacts would not satisfy the Board's NEPA responsibilities in this case.

C. CONCLUSION

The City has invested considerable resources in discovery, investigation and study to identify the scope and extent of the adverse impacts of the proposed merged operations on public health, safety and environment. Because of the scale and scope of the proposed merger transaction, and as noted it is a "forever" event for the City of Reno, the Board must require the applicants to specifically identify adverse impacts, propose mitigation efforts, and demonstrate those measures will effectively mitigate the impacts not merely for the near term, but for the long term. Should the applicants continue to fail to do so as they have to date, the merger should be denied.

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13 SEA acknowledges the City's position. Please see the response to comment #7.

14 SEA acknowledges the City's position. Please see the response to comment #7.

15 The City's citation of impacts is based on an incorrect number of trains. SEA reviewed train data to affirm the proper number. Based upon Applicant data, the total number of daily trains (freight plus passenger) would increase from 13.8 to 25.1, not to 38 trains per day. This is an increase of 11.3 trains per day. These affirmed numbers, which included the BN/Santa Fe-1 Settlement Agreement, were used in the EA. Subsequent to circulation of the EA, the Applicant reached a Settlement Agreement with the Chemical Manufacturers' Association (CMA). The "final" train numbers, which account for the CMA Agreement, are shown in Volume 1, Chapter 3 of the Post EA.

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

IMPACTS OF MERGER

Train traffic through Reno will increase from 14 to 38 trains per day as a result of this merger, elevating train traffic to 271% of its current level. Without mitigation this will result in the following impacts: 15

- Vehicular traffic delays increase 339% in the coming years 16
- Pedestrians see a nearly three-fold increase in delays due to trains in the downtown area 17
- Additional trains add 247 tons per year of pollutants to air already in a non-attainment status 18
- Idling vehicles stopped by trains will emit an additional 1,222.75 tons of pollutants per year 19
- Railroad noise levels to over 9,000 schools, churches, hospitals, residences, and hotel rooms within 1,500 feet of the tracks are substantially increased 20
- The Truckee River, the primary drinking water supply to over 275,000 people, is exposed to added risk from a railroad-related spill or release that could leave the region without potable water for an unknown period of time 21
- Emergency response calls (Fire and Ambulance) are increased by an average of ¼ minute due to railroad blockages making it difficult to meet desired 4 minute response goals 22
- Police response time and capabilities, especially during downtown special events, will be severely compromised 23
- The nearly three-fold increase in vehicle-train and pedestrian-train conflicts will undoubtedly lead to an increase in accidents, injuries, and deaths due to collisions with trains, especially in the downtown area 24
- The community will suffer economic damage due to loss of business and property devaluation at the same time the railroad sees a $750 million annual benefit
- Infrastructure and public services providers are required to serve not only residents but non-residents (approximately 4,351,269 annual visitors) and the University of Nevada campus student population (approximately 12,000 students) 25
- Approximately 4,074,000 visitors to Washoe County utilize commercial accommodations
- Pedestrians frequently move, in migratory fashion, between major entertainment venues and facilities located within a few hundred feet each side of the railroad tracks 26

Reno Transportation Corridor Alternatives Study

15 Refer to the previous page for response.

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

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

17 SEA recognizes the City's concern about potential pedestrian delay. SEA performed additional analysis subsequent to the EA that addressed both vehicular delay and pedestrian delay. SEA's methodology for analysis differs somewhat from that used by the City's consultant. Based upon the intersection delays cited in response to comment #16, the average delay to pedestrians crossing the SP track in downtown Reno between Lake and Washington Streets is estimated to increase from four seconds (current level of train operations) to nine seconds if the merger is approved.

RESPONSES FROM COMMENTS ON PREVIOUS PAGE

18 SEA recognizes the City's concern for air quality at the regional level. The total of 247 tons per year of pollutant emitted through additional railroad operations is inconsistent with the data provided in the EA, due to the overestimation of several factors by the City's consultant. Please refer to the critique of this analysis in Appendix G. The net increase in pollutant emissions for all merger-related railroad operations in the Northwest Nevada Air Quality Control Region (148) is less than 8 tons per year for all calculated pollutants. This increase is below the threshold for each pollutant, so mitigation is not required.

19 SEA acknowledges the City's concern for local air quality impacts. SEA performed an analysis at 10 intersections in downtown Reno for which the average daily traffic per crossing is 11,267 vehicles. SEA's findings for the 10 crossings (between Keystone and Lake) are that the annual increase in emissions, in tons, would be: 1.6 (HC), 20.0 (CO), 0.4 (NO_x), 0.01 (SO_x) and 0.01 (PM_{10}). SEA concludes this level of emission is not substantial and would not require mitigation.

20 SEA recognizes the City's concern about noise and acknowledges the large number of potential receptors located near the rail line. The difference in total sensitive receptors reported in the EA versus the over 9,000 number contained in the comment is attributed to the large number of hotel rooms included in the 9,000 figure. These rooms were not considered as residences (or any other noise-sensitive category) contained in the Board's environmental rules at 1105.7 (e) and thus not counted as sensitive noise receptors. The noise level due to UP/SP and BN/Santa Fe traffic is expected to increase by 2.8 decibels, based on pre- and post-merger train volume of 12.7 and 24 trains per day, respectively (does not include passenger trains). Regardless of the number of affected sensitive receivers, this noise increase is less than the threshold of significance outlined in the Board's environmental rules. No mitigation of merger-related noise impacts is required; however, extensive mitigation recommendations are included in Volume 1, Chapter 5 of the Post EA to address these concerns. If grade-separations are eventually implemented as part of SEA's mitigation recommendations, noise benefits would accrue. Elimination of at-grade crossings would eliminate the Federally-required sounding of horns at grade crossings, which are a major factor in perceived noise.

RESPONSES FROM COMMENTS ON PREVIOUS PAGE

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

22 SEA acknowledges the City's concern for potential impacts to emergency response services. The analysis of intersection delay reported in the response to comment #16 indicates that emergency response times should not be affected by the incremental change in delay that would be attributable to the merger. It should also be noted that the City of Reno has a distribution of fire/rescue stations on each side of the railroad tracks to provide adequate coverage. Therefore, the impact of a blocked railroad grade crossing on emergency response times (for either existing conditions or if the merger is approved) would be minimal. Grade crossings blocked by trains can be incorporated into the dispatching protocol to respond from the next closest or available standby station. Recognizing continuing concern for this issue, however, SEA's recommended mitigation for emergency response issues is reported in Volume 1, Chapter 5 of the Post EA.

23 Please refer to the response to comment #22.

24 The responses to comments #16 and #17 discuss the level of automobile and pedestrian delays at grade crossings. SEA acknowledges the potential safety hazards inherent with vehicle-train and pedestrian-train conflicts in Reno and has included recommended mitigations in Volume 1, Chapter 5 of the Post EA to better define and reduce potential incidents.

25 SEA recognizes that public services are provided for residents and non-residents. This issue does not fall within the jurisdiction of the Board.

26 SEA appreciates the information on the movement patterns of pedestrians in the downtown area. Please refer to the response to comment #17.

WASHOE COUNTY COMMISSION

1001 E. 9th Street
P.O. Box 11130
Reno, Nevada 89520
(702) 328-2005

March 28, 1996

Mayor Jeff Griffin
City of Reno
P.O. Box 1900
Reno, NV 89505

Subject: Washoe County Commission's Comments on the Proposed Union Pacific/ Southern Pacific Railroads Merger

Dear Jeff:

The Washoe County Commission took formal action during its meeting of Tuesday, March 26, 1996, to officially transmit comments and concerns regarding the proposed Southern Pacific Railroad Corporation/Union Pacific Railroad Company merger to the City of Reno. Washoe County is not a party of record and therefore is unable to directly provide comments to the Surface Transportation Board (STB) on the proposed merger. The Commission asks that the Reno City Council include the attached comments with any comments the City will provide to the STB on the proposed merger.

The Commission's concerns with the proposed merger involve public safety (to include emergency access to those communities whose only public entrance is over the railroad), economic considerations and environmental concerns. Also included are potential mitigation measures. 1

I understand that the City Council will hold a special session on Thursday, March 28, 1996, to consider adopting a statement concerning the proposed merger. I apologize for the short time frame in providing these comments, however the Commission hopes the Reno City Council will include its comments in the statement. If you or your staff have any questions concerning these comments, please do not hesitate to call me or the staff member assigned to the matter. Mr. Webb can be reached at 328-3623. Thank you for your time and consideration on our behalf.

Sincerely,

Stephen T. Bradhurst, Chairman
Washoe County Commission

STB:bw

cc: Galen O. Denio, P.E., Commissioner, State of Nevada Public Service Commission
Terry Reynolds, City Manager, City of Sparks
Steve Wright, Town Manager, Town of Truckee
Dean Haymore, Building Official and Planning Administrator, Storey County
William E. Wimmer, Senior Assistant Vice President, Union Pacific Railroad
Don Owen, Special Projects Manager, Reno Redevelopment Agency
John MacIntyre, County Manager
John Hester, AICP, Director, Department of Comprehensive Planning

1 SEA acknowledges the Commission's concerns regarding public safety, emergency access and environmental issues. These issues are addressed in subsequent responses.

WASHOE COUNTY COMMISSION

1001 E. 9th Street
P.O. Box 11130
Reno, Nevada 89520
(702) 328-2005

March 28, 1996

Washoe County's comments on the proposed merger of the Southern Pacific Railroad Corporation with the Union Pacific Railroad Company.

On March 26, 1996, the Washoe County Commission adopted the following as their concerns and comments concerning the proposed merger of the Southern Pacific Railroad Corporation with the Union Pacific Railroad Company. The proposed merger could have significant impact on Washoe County and its citizens. The Washoe County Commission desires that its concerns be considered during evaluation of the proposed merger. Washoe County staff is available to coordinate resolution of any of these concerns. The Washoe County staff contact person is Bob Webb at (702) 328-3623.

Public Safety Concerns

1. Improve emergency access to communities and industrial/commercial areas which are isolated by the railroad. The attached map illustrates selected railroad crossings in Washoe County. The following areas must be evaluated for emergency access:

Description	Crossing ID (map)
Residential areas	
Quilici Ranch access	2
Truckee River Stables, Mogul	8
Woodland Avenue (River Edge)	10
Stag Lane	11
Patrick Exit, Ditho Road #1	14
Del Curto Lane	13
Patrick Exit, Ditho Road #2	15
Painted Rock Exit, Canal Road	17
Seneca Drive, Honzon Hills	21
Link Road, Panther Valley	24
Ranger Road, Panther Valley	25
Fantasia Pet Hotel, near Panther Valley	26
Comstock Drive, University Heights	27
Socrates Drive, University Heights	28
Isolated communities/areas	
River Inn	9
Woodland Avenue	10
SPPCo. pump station to Chalk Bluff	12
Granite Construction/KalKan	18
Reno Park Blvd. and Ccast Gas	18
MarMac Street, Anderson Acres	19

   a. Residential areas of particular concern include Woodland Avenue, Stag Lane, Del Curto Lane, Canal Road (Patrick Exit) and the Panther Valley area. Although these areas are currently isolated by railroad traffic, the proposed merger will significantly increase the

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2 SEA appreciates the Commission's request for improved emergency access to communities and industrial areas now isolated by the railroad tracks. However, providing emergency access to existing properties is not within the jurisdiction of the Board. The respondents' request for keys to a gated route on a railroad easement that could provide emergency access to the Woodland Avenue neighborhood should be submitted directly to the Applicant.

Subject: Washoe County's comments on the proposed merger of the Southern Pacific Railroad Corporation with the Union Pacific Railroad Company
March 28, 1996
Page 2

possibility of delays at railroad crossings for emergency vehicles. In the case of Woodland Avenue, there is a paved road which could provide emergency access to both the residential area and the industrial/commercial area. However, the road is a private road constructed on railroad easement with two sets of locked gates. Additionally, the City of Reno Fire Department does not possess keys to unlock the gates.

b. Ensure that appropriate emergency response agencies have keys for the gates which control emergency access to isolated communities. Emergency response agencies include police protection (i.e., Sheriff's Office, City of Reno Police Department), fire protection (i.e., City of Reno Fire Department, Truckee Meadows Fire Protection District, Sierra Fire Protection District of the Nevada Division of Forestry), and medical response (REMSA).

c. Inform residents of isolated communities of actions they should take in case of an emergency situation where the railroad crossing is either blocked or unsafe to travel over.

2. Upgrade railroad crossings (both private and public), particularly at locations where the crossings are substandard. Railroad officials have indicated that they have no legal recourse to resolve concerns with private railroad crossings. Responsibility to correct deficiencies with private railroad crossings must be researched further. This item corresponds with item number 8 listed in the memorandum from Carl Cahill of the Washoe County District Health Department to Jerry Hall. A copy of that memorandum is attached.

3. Include appropriate Washoe County agencies as part of the working group formed between the City of Reno and Union Pacific/Southern Pacific Railroads. The working group is addressing railroad merger impacts and analyzing the benefits of various alternatives for future railroad traffic through the City of Reno (I-80 corridor realignment, depression through downtown, and underpass/overpass). The scope of the work plan should be expanded to include the entire railroad system through Washoe County (Donner Pass railroad line and the Reno Branch line). Potential Washoe County agencies include the District Health Department, Department of Public Works, Sheriff's Office, Truckee Meadows Fire Protection District and Emergency Management. The Sierra Fire Protection District of the Nevada Division of Forestry should also be included if possible. Under this approach, items 3 through 8 of the District Health memorandum could be addressed through the appropriate agencies.

Economic Concerns

1. Washoe County's economy is multi-faceted and depends upon a wide range of industries (e.g., tourism, gaming, warehousing, communications, transportation, etc.). A comprehensive analysis of the impact to Washoe County's economy must be completed to provide a better picture of the overall impact of the proposed merger. This analysis should include both benefits and detriments from the merger. For instance, expansion of the intermodal shipping facility in and/or near the current Sparks facility will benefit the County's economy. On the other hand, the negative reaction of tourists to increased delays at railroad crossings, or potential disasters such as the recent petroleum fires from a derailment in Wisconsin, could negatively impact the economy.

2 Refer to the previous page for response.

3 SEA acknowledges the Commission's request for the distribution to emergency response personnel of keys that control the gates for emergency access in isolated communities. However, this issue is not within the jurisdiction of the Surface Transportation Board. The respondent should forward this concern directly to the Applicant.

4 SEA acknowledges the Commission's suggestion to inform isolated communities of emergency actions to take in case the railroad crossing is blocked. However, this issue is not within the jurisdiction of the Surface Transportation Board. The respondent should forward this concern directly to the Applicant.

5 SEA recognizes the Commission's concerns regarding maintenance of grade crossings. Maintenance of grade crossings is not within the jurisdiction of the Surface Transportation Board. The respondent should forward this concern directly to the Applicant.

6 The Commission's recommendation of Washoe County Agencies to be included as part of the working group is noted. See Volume 1, Chapter 5 for SEA's recommended mitigation.

Subject: Washoe County's comments on the proposed merger of the Southern Pacific Railroad Corporation with the Union Pacific Railroad Company
March 28, 1996
Page 3

2. The economic analysis mentioned above should include the Incline Village/Crystal Bay area of Washoe County. The analysis should examine the effect of increased rail traffic on the crossing sites in the Town of Truckee, California and that impact on the north shore of Lake Tahoe. The analysis should also include any benefits of completing the California State Highway 267 bypass to the Incline Village/Crystal Bay area.

Environmental Concerns

1. Investigate the feasibility of installing electronic control measures for the isolation and/or diversion of the ditch system fed from the Truckee River. This item corresponds with item number 1 on the memorandum from District Health and is explained further in that document. 7

Other Concerns

1. Construct trails as easements on railroad property. These trails could double as emergency access to isolated communities or industrial/commercial areas. If the isolated community is between the Truckee River and the railroad, then the trail could be adjacent to the river. This would enhance the river trail system while providing emergency access. If the isolated community is not adjacent to the river, then the trail could be adjacent to the railroad tracks. A graphic depicting this concept is attached. 8

2. Request that abandoned sections of railroad tracks be made available to public agencies for such uses as future light rail systems, conversion into public trails, etc. 9

3. Include Washoe County as a commenting agency on the Environmental Analysis (EA) which is being prepared by the Surface Transportation Board on the merger. The EA will discuss impacts of the merger on air quality, noise levels, water quality, safety, biological resources, hazardous materials, and/or transportation systems. The EA is due to be issued in mid-April 1996 with a 20 day public comment period. 10

4. Request that the Union Pacific and/or Southern Pacific Railroad Corporations review the master plans and development regulations for Washoe County, Reno and Sparks as they apply to railroads. This review could examine how the plans and regulations of the three jurisdictions address railroad related issues: e.g., compatibility of uses adjacent to railroads, regulations on railroad crossings, noise attenuation, etc. This review should provide an opportunity for the railroad corporations to provide suggestions on how the plans and regulations could be improved and/or better integrate the railroads into our communities. 11

5. In conjunction with item 4, review the Washoe County Comprehensive Plan and Development Code for railroad related policies and regulations. The Comprehensive Plan currently has policies which address use of alternate fuels for railroads, use of alternate modes of transportation (to include rail systems), and noise abatement for location of residential uses near railroads. The Development Code addresses noise abatement, access to subdivisions and site compatibility standards. This review should determine if there may be additional policies or regulations which could better address railroad issues and concerns. 12

7 SEA acknowledges the Commission's request for the installation of electronic control measures for isolation and/or diversion of the ditch system fed from the Truckee River. Subsequent to issuance of the EA, in response to a request from SEA, the Applicant generated a more detailed output from its traffic model, which indicated the number of carloads of hazardous materials presently transported and projected carloads after the merger. This information indicated that the Donner route through Reno would experience an increase of 60 percent in hazardous materials carloadings. The traffic increase resulting from the merger exceeds both historic levels and the increase that could reasonably be expected from the upward swing of a single business cycle. Mitigation measures that are proposed for the transport of hazardous materials are reported in Volume 1, Chapter 5 of the Post EA.

8 SEA notes the Commission's suggestion of trails on railroad property that may be used for emergency response. SEA's recommended mitigation measures are described in Volume 1, Chapter 5 of the Post EA.

9 SEA notes the Commission's suggestion of trails use for any abandoned rail lines. No rail lines are proposed for abandonment in Washoe County as a result of the proposed merger.

10 SEA recognizes the Commission's request to comment on the EA. Washoe County received an initial consultation letter about preparation of the EA, issued on January 29, 1996, and copies of the EA, released on April 12, 1996. Responses to the County's comments are provided in this appendix.

11 SEA recognizes the suggestion that the Applicant review County master plans. This issue is not within the jurisdiction of the Board. Washoe County is encouraged to include the railroads in its master planning process.

12 SEA acknowledges the suggestion that the Applicant review the Washoe County Comprehensive Plan and Development Code for railroad-related policies and regulations. This issue is not within the jurisdiction of the Board. The respondent should forward this suggestion directly to the Applicant.

DISTRICT HEALTH DEPARTMENT

DATE: February 28, 1996

TO: Jerry Hall

FROM: Carl Cahill, Director

SUBJECT: Railroad Issues

Per your request, the following information is provided:

RAILROAD INCIDENTS

Washoe County District Health Department (WCDHD) was notified (not by fire or emergency management authorities) of a derailed train near the Sparks yard and WCDHD investigated. Two Liquified Petroleum Gas (LPG) tank cars derailed less than 100 yards west of the McCarran Avenue overpass just before noon. Upon arrival no fire response personnel were present. Shortly after, it was reported that a long train with many railcars loaded with explosives came into the area and parked alongside the derailed cars. Fortunately, the LPG cars did not leak and there was no further incident.

Local agencies responded to a train derailment caused by a switching error in which two trains collided at the Rock Boulevard overpass in Sparks. The saddle tanks on the train were ruptured, spilling diesel fuel which required remediation. Fortunately, no rail cars fell off the overpass and no other hazardous materials were involved.

Local agencies have responded to two large phosphoric acid spills at the Sparks terminal. Both spills were in the range of 6,000 gallons each. One tank car leaked acid along the tracks all the way to the Washoe County line to the east - a distance of over 20 miles. Both spills were caused by tank failure.

Local agencies have responded to several incidents of train tank cars containing anhydrous ammonia in which ammonia odors were detected along the tracks. The largest involved a train of 22 tank cars of ammonia. The problems encountered have been caused by the pressure relief valve venting excess pressure caused by the change in vapor density due to the difference in elevation and weather

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13 SEA acknowledges the Health Department's information on rail-related incidents involving hazardous materials over the past eight years. In response to a request from SEA, the Applicant generated a more detailed output from its traffic model, which indicated the number of carloads of hazardous materials transported at present and the number projected after the merger. This information indicated that the Donner route through Reno would experience an increase of 60 percent in hazardous materials carloadings. Please refer to SEA recommended mitigation in Volume 1, Chapter 5 of the Post EA.

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conditions here and at the loading facility.

Another railcar venting incident occurred when a tank car loaded with wine spirits (95% ethanol) was found leaking severely at the top hatch flange. A large puddle of flammable alcohol also formed under the tank car. Again, the vapor pressure inside the car was much more than atmospheric pressure. Instead of attempting to tighten the flange bolts it was recommended to open the pressure relief valve which had not functioned. This equalized pressure in the tank car and a clean-up of the track area was conducted.

On Thanksgiving morning, local agencies responded to a train accident in which a semi-tractor trailer got stuck on the track crossing at Patrick and could not move. Local residents attempted to pull the vehicle off the tracks with their private vehicles but were unsuccessful. An eastbound train did not see the truck in time to stop and struck the truck rupturing its fuel tanks. The fuel along the tracks ignited along the 1/4 mile it took to stop the train. No other hazardous material was involved.

WCDHD was informed several days after the occurrence of a fuel spill along the tracks west of Reno. It was determined that a boulder rolled down the hill in the Mayberry area and struck the locomotive's saddle tank tearing a hole in it. The engineer was unaware of the incident until he reached the terminal. The amount of fuel spilled was not a quantity which could be cleaned up because it sprayed lightly along the track.

These are just some of the rail related incidents WCDHD and other local agencies have responded to - more than 20 in the past 8 years. Others incidents include releases from valves which could be closed, rupturing of drums or other containers that were being transported, and transloading operations. These incidents have occurred on both Union Pacific and Southern Pacific lines, and in some cases, have required extensive response and clean-up activities and severely depleted the local community manpower and equipment resources.

13

RECOMMENDATIONS

The following suggestions are presented for discussion:

1. Electronic control measures should be looked at for isolation and diversion of the ditch system, which is fed from the Truckee River. The ditch system flows throughout the Truckee Meadows Basin. If a hazardous material were to get into the river upstream from ditch entrances no expedient method to shut the flow off is available, allowing the contaminant to flow unabated.

14

13 Refer to the previous page for response.

14 SEA acknowledges the Commission's recommendation regarding the installation of electronic control measures for isolation and/or diversion of the ditch system from the Truckee River. Please refer to the responses to comment #7.

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contaminant to flow unabated. These ditches flow through many residential subdivisions, through populated industrial areas, and significant water recharge areas. 14

2. Road access to the rail line must be improved to allow vehicle access for emergency responders to an accident. Throughout Washoe County the Southern Pacific line can be extremely difficult to access for single vehicles, let alone a county-wide response to a hazardous materials incident along the tracks. Where there is locked gate access to the rails keys should be provided to certain agencies for emergency response and remediation activities. 15

3. With the increased potential of hazardous materials incidents originating from rail transportation, local railroad response personnel must be available and trained to the level needed when dealing with rail and tank cars. This is not the case at this time. The closest Hazardous Materials Control Officer in the Southern Pacific system who would respond to the Sparks terminal is stationed in Sacramento and when he is not available, one must be dispatched by vehicle from Oakland. This is seriously inadequate for this community. A Hazardous Materials Control Officer should be stationed at the Sparks Terminal to respond to Nevada incidents. 16

4. Due to the limited hazardous materials response capability from the private sector, additional spill control and containment equipment must be strategically located in the area and made available for immediate use by responding agencies. This must include such things as containment booms, absorbent materials, pneumatic transfer pumps, and other specialized equipment. 17

5. In conjunction with the railroad company, install a computer system or devise a method in which responding agencies could have immediate access to waybills, consists, or other documentation pertinent to transportation of hazardous materials through the terminal. 18

6. Provide specialized training to responding agencies in Nevada and eastern California who are involved with emergency response to railroad accidents. Hazardous materials incident response in the Truckee River corridor on the California side has a direct bearing on emergency actions taken by local agencies. 19

7. Working with Local Emergency Planning Committees (LEPC) 20

14 Refer to the previous page for response.

15 SEA acknowledges the Health Department's recommendations. Please refer to the response provided for comments #2 and #3.

16 The Health Department's recommendation regarding training of railroad personnel to respond to hazardous materials incidents is not within the jurisdiction of the Board. The respondent should forward this concern directly to the Applicant. UP/SP has expressed a willingness to provide additional training to local emergency personnel.

17 The Health Department's recommendation for additional spill control and containment equipment is not within the jurisdiction of the Board. The respondent should forward this concern directly to the Applicant.

18 The Health Department's recommendation for a system to provide immediate access to information about the transportation of hazardous materials is noted. However, this area is not within the jurisdiction of the Board. The respondent should forward this concern directly to the Applicant. UP/SP has expressed a willingness to provide greater accessibility to dispatch information.

19 See response to comment #16.

20 The Commission's recommendation regarding funding and developing emergency evacuation action plans is not within the jurisdiction of the Board. The respondent should forward this concern directly to the Applicant.

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the railroad should provide funding and resources in developing evacuation and emergency action plans for the populated areas along the rail corridor. 20

8. Installation of crossing signals and gates at all at-grade crossings in the Truckee River corridor and watershed should be considered. 21

9. Enhanced notification procedures should be developed for reporting of rail incidents. Current procedures call for railroad personnel to contact their Denver office, who in turn make the calls within their system and to appropriate agencies, which sometimes causes delays in local response time. 22

20 Refer to the previous page for response.

21 SEA acknowledges the Commission's request for installation of crossing signals and gates at all at-grade crossings in the Truckee River corridor and watershed. SEA has reviewed concerns about crossing delays and safety in the Reno/Washoe County area. The analysis of train traffic and vehicular delay indicates that mitigation is not required. SEA's recommended mitigation for Nevada are included in Volume 1, Chapter 5 of the Post EA. Railroad crossing sign regulations are promulgated by the Federal Railroad Administration. The respondent should forward this concern directly to the Applicant.

22 SEA acknowledges the Commission's recommendation regarding enhanced notification procedures for reporting rail incidents. However, this issue is not within the jurisdiction of the Board. The respondent should forward this concern directly to the Applicant.

WASHOE COUNTY

"To Protect and To Serve"

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RENO, NEVADA 89520-0027
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DEPARTMENT OF COMPREHENSIVE PLANNING

April 30, 1996

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

Subject: Washoe County, Nevada Comments on the Environmental Assessment for the Proposed Merger of the Union Pacific and Southern Pacific Railroads (Finance Docket No. 32760)

Dear Ms. Kaiser:

This letter contains the comments from Washoe County, Nevada on the Environmental Assessment (EA) for the proposed merger of the Union Pacific and Southern Pacific railroads. These comments and observations are based on direction provided by the Washoe County Board of County Commissioners during a public hearing on March 26, 1996.

General Comments

Train Length. The EA uses a 5,000 foot train length in evaluating various impacts of the merger (e.g., noise abatement, total crossing delays per day at railroad crossing, etc.). Union Pacific officials have said that average train lengths through Washoe County will be between 6,000 and 6,500 feet with the potential for 8,000 foot long trains on occasions. The EA should use 6,000 feet as the minimum length of trains in this area. 1

Increase in Train Traffic. The EA indicates that train traffic is expected to increase from an average of 13 freight trains per day to 25 freight trains per day (26 on the Sparks to Winnemucca route). Although there is disagreement on the potential number of trains per day, Union Pacific officials have said they expect that 32 to 35 freight trains per day will be using the Donner Pass (I-80) corridor by January 1998. The EA should use this higher figure. 2

Noise Impact Calculations.

- The EA uses 16 trains per day as the average when calculating noise impacts, and various graphs use this as their highest number. This number is an unrealistically low estimate, even when compared to the EA's figure of an average 25 trains per day through the Donner Pass corridor. Noise impacts in Washoe County should be calculated using a range of 32 to 35 trains per day. Additionally, Sparks, Nevada was not included in noise impact evaluation as a railroad yard (presumably because it did not satisfy certain thresholds). The EA should provide the appropriate calculations and results to demonstrate why Sparks should not be evaluated for noise impacts. 3
- The EA should also provide information on the intensity and duration of horn soundings at public crossings. There is no information provided on whether multiple engines require horn soundings for each engine, whether longer trains require a different duration of horn sounding, whether horns are sounded at each public crossing regardless of the distance to the next 4 5

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

In response to this issue raised by the City of Reno and Washoe County, the effects of a 6,000-foot train have been calculated. The increased delay and emission impacts were not found to be significant. The average gate down-time per train would increase from 3.5 to 4.1 minutes. The 24-hour level of service (LOS) (please refer to Volume 1, Chapter 4 of the Post EA for a discussion of LOS) for vehicles crossing the railroad tracks in the unmitigated post-merger condition would be LOS B in either case, based on about 7.6 seconds of delay for 5,000-foot trains, compared with 10.0 seconds of delay for 6,000-foot trains. Likewise, the peak hour average level of service in the unmitigated post-merger condition would be LOS C in either case, based on peak-hour delay values approximately double those cited for the 24-hour level of service. With 6,000-foot trains, the additional total daily vehicle delay at grade crossings throughout the City would be approximately 34 hours, an increase of 32 percent.

The effect of a 6,000-foot train on the level of motor vehicle emissions would be an increase of 32 percent over those calculated for 5,000-foot trains. The conclusions reached for 5,000-foot trains would not change, however. The amount of motor vehicle emissions caused by vehicles idling at railroad crossings would be extremely small in comparison with the emissions caused by delays at urban intersections.

2 SEA acknowledges the County's concern about train traffic increases. In response to the concern expressed about conflicting train projections, SEA reviewed train data to affirm the proper number. Based upon Applicant data, the total number of daily trains (freight plus passenger) would increase from 13.8 to 25.1 trains per day. This is an increase of 11.3 trains per day. These affirmed numbers, which included the BN/Santa Fe settlement agreement, were used in the EA.

RESPONSES FROM COMMENTS ON PREVIOUS PAGE

2 Refer to the previous page for response.

Subsequent to circulation of the EA, the Applicant reached a settlement agreement with the Chemical Manufacturers Association (CMA). The "final" train numbers, which account for the CMA agreement, are shown in Volume 1, Chapter 3 of the Post EA. To clarify, the freight train numbers are as follows: the Applicant intends to operate 20 freight trains per day; BN/ Santa Fe proposes to operate 4 freight trains, for a total of 24 freight trains. This number focuses the analysis on the increment of change attributable to the proposed merger. For SEA's supplemental traffic analysis of intersection delay in response to City concerns, passenger train traffic(1.1 trains per day) was included to provide an approximation of day-to-day traffic impacts.

3 SEA acknowledges the County's concern about the number of trains used in the noise analysis. The noise analysis for the Roseville to Sparks segment through Reno was based on 12.7 pre-merger freight trains per day and 24 post-merger freight trains per day. The noise increase expected from the proposed merger is 2.8 dB, which is below the threshold established to define impact. Because the threshold would not be exceeded, no mitigation is proposed.

4 Washoe County requested an explanation as to why the Sparks yard was not included in the noise analysis. The railroad yard at Sparks was not analyzed for noise impact because the projected increase in handled rail cars would not exceed the Surface Transportation Board's threshold of 100 percent of current cars per day. Applicant information indicates an increase of 15 cars per day, an increase of less than 4 percent, well below the Board's threshold for analysis.

RESPONSES FROM COMMENTS ON PREVIOUS PAGE

5 SEA acknowledges the County's concern regarding the intensity and duration of horn noise at public crossings. A maximum level of about 95 to 105 dBA at 100 feet may be expected for horn noise. The assumption used in the EA analysis was a maximum level of 102 dBA at 100 feet. Appendix H to the EA indicates that the single event level (SEL) assumed for the analysis was 107 dBA and 100 dBA for 50 MPH and 30 MPH trains, respectively, passing at 100 feet. Further, train horn usage was assumed to be continuous from a point 1/4 mile prior to passage of a grade crossing up to the grade crossing, without consideration of the density of grade crossings. Communities with grade crossings separated by less than 1/4 mile would thus experience warning horn noise all along the alignment, while communities with grade crossings separated by more than 1/4 mile would experience gaps in sections of track at which warning horns were sounded. Every grade crossing was included in the analysis. Only one horn per train was assumed, and variation between horns was assumed for different train lengths. The requirement that horns be sounded 1/4 mile prior to a grade crossing is independent of the density of grade crossings. With respect to the downtown Reno area, warning horn noise was assumed to be continuous along the track due to the small separation between grade crossings.

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crossing, etc. This information would be particularly important in areas where there are several public crossings fairly close together (e.g., downtown Reno, Nevada).

Air Quality Impacts. The EA primarily focuses on the air quality of diesel train engines in calculating the impacts to air quality. The EA should address the air quality impacts of idling cars as they wait at railroad crossings. In the confined air basin of the Truckee Meadows (from the California border to the eastern edge of Sparks), it is likely that this impact will be significant, particularly when considering the delays at crossings due to the increased number of trains along the Donner Pass corridor. Additionally, Sparks, Nevada is not evaluated for the air quality impacts of its railroad yard (once again, presumably since it did not satisfy certain thresholds). The EA should provide the appropriate calculations and results to demonstrate why Sparks should not be evaluated for railroad yard air quality impacts.

Economic Impacts. There is no evaluation of the economic impact of the proposed merger to the local economy of Washoe County. Such an evaluation is particularly important to our region, because the impacts caused by a significant increase in the number of trains using the Donner Pass corridor could be substantial. Lengthy delays at railroad crossings, increased noise (particularly at public crossings when trains are required to sound horns), and the potential for national media attention in the event of train accidents or hazardous material spills can affect the decisions of tourists to visit our region. The region is no longer dependent on the railroad as its primary economic "engine"; therefore, the EA should evaluate how the merger will affect our economy.

Reno Branch Line. Union Pacific/Southern Pacific should provide a detailed analysis of the future of the Reno Branch line and the Reno intermodal facility (Parr Boulevard area). If there is to be a significant increase in either of these two areas, then a formal assessment must be conducted. If the rail line is to be abandoned, then public agencies may desire to acquire the rights of way for future "rails to trails" systems.

Public Safety

Isolated Communities. Several communities in Washoe County have their only access over the railroad tracks. The safety of residents and businesses within these communities will be in jeopardy when their access is blocked at the railroad crossing. This blockage will occur daily during normal operations of the railroad as trains cross the road; this situation is a concern for emergency response vehicles. The blockage could also occur should a train accident or hazardous material spill block the access. The charts below identify the isolated communities, show the community composition, provide information on the length of time during which the access will be blocked during normal railroad operations, and indicate whether these communities have emergency access which does not cross railroad tracks. The accompanying map shows the locations of these communities.

The largest communities impacted by sole access across railroad tracks are those using Woodland Avenue (City of Reno), Del Curto Lane and Canal Road. Of these, the community using Woodland Avenue will experience the most growth over the next several years, both in residential and commercial/industrial land uses. The chart on the following page outlines community composition.

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6 SEA acknowledges the County's concern about air quality at rail crossings. The primary pollutant resulting from vehicular delays at grade crossings is carbon monoxide (CO). In response to this and other comments, SEA performed an air quality analysis of 10 intersections in downtown Reno for which the average daily traffic per crossing is 11,267 vehicles. SEA's findings for the 10 crossings (between Keystone and Lake) are that annual emissions, in tons, would be: 1.6 (HC), 20.0 (CO), 0.4 (NO_x), 0.01 (SO_2), and 0.01 (PM_{10}). SEA concludes this level of emission is not substantial and would not require mitigation. Air quality is further discussed in Volume 1, Chapter 4 of the Post EA. Air quality mitigation measures are described in Volume 1, Chapter 5 of the Post EA.

7 SEA acknowledges the County's concern for potential air quality impacts of yard activities at Sparks. The increase in activity at the Sparks, NV, rail yard does not meet the Surface Transportation Board's analysis criteria, therefore air quality analysis of this facility was not included in the EA. The Surface Transportation Board's thresholds for analysis in nonattainment areas, as detailed at 49 CFR 1105.7(e)(5)(ii), state that those rail yards experiencing a 20 percent increase in carload activity per day must be analyzed for air quality impacts. The rail yard in Sparks, NV, currently handles 87.1 cars/day, and it is expected to handle 102.2 cars/day post-merger, a difference of 15.1 cars/day. This represents an increase of only 17.3 percent, which does not meet the 20 percent increase threshold.

8 SEA noted the County's concern about the future of the Reno Branch line. The requested analysis of the future of the Reno Branch line does not fall within the defined Application for Merger and Control.

9 SEA appreciates the Commission's request for improved emergency access to communities and industrial areas that are isolated by the railroad tracks. However, providing emergency access to existing properties is not within the jurisdiction of the Surface Transportation Board. The respondents' request for keys to a gated route on a railroad easement that could provide emergency access to the Woodland Avenue neighborhood should be submitted directly to the Applicant.

It should be noted that the tabulation of crossing delay cited is not consistent with the methods used in the EA. Please refer to the responses to comments #1 and #2.

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Community	Map ID Number	Community Composition[1]
Donner Pass Corridor		
Quilici Ranch	2	1 residence
Verdi private crossings	5,6	2 to 3 residences
Mogul Road #1	7	3 to 5 residences
Mogul Road #2	8	1 residence
Woodland Avenue	10	40 residences (200+ planned) commercial, industrial
Stag Lane	11	5 residences
Del Curto Lane	13	28 residences
Ditho Road	14,15	2 residences
Canal Road	17	35 residences (all in Storey County)
Reno Branch		
MarMac Street	19	3 residences
Seneca Drive	21	80 residences
Panther Valley (Ranger and Link Rd)	24,25	200 + residences
University Heights (Comstock and Socrates Drives)	27,28	unknown (at least 200)

The expected railroad crossing delays are outlined below:

Community	Total Crossing Delay per Day[2]			
	8,000 foot long train		8,000 foot long train	
	Current[3]	Projected[4]	Current[3]	Projected[4]
Donner Pass Corridor				
Quilici Ranch	30 min	1 hr 14 min	37 min	1 hr 31 min
Verdi private crossings	30 min	1 hr 14 min	37 min	1 hr 31 min
Mogul Road #1	30 min	1 hr 14 min	37 min	1 hr 31 min
Mogul Road #2	30 min	1 hr 14 min	37 min	1 hr 31 min
Woodland Avenue	30 min	1 hr 14 min	37 min	1 hr 31 min
Stag Lane	30 min	1 hr 14 min	37 min	1 hr 31 min
Del Curto Lane	30 min	1 hr 14 min	37 min	1 hr 31 min
Ditho Road	22 min	54 min	27 min	1 hr 6 min
Canal Road	22 min	54 min	27 min	1 hr 6 min

[1] Note: Number of residences are estimates based on field survey work and Washoe County Assessor Files.
[2] Note: Total Crossing Delay was computed using the formulas provided in Appendix I, Volume 5 of the EA. The speed of the train was either 42 MPH or 65 MPH depending on the location. Speed information was provided by Union Pacific officials. Times are rounded. The Reno Branch was not included because there is supposedly no significant increase in train traffic with the merger.
[3] Note: Current crossing delay was computed using 13 freight trains per day. Does not include Amtrack trains.
[4] Note: Projected crossing delay was computed using 32 freight trains per day. Does not include Amtrack trains.

9

9 Refer to the previous page for response.

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In all cases, waiting times at railroad crossings will more than double. Crossing delays for a single train range from 2 min. 18 sec (6,000 foot trains) to 3 min. (8,000 foot trains) at 42 MPH and 1 min. 45 sec. (6,000 foot trains) to 2 min. (8,000 foot trains) at 65 MPH. Delay times aside, the increase in the number of daily trains (18 to 32) will double the chances of any given railroad crossing being blocked during an emergency response situation as outlined below:

Community	Emergency Access
Donner Pass Corridor	
Quilici Ranch	Yes. Unimproved dirt road to Clarson Bluff.
Verdi private crossings	Yes. Dirt road to Garson Road. Locked gate on dirt road.
Mogul Road #1	Yes. Private bridge and private road to Dori Bell Lane. Sierra Pacific Power Company maintains keys. Problems with emergency access.
Mogul Road #2	No
Woodland Avenue	Yes. Private paved road south of railroad tracks. 2 locked gates, emergency responders do not have keys. Road meets with Mayberry Drive on a down slope at a blind corner (traffic hazard)
Stag Lane	No
Del Curto Lane	No
Ditho Road	No
Canal Road	Yes. Unimproved dirt road through Storey County to Virginia City. Storey County officials would recommend use of this road solely by 4 wheel drive, high clearance vehicles and only in good weather.
Reno Branch	
MarMac Street	No
Seneca Drive	No
Panther Valley (Ranger and Link Rd)	No
University Heights (Comstock and Socrates Drives)	unknown

The length of trains may also cause a public safety problem. For instance, in Verdi, Nevada the public crossings at Crystal Park Road and Bridge Street are about 3,400 feet apart. Obviously, both crossings are blocked for a short time with both 6,000 foot and 8,000 foot trains. This reduces the opportunities for emergency responders to use one crossing should the other be blocked. Similar situations occur at other locations on the railroad tracks.

It appears that the primary focus for public safety with isolated communities in Washoe County should be along the Donner Pass corridor. Of the nine crossing singled out on that corridor, three deserve immediate attention because of the size and location of the community impacted by its sole access across the railroad tracks. These three are the communities served by Woodland Avenue, Stag Lane and Del Curto Lane. Canal Road should also be addressed, but will take close coordination with Storey County. Proposals for these three communities are discussed in the section titled Proposed Mitigation Measures.

9

10

9 Refer to the previous page for response.

10 Please refer to the response to comment #9.

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Noise Impacts

The attached maps illustrate the distance along the railroad tracks which are subject to noise impacts. The map shows both 290 and 780 feet distance from the tracks based on the following chart:

Average Number of Trains per day	Distance to L_{dn} = 65 dBA			
	Without horns		With horns (public grade crossings)	
	50 mph	30 mph	50 mph	30 mph
32	290 ft	250 ft	780 ft[5]	1,100 ft

The distances used in this evaluation are based on extrapolation of figures H-1, H-2, H-3 and H-4 in Volume 5. Additionally, the figures shown in Appendix H, Volume 5 for distance to L_{dn} differ from those included in section 12.3, Noise Analysis, of Volume 2. The numbers shown on page 12-6 are 480 feet (perpendicular) before merger and 670 feet after merger. There is no explanation for these numbers and it is unknown if these numbers include horn soundings at public crossings. Using charts H-1 through H-4, and the extrapolation above, the figures for the unincorporated County should be closer to Pre-merger: 140 ft (without horns) and 465 (with horns) plus post-merger: 290 ft (without horns) and 780 ft (with horns).

The number and types of sensitive receptors along the Donner Pass corridor (outside of the Reno and Sparks area) are shown on the following chart. These numbers and types were derived from assessor information contained in Washoe County's Geographic Information System. These numbers are from a buffer drawn 780 feet from the tracks and within a quarter mile each side of public crossings (distance noted in the EA where trains are required to sound their horns). In many cases, the sensitive receptor numbers differ from those shown in the EA (page 12-7).

Community	Number of Sensitive Receptors		
	Residential[6]	School	Church
Verdi (crossings 3 & 4)	81	0	0
Mogul to W. Reno (crossings 7,10,13)	83	0	0

The primary focus for noise impacts (outside of the Reno-Sparks area) along the Donner Pass corridor are in Verdi, Nevada. Proposed mitigation for Verdi is discussed in the section titled Proposed Mitigation Measures.

Environmental

Union Pacific officials have told the region's HAZMAT responders that there should be a decrease in bulk shipments and waste/hazardous material along the Donner Pass corridor since that corridor will be primarily for high speed intermodal trains. The Feather River route will then be

[5] Note: This figure was used in calculating the sensitive receptor information from the attached maps.
[6] Note: Residential includes single and multi family, plus manufactured housing (e.g., mobile homes).

11

SEA acknowledges the County's comments on potential noise impacts and the inconsistencies between Volume 2, Section 12.3 of the EA and Volume 5, Appendix H of the EA. The figures shown in Appendix H are the correct figures. The figures shown in section 12.3 were extracted from the railroad merger application. Figures H-1, H-2, H-3, and H-4, shown in Appendix H of the EA, are consistent with the assumptions used for the analysis.

12

SEA acknowledges that the County's estimates of the numbers of receivers falling within the 65 L_{dn} post-merger contour differ from those provided in the EA. The reason for the difference is that a more complex shape is assumed for noise contours in the vicinity of grade crossings than was assumed by Washoe County.

A school is identified near crossing #10 on the map of Segment #2, Mogul to Del Curto Lane. The site visit conducted along this rail segment did not reveal a school in this vicinity. No school is identified in the chart provided on page 5 of the comment by Washoe County.

The number of receivers identified within the pre- and post-merger 65 L_{dn} contours are based on noise contours which vary in distance from the track, depending on the location of grade crossings, train volume, and train speed. The estimated number of receivers that fall within the 65 L_{dn} contour along the segment from the California state line to Reno exceeds the estimate made by Washoe County, and includes two churches where none were identified by Washoe County. Eighty-three residences are identified for Verdi, Nevada in the EA, while Washoe County identified 81. These estimates are reasonably consistent, in spite of differing contour shape assumptions.

13

SEA acknowledges the County's concern regarding the transport of hazardous materials in the Gerlach area. In response to a request from the SEA, the Applicant generated a more detailed output from its traffic model to indicate the number of carloads of hazardous materials before and after the merger. This information indicated that the route through Gerlach would experience a decrease of 50% in hazardous materials carloads as a result of the merger. The proposed action, therefore, would not result in any increased risk to exposure to hazardous materials along this route.

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used primarily for slower traffic, to include the majority of the waste/hazardous material shipments. The EA does not address the potential impact of such traffic along that route. Of particular concern for Washoe County would be the impacts to the town of Gerlach, Nevada. Gerlach is a small town located about an hour and a half north of Reno. What type of response equipment would be needed at Gerlach in the case of a hazardous material spill or accident? Where would this equipment come from? Who would respond and what would be the response time?

13

Since the Donner Pass corridor will be experiencing an increase in faster and longer trains, the EA should provide calculations on the probability of train derailments along the Truckee River corridor. This should be combined with detailed watershed and/or drainage basin mapping which would clearly illustrate and identify the potential travel routes of spills to the Truckee River. The Truckee River supplies our region with its primary water source and such measures are necessary to ensure protection of that source. In addition, the EA should analyze the type and amount of equipment necessary to isolate any hazardous/toxic material spills before the spills enter the water supply systems of Reno, Sparks and Wadsworth.

14

As an additional measure to protect the region's water supply, the EA should address engine leaks and spills which occur along the railroad tracks. Accumulation of leaks and spills creates a potential toxic hazard and will eventually require clean-up measures. The EA should address this impact and provide mitigation measures to minimize the migration of leaks and spills into the ground water supply and/or into surface drainage facilities which eventually empty into the Truckee River. There may be a need for structures similar to catch basins which are required for parking lots.

15

Proposed Mitigation Measures

1. Improve the emergency access road from Woodland Avenue to Mayberry Drive. Several measures should be taken:
   a. Ensure that the access road is indeed an easement for emergency access. All regional emergency responders should be made aware of the road and provided instructions on access (either a key system or bolt cutters).
   b. The road is currently paved to about 20 to 25 feet wide. If this is not adequate to allow emergency evacuation, in addition to emergency response, then the road should be widened.
   c. Coordinate regional emergency response plans to include traffic control on Mayberry Drive. Sight distance for traffic on Mayberry Drive heading south/southeast is very limited when approaching the emergency access road.
   d. Inform the residents and businesses who use Woodland Avenue of the emergency access road and the situations when it would be used. This information would provide a level of comfort to those citizens wedged between the tracks and the river (or foothills).

16

2. Provide emergency access to the Del Curto Lane community. Based on an on-site visit, there appears to be three options to provide access:
   a. Construct an emergency access road heading east to connect with Dickerson Road. Private ownership, Oxbow Park, and the Orr Ditch complicate such an emergency access road. However, there appears to be room between the railroad tracks (on railroad property) and the Oxbow Park area (to include the undeveloped part of the park) to provide room for emergency access. Such an access would probably require negotiation with at least one private property owner (Kenneth Freeman) to allow the road to connect

17

13 Refer to the previous page for response.

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

15 SEA recognizes the County's concern about engine leaks and spillage along the tracks. Applicant railroads have in place spill prevention and monitoring programs to ensure against engine spills and accumulation of spill material, together with ongoing improvements in fueling facilities and procedures. SEA considers this to be an operational matter that does not fall within the jurisdiction of the Surface Transportation Board. This concern should be conveyed directly to the Applicant.

16 SEA appreciates the Commission's recommendations for improved emergency access to communities and industrial areas which are isolated by the railroad tracks, including the Woodland Avenue area. However, providing emergency access to existing properties is not within the jurisdiction of the Surface Transportation Board. The respondents' request for keys to a gated route on a railroad easement that could provide emergency access to the Woodland Avenue neighborhood should be submitted directly to the Applicant.

17 SEA appreciates the Commission's recommendations for improved emergency access to the Del Curto area. However, providing emergency access to existing properties is not within the jurisdiction of the Surface Transportation Board. This concern should be conveyed directly to the Applicant.

Letter to: Elaine K. Kaiser
Subject: Comments on the EA for the Proposed Railroad Merger (Finance Docket No. 32760)
April 30, 1996
Page 7

with Jolly Lane in the Del Curto community. Additionally, the connection to Dickerson Road, either through Oxbow Park or around it, would have to be determined.

b. Construct an emergency access road on railroad land westward toward McCarran Blvd. This access would be south of the railroad and another at grade crossing would need to be constructed to allow the emergency access road to connect with an existing maintenance road north of the tracks. The two crossings should be far enough apart to minimize the potential for both being blocked by long trains.

c. Construct an emergency access bridge across the Truckee River. Such a bridge could either connect Truckee River Trail (west end of the Del Curto Lane community) with Crissie Caughlin Park or connect Jolly Lane/Goodsell Lane with Ivan Sack Park. The draft City of Reno discusses possible construction of a footbridge at either Ivan Sack or Crissie Caughlin Parks; an emergency access bridge could possibly be designed to provide pedestrian/bicycle access at all times and emergency access when needed.

3. Provide emergency access to the Stag Lane community. Based on an on-site visit, there appears to be two options to provide access:

   a. Construct a dual use (pedestrian/emergency access) bridge across the Truckee River at Dorostkar Park, then an emergency access road from the bridge to Stag Lane. Access and land use concerns would have to be addressed with this option.

   b. Construct an emergency access road and another at grade crossing either east or west of the Stag Lane crossing. Site location of such a crossing could be difficult, since the land significantly narrows to either side of Stag Lane (at Mayberry Drive and across from Ambrose Park) and there is only about 4,500 feet of area between the two narrows.

4. To minimize noise impacts to the Verdi, Nevada community, freight trains should not sound their horns at the two public crossings (Crystal Park Road and Bridge Street). If necessary, upgrades to the signals at these two crossing should be constructed to allow trains to avoid sounding their horns.

5. Evaluate all railroad crossing sites for safety and maintenance. The crossing at Woodland Avenue is currently being repaired; however, there are many other crossing sites which deserve attention. For instance, the crossing site at Del Curto Lane appears narrower than the rest of the road while the Stag Lane crossing is only one lane wide. Union Pacific officials told me that they have no responsibility for private crossings. However, common sense seems to dictate that if the Railroad Company granted access, then there should be joint responsibility for maintaining an adequate and safe crossing site. Railroad officials and appropriate public agencies (i.e., the Public Service Commission and/or local Public Works Departments) should agree on a plan to evaluate all crossing sites and repair those deemed appropriate.

6. Provide a system which alerts emergency responder dispatch centers as to when trains are on the tracks. This system should be able to divide the Donner Pass corridor through Washoe County into discrete segments so that dispatchers can keep track of the progress of a train. Such a system would alert emergency responders when a crossing will be blocked so they can plan alternate routes. Without such a system, emergency responders either gamble that crossing will be clear or habitually plan alternate routes to avoid railroad crossing sites, thus adding to their response times.

7. Develop a plan to respond to hazardous material spills and/or accidents in Gerlach, Nevada. The plan should identify the equipment needed for minimum response and the location of this

17

Refer to the previous page for response.

18

SEA appreciates the Commission's recommendations for improved emergency access to the Stag Lane area. However, providing emergency access to existing properties is not within the jurisdiction of the Board. This concern should be conveyed directly to the Applicant.

19

SEA acknowledges the County's suggestion to limit train horns in Verdi, NV. The sounding of train horns at grade crossings is a safety requirement of the Federal Railroad Administration. The US Congress has directed that horns be sounded at all grade crossings beginning November 2, 1996 (Swift Act of 1994). FRA must issue regulations controlling horn usage by this time. Included in the regulations will be conditions for waiver of horn usage, which may include establishment of Quiet Zones, grade separations, four-quadrant gates, and standard gates with median barriers. Currently, until FRA regulations to the contrary are available, the only guarantee of relief from horn noise is permanent closure of grade crossings, which may include substitution with grade separated crossings. Fencing to prevent pedestrian trespassing on the right-of-way may be desirable. All other grade crossing designs would be subject to FRA approval.

20

SEA acknowledges the County's concern about the condition of grade crossings. However, maintenance of railroad properties does not fall within the Board's jurisdiction. This concern should be conveyed directly to the Applicant.

21

SEA appreciates the County's suggestion for emergency responder dispatch centers linked to trains. This issue is not within the jurisdiction of the Board. This suggestion should be conveyed directly to the Applicant.

22

SEA acknowledges the County's concern about clean-up needs in Gerlach, NV. In response to a request from SEA, the Applicant generated a more detailed output from its traffic model, which indicates the number of carloads of hazardous materials before and after the merger. This information indicated that the route through Gerlach would experience a decrease of 50% in hazardous materials carloads as a result of the merger. The proposed action would therefore not result in any increased risk of exposure to hazardous materials along this route. Any existing spills are not within the jurisdiction of the Board.

Letter to: Elaine K. Kaiser
Subject: Comments on the EA for the Proposed Railroad Merger (Finance Docket No. 32760)
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equipment, the agency(s) (both public and private) charged with responding to an incident, and response times to an incident.

22

8. Develop a plan to address the impact of spills and leaks of hazardous/toxic material along the railroad tracks. The plan should provide mitigation measures to minimize the migration of leaks and spills into the ground water supply and/or into surface drainage facilities which eventually empty into the Truckee River. The plan should also address the need for structures similar to catch basins (which are required for parking lots) for the railroad tracks and railroad yards.

23

9. Control the speed of trains in the Truckee Canyon (Wadsworth to Verdi) adjacent to municipal water intakes on the Truckee River. Develop a plan to address train derailment and/or hazardous/toxic material spills which endanger either ground water or Truckee River water supplies. Situate appropriate emergency response and spill containment equipment in the Truckee Meadows region.

24

If you have any questions concerning this letter or the proposed mitigation measures, please do not hesitate to call me at (702) 328-3623.

Sincerely,

Bob Webb

Bob Webb
Community Coordinator

CRW:bw

Enclosures

cc: Washoe County Commission
John MacIntyre, County Manager
John Hester, Director, Department of Comprehensive Planning

22 Refer to the previous page for response.

23 SEA acknowledges the County's concern regarding clean-up procedures and protection of the Truckee River. Please refer to mitigation measures in Volume 1, Chapter 5 of the Post EA.

24 Please refer to the response to comment #23.

CITY OF OREGON CITY

CITY MANAGER'S OFFICE
[redacted]

May 13, 1996

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

ATTN: Finance Docket 32760 - Comments

Dear Ms. Kaiser:

Thank you for the opportunity to comment on the proposed merger of the Union Pacific and Southern Pacific railroads.

The City of Oregon City would like to have more information regarding the proposed increase in traffic volumes on the Southern Pacific line which runs through the county. We are concerned that increased train traffic will have an adverse safety impact at all the grade crossings in the City. 1

If you have any questions or can send us additional information on traffic volume impact, please contact the City Engineer, Henry Mackenroth, PO Box 321, Oregon City, Oregon 97045. He can be reached by telephone at (503) 657-0891.

Sincerely yours,

CHARLES LEESON
City Manager

END OF THE OREGON TRAIL - BEGINNING OF OREGON HISTORY

1 The City's request for rail traffic volume information was provided on May 22, 1996. There are four at-grade crossings in Oregon City, one of which is pedestrian only. In the Federal Railroad Administration at-grade crossing data file, two crossings in Oregon City have ADT's of 16,350 and 14,150 vehicles per day, while the other crossing has less than approximately 5,000 vehicles per day. Total daily vehicle delay is projected to increase from 14 hours per day to 20 hours per day. Average delay per vehicle crossing the railroad tracks would increase from a pre-merger value of 1 second to a post-merger value of 2 seconds. The decrease in level of service (LOS) associated with post-merger level of freight operations is considered insufficient to require mitigation. See Volume 1, Chapter 4 of the Post EA for a description of the traffic analysis.

SEA's recommendations for system wide mitigation measures for grade crossings are included in Volume 1, Chapter 5 of the Post EA. Federal Railroad Administration standards require the UP/SP to maintain all grade crossings and associated warning devices. Assuming that the three grade crossings at 10th Street, 17th Street, and Forsythe Road continue to be protected with warning lights and crossarms, the combined accident exposure for all three crossings will increase only slightly, from 0.34 to 0.42 accidents per year. In consideration of the low increase in accident exposure and the presence of grade separated crossings at 12th, 13th, 14th, and 15th Streets, SEA does not recommend any mitigation at this location.

May 1, 1996

CITY OF SALEM, OREGON
City Hall / 555 Liberty St. S.E.
Zip Code 97301-3503

Public Works Department
(503) 588-6211
FAX (503) 588-6025
T.D.D. (503) 588-6013

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

SUBJECT: **ENVIRONMENTAL ASSESSMENT (EA) OF THE POTENTIAL ENVIRONMENTAL IMPACTS ASSOCIATED WITH THE PROPOSED MERGER OF THE UNION PACIFIC RAILROAD COMPANY AND THE SOUTHERN PACIFIC TRANSPORTATION COMPANY (Finance Docket No. 32760)**

Dear Ms. Kaiser:

Thank you for providing the City of Salem, Oregon, with the opportunity to review and comment on the above-referenced document. We were pleased to see our February 22, 1996, comments incorporated into and addressed in the EA. We would also like to extend a special note of thanks to Public Affairs Management, and Mr. Matthew Royce in particular, for taking the time to visit with us and discuss our concerns in detail. The City of Salem considers the proposed merger, and its possible impacts to our community, a matter of great importance. We intend to continue to be an active participant in the process.

The purpose of this letter is twofold. First, it will provide the Surface Transportation Board with our comments on the EA. Second, this letter will also give the Board additional local information for its use in the final determination.

Air Quality

2.1.4 Summary by Air Quality Control Region (v 1, p 2-13); 15.1.3 Portland Oregon-Washington AQCR (193) (v 2, p 15-6). The Salem Urban Area is a nonattainment area for air quality and will be impacted by the additional emissions created by: (1) the increased train traffic; and (2) the traffic delays at the grade crossings. The area is already forced to use air emissions credits to meet the required federal and state air quality standards. We are concerned that the EA did not address the additional air quality impacts caused by idling vehicles at grade crossings. We suggest that the EA analyze this impact and that the UP/SP mitigation measures address this issue.

15.2 Air Quality Impacts at Grade Crossings (v 2, p 15-9). Unlike the assertion made in the EA with respect to Oregon grade crossings, most of the crossings in Salem exceed 5,000 vehicles per day. Additionally, many of these crossings will not be grade-separated due to their location along the perimeter of the central business district. We urge the SEA to reevaluate this section of the EA and recommend substantial mitigation measures for this impact. We have attached a map (Figure 1) that illustrates the average daily traffic at all of Salem's grade crossings.

1

1 SEA has assessed the City's concern about air quality. SEA has revised estimates of merger related increases in locomotive emissions by Air Quality Control Region (AQCR) and track segment. An analysis of the effects of merger-induced on-road emissions due to crossing delays at 17 crossings in Salem, from Madrona to Blossom, has been performed, as requested. The emissions in tons per year are: 0.4 (HC), 4.4 (CO), 0.1 (NO_x), 0.003 (SO_2) and 0.003 (PM_{10}). These emissions are considered minimal and do not warrant mitigation. SEA's air quality methodology is described in Volume 1, Chapter 4 of the Post EA.

Elaine K. Kaiser
May 1, 1996
Page 2

Noise

Table 1-3: Rail Segments that Meet or Exceed Environmental Analysis Thresholds (v 1, p 1-13). The Eugene to Portland segment does not exceed the EA-established threshold for noise. It is our opinion, however, that noise will be a significant impact in Salem due to the proximity of the railroad right-of-way to sensitive receptors. The attached map (Figure 2) illustrates the location of sensitive receptors with respect to the railroad right-of-way.

Table 2-7: Number of Train Operations Needed to Generate a L_{dn} of 65 dBA (v 1, p 2-15);15.3 Noise Analysis (v 2, p 15-9). It appears from this table that (the Salem portion of) the Eugene to Portland segment qualifies for noise analysis. According to Table 1-13 (v 1, p 1-3), the number of trains on the railroad right-of-way in Salem, premerger and postmerger, are, 12.3 and 17.5, respectively. According to Table 2-7, this yields a postmerger receptor distance greater than 325' feet. Several sensitive receptor sites near the railroad right-of-way in Salem are within this threshold. The attached map (Figure 2) illustrates this. We suggest that (at least the Salem portion of) the Eugene-Portland segment be included in the noise analysis and that the recommended mitigation measures for noise addresses these areas.

2

Transportation Systems

2.3 Transportation Impacts (v 1, p 2-20); 1.2.1 Transportation/Transportation Systems (v 2, p 1-14); 1.2.6 Local/Regional Transportation Systems (v 2, p 1-26). The SEA "concludes that the only impact on local and regional transportation systems would be increased truck activity at intermodal facility locations." We are concerned that no mention of the impacts to automobile movement through grade crossings, particularly at heavily traveled ones. In our February 22, 1996, letter, we discussed how the railroad right-of-way crosses our east-west routes into the central business district. We suggest that the EA include a discussion of impacts to the local transportation systems due to increased activity on the railroad segments in this section.

3

15.4.2 Grade Crossings/Eugene to Portland (v 2, p 15-13). The EA did not provide enough information to document the findings in this section. Assuming they are correct, however, a queue of up to 35 vehicles and a delay of up to 2 minutes is a substantial impact to a city's transportation system. We recommend that this impact be documented in more detail in the EA and that mitigation measures are recommended for it.

4

Safety

2.4.1 Grade Crossings (v 1, p 2-22). We understand that the significant threshold for addressing safety and delay is 5,000 vehicles per day. We have included an illustration (Figure 1) that shows the average daily traffic at grade crossing in Salem. Note that most of them exceed the 5,000 vehicle per day threshold.

5

1.2.2 Safety/Highway/Railroad Grade Crossings (v 2, p 1-15). We urge the Board to make the "preliminary" mitigation measures final, and that Salem be included as an area in which the UP/SP must conduct safety analyses and develop mitigation plans.

6

2. The City's concern about potential noise impacts is acknowledged. The projected train volume changes for the City of Salem, Oregon are insufficient to trigger a noise analysis per Surface Transportation Board thresholds. Noise impacts may exist due to existing train traffic in the City of Salem. The noise analysis in the EA is focused on identifying impacts arising from the proposed merger, and not the total noise impact of all operations. The Day Night Level (L_{dn}) noise increase expected for pre- and post-merger train volumes of 12.3 and 17.5 trains per day is 1.5 dB. Changes of this magnitude are well below the threshold of 3 dB, so no mitigation is proposed. The change in total noise level for all sources, including the existing community noise, would be less. SEA's noise analysis methodology is described in Volume 1, Chapter 4 of the Post EA.

3. The City's concern about grade-crossing impacts is noted. In response to the City's request, SEA performed an additional traffic analysis at 17 at-grade crossings in Salem. The change in average per vehicle delay ranged from 1 to 2 seconds pre-merger values to 1 to 3 seconds post-merger values. The decrease in level of service associated with the post-merger level of freight operations is of a magnitude not requiring mitigation. See Volume 1, Chapter 4 of the Post EA for a description of the traffic analysis procedures.

4. In response to the request for information on the Eugene to Portland segment, an additional traffic analysis was conducted. The total time of blockage of at-grade crossings per day would increase from pre-merger blockage times of 20 to 28 minutes to post-merger blockage times of 28 to 40 minutes. Pre-merger maximum queue length values of 30 vehicles were determined, compared to post-merger values of 35 vehicles. These changes are modest and as such, no mitigation is proposed.

5. The information provided by Salem regarding existing traffic volumes at the Salem grade crossings was incorporated in the Post EA traffic analysis. See responses to comments 3 and 4.

Elaine K. Kaiser
May 1, 1996
Page 3

15.5.1 Grade Crossing Safety (v 2, p 15-14). The spread of projected grade crossing accidents, from +42 percent to -7 percent, is wide enough to warrant a more detailed explanation of it. We suggest that the EA further address the locations where significant increases in accidents are projected (e.g., locations where increases of 10 percent or more are projected), and that appropriate mitigation measures be recommended. 6

Energy

2.5 Energy Impacts (v 1, p 2-25); 1.2, Energy (v 2, p 1-22). The EA does not provide an analysis of the increased energy use by automobiles due to added idling at grade crossings. We suggest that this issue be addressed in the EA. 7

Recommended Mitigation Measures

6.0 Overview of Environmental Recommendations and Proposed Mitigation Measures (v 1, p 6-1). We appreciate that the recommended mitigation measures include coordination with local agencies on issues of local concern. We recommend, however, that time-certain deadlines for initial consultations and final action plans be included with these recommendations so that local agencies will be assured of timely response by UP/SP. We also strongly urge the Board to include a process in the EA appeals or mediation, if local agencies and the UP/SP cannot agree on the appropriate mitigation measures. We ask that this recommendation be expanded to all recommended mitigation measures where the UP/SP is to meet with local agencies. 8

15.8 SEA Recommended Mitigation/Air Quality (v 2, p 15-16). The recommended mitigation measure should include addressing the air quality impacts due to idling vehicles at grade crossings. 9

15.8 SEA Recommended Mitigation/Noise (v 2, p 15-16). We appreciate that the EA includes the Eugene-Portland segment in Bullet 1 of this section, even if it were not in the noise analysis sections.

15.8 SEA Recommended Mitigation/Transportation and Safety (v 2, p 15-17). The EA should also have a time-certain deadline for the UP/SP to meet with local agencies and report back to the SEA. 10

Suggested Mitigation Measures

We have been inf[redacted]ned that providing suggested mitigation measures to the SEA would be appropriate. The r[redacted]ommended mitigation measures included in the EA have been satisfied with the provision that time-certain deadlines and an appeal or mediation process be added to the measures.

Miscellaneous Comments

2.0 Impact Areas (v 1, p 2-1). We were disappointed that the Environmental Assessment did not address the proposed merger's impacts to sensitive land uses. As described in our letter of February 22, 1996, there are several institutional, historic, and park land uses next to the railroad 11

6 SEA has noted the City's comment on mitigation. The accident exposure index calculated for 17 at-grade intersections is projected to increase from a pre-merger annual value of 0.92 accidents to a post-merger annual value of 1.43 accidents. SEA's recommended mitigation measures to reduce accident potential at these crossings are described in Volume 1, Chapter 5 of the Post EA.

7 Energy impacts were addressed on a nationwide basis in the EA. SEA's review of data indicates that any additional energy (fuel) that may be attributable to increased vehicles idling at intersections would be more than offset by the increased energy efficiency of the proposed merger. See discussion of merger wide energy benefits in Volume 1, Chapter 2 of the Post EA.

8 The City's recommendation to establish time limits for mitigation and mediation is noted. SEA is recommending specific mitigation where warranted (see Volume 1, Chapter 5 of the Post EA).

9 Please refer to response provided for comment #1 of this letter.

10 Please refer to response to comment #8.

11 Concern about impacts to land use is noted. The analysis presented in the EA focuses on the compatibility of any changes associated with the proposed merger to existing land uses. The proposed merger does not introduce new rail lines in Salem, but only changes the use of lines. SEA concludes that existing relationships between the rail line and all adjoining land uses would remain constant. Impacts to land uses are addressed via the noise assessment process.

CITY OF ABILENE

Together We Make A Difference

RECEIVED
OFFICE OF ECONOMICS
DIRECTOR'S OFFICE
MAY 30 11 28 AM '96
RECEIVED
SURFACE TRANSPORTATION
BOARD

May 21, 1996

Mr. Joseph Springer
Transportation Planner
De Leuw, Cather & Company of Virginia
11320 Random Hills Road, Suite 100
Fairfax, Virginia 22030

Dear Mr. Springer:

Several key City employees passed on comments to your representatives, Matthew Royce and George N. Pierce, concerning the affect the upcoming railroad merger will have on Abilene. As per your instructions, I have listed their comments below:

Increase of Trains Will Increase:

- Noise. 1
- Time the at-grade crossings are blocked. 2
- Hazardous material passing through Abilene. 3
- Chance of derailment.
- Trains having to pass each other that will block tracks even longer. 4
- Traffic signals transitioning into and out of railroad preemption causing loss of vehicle progression on the arterial streets on each side of the tracks. N. 1st Street (17,000 vehicles per day) is approximately 100 feet north and parallel to the tracks and S. 1st Street (22,000 vehicles per day) is approximately 100 feet south and parallel to the tracks. 5

1 As a result of comment #10 of this letter, SEA consulted with the Applicant to verify the train counts contained in the EA. The results of SEA's re-examination of the train counts are reported in the response to comment #10. As noted, the increase in train operations along the Fort Worth to Big Spring line segment is below the Board's environmental threshold for noise analysis.

2 Post EA analysis of the average vehicle delay for the at-grade crossings in Abilene would increase from pre-merger values of one to two seconds to post-merger values of two to three seconds. The decrease in level of service associated with post-merger level of freight operations is such that it would not require mitigation. Volume 1, Chapter 4 of the Post EA includes a discussion of traffic delay and level of service.

3 The City of Abilene's concerns regarding hazardous materials and derailments are acknowledged. SEA has conducted an independent analysis of the movement of hazardous materials throughout principal corridors of the proposed merged UP/SP route system. A description of the methodology for this analysis is contained in Volume 1, Chapter 4 of the Post-EA. The post-merger risk posed by the movement of hazardous materials through this region was found to be within the range of historical traffic fluctuations experienced by the railroad industry. Volume 1, Chapter 5 of the Post-EA describes SEA's recommended systemwide mitigation measures.

4 Refer to the response provided for comment #2 of this letter.

5 The total 24-hour blockage time of Abilene at-grade crossings intersections will increase from pre-merger values of 23 minutes per day to post-merger values of 36 minutes per day, a daily increase of 13 minutes. The progression delay at intersections on parallel roadways under post-merger conditions would be pre-empted by train crossings 16.5 times a day rather than the 10.5 times currently experienced. SEA views this increase in pre-emptions as not substantial and as such no mitigation is proposed.

6 SEA has no jurisdiction regarding future railroad management decisions pertaining to levels and geographic coverage of freight service. These issues would be addressed at the time of the proposed changes, if appropriate.

Mr. Joseph Springer
May 21, 1996
Page 2

Other Concerns:

- Should new management decide to shut down some portions of the track, truck traffic would increase, to carry the freight no longer carried by the railroad, causing roads to deteriorate faster. 6
- Railroad has been slow (2-4 years) to install gate arms even after money has been appropriated. 7
- New and better technology is available but not being used by the railroad to increase safety and efficiency at the at-grade crossings. 8
- Traffic signal malfunctions and lack of flexibility due to antiquated equipment. 9

The Environmental Assessment lists a pre-merger condition of 2.5 trains per day operating on Union Pacific tracks between Fort Worth and Big Spring in Texas. The Environmental Assessment does not address Santa Fe's use of tracks between Fort Worth and Sweetwater. The Texas Department of Transportation lists current combined Union Pacific/Santa Fe trains operating on Union Pacific tracks through Abilene area at 16 trains per day. This significantly changes calculations of noise impacts and traffic delays. 10

Attached are grade separation layouts and a traffic count map. If I can provide additional documentation or information, please contact me at (915) 676-6280.

Sincerely,

Jon Krieg

Jon Krieg, P.E.
Traffic Engineer

JK:kb
Attachments

7 The concern raised by Abilene that the railroad has been slow to install gate arms even after money has been appropriated is acknowledged. This issue is not under the jurisdiction of the Surface Transportation Board. The respondent should forward this concern directly to the railroad.

8 The statement that new and better railroad technology, although available, is not being used to increase the safety and efficiency of at-grade crossings is acknowledged. This issue is not under the jurisdiction of the Surface Transportation Board. The respondent should forward this concern directly to the railroad, who is responsible to maintain at-grade crossings according to Federal Railroad Administration standards and guidelines.

9 The City's concern regarding traffic signal malfunctions and lack of flexibility due to antiquated equipment should be forwarded directly to the railroad. This issue does not fall within the jurisdiction of the Surface Transportation Board.

10 The current UP daily train count is 10.5, including 6 BN/Santa Fe trains operated on pre-BN/Santa Fe merger trackage rights. The adjusted 1994 train count, shown as 2.5, is lower for 3 reasons:

- In 1994, a Ft Worth - Sweetwater pair of through trains was not being operated. This train service has subsequently been restored.
- UP local freight trains and ATSF trains are not shown in the table; BN/Santa Fe operates about 6 trains.
- The BN/Santa Fe trains operated between Ft. Worth and Sweetwater under an agreement that preceded the BN/Santa Fe merger were not shown.

An explanation for the difference between this count and the Texas DOT count of 16 trains might be the inclusion of various movements made by a local stationed at Abilene to switch industries. This is not included in the train counts.

Post merger traffic is projected to be 19.5 trains per day. This includes the 6 BN/Santa Fe trains, 3 of which the BN/Santa Fe intends to reroute on a former BN line from Saginaw to Amarillo. The rerouting is pending construction by BN/Santa Fe of a new connection at Saginaw. This will result in an "adjusted" post-merger total of 16.5 trains a day compared to a pre-merger count of 10.5 trains per day.

As a result of these factors, the Ft. Worth - Big Spring line segment does not meet the Board's threshold for environmental review.

BILL JOHNSON
COUNTY JUDGE, CALLAHAN COUNTY
BAIRD, TEXAS 79504
915-854-1155

April 18, 1996

Harold McNulty, Environmental Specialist
Surface Transportation Board
1201 Constitution Ave., NW
Washington, D. C. 20423

Re: Finance Docket 32760

Dear Mr. McNulty:

In reviewing the Environmental Assessment for the proposed merger of Union Pacific Corporation and Southern Pacific Corporation, there are a couple of areas of concern to Callahan County.

The City of Clyde has several grade crossings but no access from one side of the business district to the other side when the trains are proceeding through town or on the occasions the trains are stopped in town. Emergency vehicles have no access across the tracks, creating a very dangerous and life threatening situation. The increase of 9 trains a day will magnify this problem. 1

One of the other concerns is the noise pollution problem. The number of Sensitive Receptors will increase to an undesirable level. 2

Of course, the increased emission is always a concern to all the citizens but especially to the elderly population. Clyde's population consists of a significant number of elderly people. 3

Your attention to these matters is appreciated.

Sincerely,

Bill Johnson

1 SEA has noted the concern for safety and emergency response as the result of increased train traffic. This rail segment (Big Spring to Fort Worth) contains 132 grade crossings, two of which are in Clyde. Average daily traffic at each crossing is less than 5,000 vehicles per day. Post-merger vehicle daily average delay per vehicle is 1 second. The associated change in level of service is not of a magnitude to require mitigation. Because of the relatively low volume of traffic at the two crossings in Clyde, construction of grade-separated crossings is not warranted. See Volume 1, Chapter 4 for a discussion of grade crossings and level or service.

2 Based on comments received from the City of Abilene, Texas which questioned the current number of trains operating between Forth Worth and Big Spring, SEA re-evaluated the Applicant's train counts (see comment #10 - City of Abilene). The revised train traffic data for this rail line indicated that changes in train volumes do not exceed the Board's environmental thresholds, and thus, did not warrant a noise analysis.

3 SEA recognizes concern regarding the potential effects of increased emissions to the community's elderly population. However, as reported in comment #2, the changes in train volumes did not exceed the Board's environmental thresholds, and thus, did not warrant air quality analysis.

HGAC
Houston-Galveston Area Council
PO Box 22777 • 3555 Timmons • Houston, Texas 77227-2777 • 713/627 3200

March 21, 1996

Tom Adams
Governor's Office Budget and Planning
P O Box 12428
Austin, Texas 78711

Dear Tom:

Carl Masterson, our Environmental Program Coordinator, has indicated that he has no concerns regarding the addendum to the Environmental Report for the application for merger of the Union Pacific and Southern Pacific Railroads (as per attached). 1

Thank you for keeping us informed.

Sincerely,

Rowena Ballas
Administrative Assistant

rb
attachment

TX-R-95-09-29.0002-50-00

Recycled

1 SEA acknowledges the Houston-Galveston Area Council's comment that it has no concerns regarding the proposed merger.

RECEIVED

CITY OF SEALY
MUNICIPAL CENTER
409/885-3511 • Fax 409/885-3513 • P. O. BOX 517 • SEALY, TEXAS 77474

March 28, 1996

Mr. Tom Adams
Governor's Office of Budget and Planning
P.O. Box 12428
Austin, Texas 78711

RE: TX-R-95-09-29-0002-50-00
Environmental Audit Information for Merger of the Union Pacific and Southern Pacific Railroads

Dear Mr. Adams:

Please accept the following comments in regard to the merger of the Union Pacific and Southern Pacific Railroads with respect to Sealy, Texas.

- The described work pertaining to the construction of the two new turnouts and the map supplied are very general. It is very difficult to give detailed information without site specific information. 1
- Three park land locations are found within the general map location supplied. The parks are generally located within two to three block distances from the Union Pacific Railroad. The park names and locations are as follows: Eastside Park, 198 Daniels Street; B&PW Park, 100 Lux Street; and Lions Club Park, 410 Main Street. 2
- The proposed turnouts appear to require the crossing of State Highway 36. This roadway is a designated evacuation route for the Texas Gulf Coast Area. Concerns have been raised over the potential impacts the merger will have on the State Highway 36 crossing. Increased blockage of the crossing will certainly have adverse affects on the traffic flow along State Highway 36. These will only be compounded if an evacuation of the area is required. 3
- The proposed turnouts will be located near the downtown area of the City. This is an area deeply enriched with history of the City. Many of the homes, businesses, school sites, and properties in this area are listed as historical sites. 4
- The proposed turnout construction may also affect the City water, sewer, and natural gas utilities. To what extent is difficult to determine from the general map, but numerous City utilities can be found in this area. 5

1 SEA acknowledges the City of Sealy's comment. The cited information was not provided by SEA.

2 SEA acknowledges the comment on parklands. Locations of park lands near the proposed construction were confirmed by a field visit.

3 SEA acknowledges the concern about potential crossing of Highway 36. The proposed construction is west of Highway 36 and should not affect it.

4 SEA acknowledges the comment on the location of the proposed connections. The Applicant will be required to comply with all Federal, state, and local regulations. Consultation about potential impacts to historic resources has been initiated with the Texas Historical Commission.

5 SEA acknowledges the comments on utilities. The Applicant will be required to comply with all Federal, state, and local regulations prior to construction.

Mr. Tom Adams
March 28, 1996
Page Two

- The proposed turnout construction will also affect drainage in the area. Historically, the railroads have not done a very good job of maintaining the integrity of drainage systems. Railroad workers have traditionally failed to consider the effects which changes to the natural drainage system will have on nearby property owners. 6

- Several of the grade crossings in the area do not have any type of warning devices. These crossings are regularly used by pedestrians, cars, trucks, and school buses. Consideration should be given to the installation of crossing gates. 7

In closing, I hope the above listed comments will be useful. If you have any questions or need any additional information, please feel free to contact me at (409)885-3511.

Sincerely,

Betty Reinbeck

Betty Reinbeck
Mayor

JM/kj

c: Roger Carlisle, City Administrator

6 SEA acknowledges the comment on drainage. The Applicant will be required to comply with all Federal, state, and local regulations, including drainage requirements.

7 SEA acknowledges the comment on grade crossing warnings. As cited throughout the EA, the Applicant must comply with Federal Railroad Administration Standards (49 CFR Parts 213 and 214) concerning grade crossing safety.

409/598-3683
Fax 409/598-3148

Floyd A. "Dock" Watson
COUNTY JUDGE - SHELBY COUNTY

200 Sth Augustine St., Box
Center, Texas 75935

March 29, 1996

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

Attention: Julie Donsky, Environmental Scientist

Dear Ms. Donsky:

Thank you for your letter of March 26, 1996 in regard to the Environmental Report prior to the merging of the Southern Pacific and Union Pacific Railroads.

As far as we can tell at this time, there will be no concerns in the Shelby County area. The track running from Shreveport, Louisiana to Lufkin, Texas runs in the far northwest corner of the county and continues along the Shelby-Panola County line until it runs into Louisiana. 1

As was mentioned in our previous letter, the crossings here in Shelby County are so obscure due to the underbrush in some areas, they are hazardous. 2

Thank you for your concern in our county.

Sincerely,

Floyd A. Watson
County Judge
Shelby County

FAW:ph

1 SEA acknowledges Shelby County's position that the proposed merger would be of no concern.

2 The County's concern for the condition of at-grade crossings is a maintenance issue that is not within the jurisdiction of the Surface Transportation Board. This concern shall be submitted directly to the Applicant.

WEBER COUNTY

COUNTY COMMISSION

Bruce H. Anderson
Commissioner

Joe H. Talbot
Commissioner

Spencer F. Stoker
Commissioner

December 27, 1995

Vernon A. Williams
Secretary
Interstate Commerce Commission
12th & Constitution Ave., NW
Washington, D.C. 20423

Re: **Docket No. AB-33 (Sub-No. 99X), Union Pacific Railroad Company -- Abandonment Exemption -- Little Mountain Jct. - Little Mountain Line In Box Elder and Weber Counties, Utah**

Dear Mr. Williams:

This comment is to serve as Weber County's notice of intent to participate in the above named docket proceeding. This comment is filed on behalf of Weber County, a political sub-division of the State of Utah, that is interested in transportation, natural resources and the conservation thereof and public recreation.

While not taking a position on the merits of this abandonment, Weber County requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between mile 0 and mile 12 of the Little Mountain Jct. to Little Mountain, UT Line.

A. **Public Use Condition**

Weber County requests the ICC to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. A provision prohibiting the carrier, Union Pacific Railroad, from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the rail corridor in question exists along a scenic portion of the Great Salt Lake and could potentially provide important recreational use to a significant portion of Weber County. Further, the rail corridor in question exists along a stretch of important marsh wildlife habitat, and could potentially provide both habitat to wildlife and access to habitat for sportsmen. The time period sought is 180 days for the effective date of abandonment authorization. Commenter needs this time in order to complete a recreation use plan for the corridor and to commence negotiations with the carrier.

1

County Commission
2549 Washington Blvd.
Suite 204
Ogden, Utah 84401
(801) 399-8401
FAX (801) 399-8395

1,2 SEA acknowledges Weber County's request for a Public Use Condition and Notice of Interim Trail Use for the proposed abandonment between Little Mountain and Little Mountain Junction, Utah. Please refer to the general statement on Abandonments and Rails-to-Trails in Volume 1, Chapter 4 of the Post EA. SEA's general mitigation measures for abandonments are described in Volume 1, Chapter 5 of the Post EA.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts, etc. The time period requested for said order is also 180 days from the effective date of the abandonment authorization.

B. Interim Trail Use

The railroad right-of-way in question is suitable for railbanking. In addition to the public use conditions sought above, Weber County also makes the following request. 2

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 C.F.R. §1152.29, Weber County is willing to assume full responsibility for management of, and for any legal liability arising out of the transfer or use of, the right of way owned and operated by Union Pacific Railroad. Said willingness is conditional on an acceptable agreement being reached between parties of Weber County and The Union Pacific Railroad.

The property, known as the Little Mountain Line, extends from railroad milepost 0, near Willard, Utah (Box Elder County), to milepost 12, near Little Mountain, Utah (Weber County). The right-of-way is a line of railroad proposed for abandonment in ICC docked **AB-33 (Sub-No. 99X), Union Pacific Railroad Company.** A map depicting the right of way is attached.

Weber County acknowledges that the right of way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon the Union Pacific Railroad Company, by U.S. Mail, postage prepaid, first class, this 27 day of December, 1995.

Respectfully Submitted,

Spencer F. Stokes
County Commissioner

cc: Jeanna L. Regier, Union Pacific Railroad
Steve Emmett-Mattox, Rails to Trails Conservancy
John Knudson, Utah Division of Parks and Recreation

2 Refer to the previous page for response.

COALITION FOR COMPETITIVE RAIL TRANSPORTATION
MOBILIZATION OFFICE
1029 North Royal Street
Suite 400
Alexandria, Va. 22314
Office: (800) 814-3531 Fax: (800) 641-2255

May 3, 1996

Via Hand Delivery
Elaine K. Kaiser
Chief, Section of Environmental Analysis
Room 3219
The Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

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

Dear Ms. Kaiser:

Enclosed for filing in the above-captioned case are an original and ten copies of the Coalition for Competitive Rail Transportation's Request for Environmental Impact Statement identified as CCRT-10.

Respectfully Submitted,

John T. Estes
Executive Director

ORGANIZATIONS - COALITION FOR COMPETITIVE RAILS TRANSPORTATION

It is essential for the Surface Transportation Board (STB) to conduct an in depth and thorough environmental impact statement as part of its statutory evaluation of the proposed merger between the Union Pacific and Southern Pacific railroads (UPSP) or (Applicants). Such action is essential because: 1

1- This is the largest railroad merger in the history of the United States,

2- Thousands of cities and towns of all sizes will be affected,

3- Significant rail traffic will be rerouted resulting in new demands on both the existing transportation facilities and on emergency capabilities to cope with unforeseen accidental threats, hazardous spills and urban safety concerns, 2

4- There has been little or no evaluation of effective safety response capabilities on either a local or regional level,

5- Hundreds of miles of track is slated to be abandoned posing serious environmental degradation concerns,

6- Thousands of railroad employees will be laid off or reassigned posing serious training and safety related threats to both employees as well as the residents of the communities through which the affected railroads operate,

7- Currently approved municipal air and water pollution standards will be impacted as a result of an immense change in existing railroad traffic patterns which will in turn result in a cascade of additional changes in automotive and truck vehicular traffic pattern density levels, as sensitive surface transportation balances are altered, 3

8- Abandoned shippers must seek alternate transportation options placing new stress on the existing transportation infrastructure in numerous communities and regions of the country as well as resulting in potential land and water environmental damage to the vacated areas. 4

9. It is critical to a review of environmental considerations that the STB address the impact which result from the BNSF operations over the UP and SP tracks, and 5

10. It is respectfully submitted that it is the statutory responsibility of the STB in the public interest to address the cumulative environmental impact of the proposed merger as a whole (particularly where as here well over one half of the geographical area of the lower 48 states is involved) and <u>not</u> to merely target an analyses to separate geographical areas or regions. 6

2

1 SEA acknowledges the Coalition's position on the need for an EIS. SEA believes that an EIS is not appropriate or required. The EA identifies and evaluates impacts of the proposed merger and describes recommended mitigation measures to reduce potential impacts to below threshold of significance levels.

2 SEA recognizes the Coalition's concern about impacts of the proposed merger on transportation facilities and emergency response. SEA addressed these issues in the EA on a state by state basis. No adverse effects to transportation facilities were found. No impacts were found that would seriously compromise the provision of emergency services. In response to a request from SEA, the Applicant generated a more detailed output from its traffic model, which indicates the number of carloads of hazardous materials before and after the merger. Mitigation measures that are proposed for the transport of hazardous materials are reported in Volume 1, Chapter 5 of the Post EA.

3 SEA acknowledges the Coalition's concern about impacts to air and water quality. SEA addressed these issues in the EA on a state by state basis. No adverse effects were found on water quality. Impacts on air quality are reported in Volume 1, Chapter 4 of the Post EA. Mitigation measures are reported in Volume 1, Chapter 5 of the Post EA.

4 SEA recognizes the concern of the Coalition about impacts to infrastructure from shippers seeking alternate routes or impacts to land and water resources in areas of abandonment. Volume 3 of the EA reports truck diversions that are anticipated to occur as a result of rail line abandonments. No significant effects to the regional transportation system was identified for any of the proposed abandonments. Volume 3 also provides information on the effects to the environment that would accompany a rail line abandonment. No adverse effects were identified.

5 SEA notes the Coalition's concern that the effects of BN/Santa Fe traffic be assessed. The EA included BN/Santa Fe traffic over UP/SP lines in its basis of assessing potential impacts.

6 SEA recognizes the Coalition's position with regard to addressing cumulative environmental impact. Please refer to response to comment #1.

[redacted]

6

These are the very types of concerns that the National Environmental Policy Act was designed to address and which the STB must carefully weigh. These environmental threats cannot be cavalierly examined nor can they be farmed out for other agencies to resolve. This is an STB issue which the STB must resolve on the record before it.

In a filing with the STB dated April 29, 1996 identified as CCRT-4 and CCRT-5, the Coalition for Competitive Rail Transportation (CCRT), an independent shipper driven and managed coalition, several hundred statements were submitted from shippers in many areas of the country who utilize and rely on services from various railroads. In addition a large number of press articles has been provided as part of this filing to the STB. This information reveals in detail both the voluntary expressions of shipper environmental concern about the merger as well as an analysis by media spacialists trained in evaluating transportation issues.

Set forth herein is an annotated reference of those shipper environmental concerns keyed to the aforementioned CCRT filing. It is hoped the STB will agree that a review of this raw data will result in a decision, after considering the significant environmental damage that is expected from this shipper community, to aggressively pursue an environmental impact analysis.

It is earnestly hoped on behalf of shippers and communities whose only recourse is the protective shield of the STB that UPSP efforts will not succeed in bullying this merger through the evaluation process of the STB and leave in its wake not only a damaged environment, but also serious threats to the safety and welfare of innocent third parties.

Time is not of the essence in this merger application. It would be a disservice to the public interest to acquiesce in the persistent demands of the Applicants to rush this process in disregard of significant and far reaching issues affecting literally millions of people and their safety. What is of the essence is the health, safety and the preservation of environmental standards which need not be hurriedly and recklessly pushed aside and sacrificed in the interest of preserving the business objectives and plans of a very few individuals.

This statement is submitted on behalf of the members of CCRT who are engaged in shipping activities over the lines and in the geographical area covered by the proposed merger. They have a substantial interest in the outcome of this proceeding. Their comments which follow represent the day to day experience of men and women who are in the best position to assess the potential environmental harm which will result if the merger is approved as filed.

BEFORE THE SURFACE TRANSPORTATION BOARD

Union Pacific --
Control and Merger --
Southern Pacific

Finance Dkt. 32760

FURTHER COMMENTS OF
RAILS TO TRAILS CONSERVANCY
(RTC-10)

The proposed merger between Applicants Union Pacific (UP) and Southern Pacific (SP) will spawn approximately 600 miles worth of merger-related abandonments. In prior comments,[1] Rails to Trails Conservancy (RTC) observed that loss of these lines would represent a significant adverse environmental impact, as well as be contrary to the public interest. RTC called for the Board to issue terms and conditions, inter alia, to ensure that all lines are preserved under the federal railbanking statute (section 8(d) of the Trails Act, 16 U.S.C. § 1247(d)) where a qualified entity filed a "statement of willingness to assume financial responsibility" per 49 C.F.R. § 1152.29. RTC filed six such statements relating to lines in Kansas, California, Illinois and Colorado, and noted support for two additional statements filed with respect to an additional line in Madison County, Illinois.

In this paper, RTC responds to the Environmental Assessment ("EA") issued by the Board, and to the Applicants' Rebuttal.

1. The EA is deficient. The Surface Transportation Board's (STB's) EA is plainly inadequate. The document fails to

[1] Letter dated 16 February 1996 to Elaine Kaiser (STB) (RTC-2) commenting on environmental issues, and Comments and Conditions served March 29, 1996 (RTC-3).

ENTERED
Office of the Secretary
JUN 0 5 1996

1 SEA acknowledges the Conservancy's position that abandonments should be conditioned upon preservation of rights-of-way for railbanking, interim trail use and other compatible public use has been reviewed by SEA. Please refer to the general statement on Rails-to-Trails and public use in Volume 1, Chapter 4 of the Post EA.

mention, let alone consider, railbanking under section 8(d) of the Trails Act as an alternative to outright abandonment. Moreover, the document fails to consider the advantages of railbanking and interim trail use as a means to mitigate the adverse impacts flowing from outright abandonment.

Outright abandonment of many of these corridors will pose serious adverse environmental impacts. For example, loss of the Tennessee Pass line through outright abandonment[2] would increase development pressures along the pristine Arkansas River, potentially destroying prime habitat as well as detrimentally impacting a world-class recreational area.

Additionally, many parties to the merger proceeding, including the Justice Department, are complaining of adverse impacts on competition flowing from the merger. A clear means to mitigate those impacts is to railbank at least some of the key rail corridors proposed for abandonment,[3] so that service might be reinstituted over those corridors in the future should traffic demand or competitive needs so warrant.

The Board's EA fails to reference any of these issues,

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[2] Abandonment of the Tennessee Pass line is proposed in AB-12 (Sub 189X), SP, Sage to Leadville (69.1 miles) and AB-12 (Sub 188), SP, Malta to Canon City (109.0 miles).

[3] For example, the Tennessee Pass line, as well as AB-12 (Sub 184X), SP, Alturus to Wendel, CA (86.5 miles), and AB-3 (Sub 130), UP, Towner to NA Junction (122.4 miles) could serve as a route for a major east-west railroad. Portions of the former C&NW mainline in Illinois proposed for abandonment could serve as a north-south route in the future.

1

2

1 Refer to the previous page for response.

2 SEA recognizes the Conservancy's concern for potential impacts of abandonment. SEA's analysis did not indicate adverse impacts for abandonments. Development is regulated by the local governmental planning offices.

despite our timely admonitions to the contrary.[4]

2. Applicants' claim that STB lacks authority to impose effective abandonment conditions in merger proceedings is incorrect. RTC of course appreciates the fact that Union Pacific (UP),[5] with the exception of the three key Colorado abandonments,[6] has consented to negotiate under section 8(d) of the Trails Act where "statements of willingness" have been filed.[7] However, UP takes the position that once a NITU or CITU has been issued, arrangements for actual corridor preservation are at the railroad's whim, even in a merger proceeding.

The Board has broad power to condition abandonments in the public interest,[8] and this power is especially strong in "equitable" proceedings such as merger proceedings. For example, in a finance docket proceeding giving rise to Seattle's

3

3 SEA acknowledges the Conservancy's position on that the Board has the power to require railbanking.

---

4 See 16 Feb. 1996 Letter to Elaine Kaiser (STB).

5 Applicants' sole response to RTC's initial comments as well as all trails requests appears to be at pp. 27-31 of Tab G of Volume 3 of Applicants' Rebuttal filing dated April 29, 1996.

6 See Applicants' Rebuttal, vol.3, Tab G, p. 27.

7 UP apparently expects to decline to railbank any of the Colorado corridors unless Colorado consents. RTC supports all efforts by Colorado to preserve the proposed merger-related abandonment lines in Colorado under the federal railbanking statute. We expect to cooperate with Colorado in that regard. However, should Colorado elect not to proceed with railbanking of one or more of those lines, UP should nonetheless be prepared to work out a railbanking arrangement with other qualified parties. Should Colorado express no interest in proceeding, the public interest still favors railbanking the Colorado lines over outright abandonment.

8 E.g., Consolidated Rail Corp. v. ICC, 29 F.3d 706, 714 (D.C. Cir. 1994) (broad powers to impose conditions under the public convenience and necessity standard).

Burke-Gilman Trail, this Board's predecessor specifically provided for mandatory arbitration to set any disputed terms and conditions of transfer of an otherwise to be abandoned rail corridor for trail use. Burlington Northern RR Co.--Abandonment -- Fremont & Kenmore, King County, WA, ICC Fin. Dkt. 26638, served April 14, 1973.

Many of the parties to this proceeding call for this Board to require the disposition of UP/SP properties eitner for a new east-west rail carrier, or for a addition to existing north-south rail carriers (Texas to Illinois routes). Clearly where the Board has power to condition a merger on compulsory sale of certain assets to third parties for continued rail use, the Board must have the power to condition a merger on some kind of required transfer for railbanking and related public uses as well. Nothing in the language of section 8(d) of the Trails Act, or in former 49 U.S.C. § 10906 (now recodified to § 10905), limits the agency's role or power to protect the public interest in the context of a merger. While STB's predecessor chose to limit its authority in the non-merger abandonment context, STB clearly still retains broad powers to require railbanking in a merger. UP/SP's argument to the contrary is thus not a proof, but instead wishful thinking.[9]

[9] Similarly, Applicants' claim that the Board can only impose conditions fostering preservation for public use for 180 days is ill-taken. If this limitation were applicable, then presumably STB could require disposition of assets for continued east-west or north-south rail ure to other carriers, but only for 180 days, at the end of which they too would go back to the merged railroad.

3

3 Refer to the previous page for response.

In the merger context, STB is required to act in the public interest, allowing the merger only if it is in the public interest, and then pursuant to conditions mitigating deleterious effects. Loss of the corridors proposed for abandonment in this merger will result in significant deleterious effects. Unless mitigated, these effects are grounds for denial of the merger. Contrary to Applicants' claims, STB has power to mitigate these effects, and should employ that power if the merger is approved.

Ensuring the preservation of otherwise to be abandoned railroad corridors for future use is an important public interest objective that must be served in the event of merger approval:

> "To assemble a right of way in our increasingly populous nation is no longer simple. A scarcity of fuel and the adverse consequences of too many motor vehicles suggest that society may someday have need either for railroads or for the rights of way over which they have been built. A federal agency charged with designing part of our transportation policy does not overstep its authority when it prudently undertakes to minimize the destruction of available transportation corridors painstakingly created over several generations."

Read v. Resor, 487 F.2d 646, 649-50 (1st Cir. 1973). Preserving railroad corridor as trails accomplishes a variety of goals. This was underscored by the Council on Environmental Quality (CEQ) in one of its annual reports: "Converting railroad rights-of-way to trails is an example of an action that can affect transportation, energy efficiency, natural resources and historic preservation." CEQ, Environmental Quality: 21st Annual Report 188 (1991). Preserving rail corridors as trails

3

3. Refer to the previous page for response.

STB FD-32760 6-24-96 K ID-EISV2A 13 of 13

is "a remarkably efficient and sensible way" of achieving the twin goals of (a) preserving rail corridors for possible future rail use, and (b) fostering public recreational opportunities. Preseault v. ICC, 853 F.2d 145, 150 (2d Cir. 1988), aff'd, 494 U.S. 1 (1990). Any merger approval should be conditioned to require railbanking where a qualified entity steps forward and is prepared to assume financial, tort, and managerial responsibility. The public interest will thereby be advanced, and no undue burden imposed on the merged railroad.[10]

Conclusion

This Board must protect the public interest by conditioning any merger approval to foster the railbanking of otherwise to-be-lost rail corridors.

Respectfully submitted,

Charles H. Montange
426 NW 162d St.
Seattle, WA 98177
(206) 546-1936
counsel for Rails to Trails Conservancy

Of counsel:
Andrea Ferstar, Esq.
Simon S. Kristoff, Esq.
Rails to Trails Conservancy
1400--16th St., N.W., #300
Washington, D.C. 20036
(202) 797-5400

1 June 1996

10 UP/SP's claim (Vol. 1, Tab G, p. 27 n.27) that toxic contamination on the Tennessee Pass corridor is not a merger issue even though the abandonment is merger-related is not logical. Environmental issues which relate to merger-related abandonment proposals are merger-related.

3

3 Refer to the previous page for response.

BEFORE THE SURFACE TRANSPORTATION BOARD

Union Pacific --
Control and Merger --
Southern Pacific

Finance Dkt. 32760

MAR 30 1996

COMMENTS AND CONDITIONS
on behalf of
RAILS TO TRAILS CONSERVANCY
in connection with
ABANDONMENT-RELATED ISSUES
including
MOTION FOR WAIVER OF CERTAIN SERVICE REQUIREMENTS

These comments are on behalf of Rails to Trails Conservancy, a nation-wide non-profit corporation dedicated to fostering the preservation of otherwise-to-be abandoned railroad corridors for possible future rail use ("railbanking"), and for other compatible public purposes, including interim use as trails. RTC has approximately 70,000 members, with members in every State affected by this merger proceeding.

I. Summary of Position

RTC at this time does not take a position on the merger per se. RTC is, however, concerned about the various merger-related abandonments identified by the merger partners, Union Pacific (UP) and Southern Pacific (SP). In order to mitigate adverse impacts flowing from the merger, appropriate conditions should be imposed to ensure that opportunities are maximized to preserve otherwise-to-be abandoned rail corridors for railbanking, interim trail use, and other compatible public uses pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d). In addition, appropriate public interest, public use, environmental, and historic preservation conditions

1

2

1 SEA acknowledges the Conservancy's position that abandonments should be conditioned upon preservation of rights-of-way for railbanking, interim trail use and other compatible public use.

2 Other public interests have been provided opportunities to comment on the proposed merger; many were included in the environmental consultation process, as shown by the listing of contacts in Volume 5 of the EA. SEA is recommending that the Board impose various environmental and historic preservation conditions if the merger is approved (see Volume 1, Chapter 5 of the Post EA).

should be imposed.

In the absence of the conditions sought herein, STB approval of the merge would constitute a major federal action with significant adverse environmental impacts. STB under the circumstances would be barred from authorizing the merger until an environmental impact statement (EIS) is prepared, circulated for comment, finalized, and available for consideration by the agency before it acts upon the merger application. 42 U.S.C. § 4332. In the event the impacts of the merger-related abandonments are mitigated by the issuance of (i) Certificates or Notices of Interim Trail Use (CITU's in application abandonment proceedings or NITU's in exempt abandonment proceedings)[1] and (ii) conditions as provided herein, the potential adverse impacts would be so contained as to support the position that an EIS unnecessary.

Consistent with the above, RTC is currently prepared to support the merger in the event measures consistent with preserving otherwise-to-be abandoned corridors are adopted by STB or agreed upon by UP.

II. Railbanking

RTC realizes that continued freight rail service in general takes precedence over railbanking, interim trail use, and alternative public use of otherwise-to-be abandoned rail corridors. RTC of course does not object to continued freight rail service, or acquisition of rail corridors for that purpose,

[1] See 49 C.F.R. § 1152.29.

3 SEA acknowledges the Conservancy's position on the need for an EIS. Please refer to the general statement on environmental assessment in Volume 1, Chapter 4 of the Post EA.

4 The Conservancy's filing of Statements of Willingness, requests for Certificate of Interim Trail Use or Notice of Interim Trail Use for proposed abandonments in California, Colorado, Illinois and Kansas is acknowledged. The Surface Transportation Board will consider these actions in the decision process.

where such service can be provided in an economically competitive and responsible manner. In light of merger-related economics, RTC believes that, for the most part, the bulk of the lines proposed for merger-related abandonment are not strong candidates for current freight rail service. Nonetheless, the corridors in question constitute important and historic rail lines which may be of vital importance as our Nation's population and economy continues to expand. In conjunction with the merger, UP and SP propose that approximately 600 miles worth of these traditional and unique rail corridors be abandoned. Railbanking and interim trail use will assist in preserving these corridors for the future at no cost to the railroads or their shippers. Furthermore, many of the corridors proposed for abandonment constitute excellent recreational resources in their own right (e.g., the "Tennessee Pass" line from Sage to Canon City) or can be important connections in a larger trail network netting together state-wide or nation-wide trail systems. RTC accordingly supports railbanking of as many of these corridors as possible, and in all instances where a qualified agency or public interest organization is prepared to assume managerial, legal and tax (if any) responsibilities.[2]

1. Specific lines. RTC files herewith "statements of

[2] Railbanking is also compatible with proposals for use of portions of some of these lines (e.g., the Tennessee Pass line through the Royal Gorge near Canon City, Colorado) for excursion rail purposes. RTC is prepared to work with parties interested in such joint use of the corridors consistent with overall preservational objectives.

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4 Refer to the previous page for response.

willingness" invoking section 8(d) of the Trails Act, and requests the issuance of a Certificate of Interim Trail Use (CITU) or Notice of Interim Trail Use (NITU) as appropriate, with respect to the following lines:

California

AB-12 (Sub 184X), SP, Alturus to Wendel, 86.5 miles

Colorado

AB-12 (Sub 189X), SP, Sage to Leadville, 69.1 miles

AB-12 (Sub 188), SP, Malta to Canon City, 109.0 miles

AB-3 (Sub 130), UP, Towner to NA Junction, 122.4 miles

Illinois

AB-33 (Sub 96), UP, Barr to Girard, 38.4 miles

Kansas

AB-3 (Sub 131), UP, Hope to Bridgeport, 31.2 miles

In addition, RTC supports the issuance of Notices of Interim Trail Use pursuant to section 8(d) applications filed by, inter alia, Madison Transit with respect to the following two proceedings in Illinois:

AB-33 (Sub 98X), UP, Edwardsville to Madison, 15.0 miles

AB-33 (Sub 97X), UP, DeCamp to Edwardsville, 14.6 miles

2. Special provision in CITU's and NITU's. It is RTC's understanding that UP plans to continue service on many lines for which merger-related abandonment is sought for a year or more post-abandonment authorization. UP intends to continue service or use for this period in order to ensure an orderly reconfiguration of operations. Because operations are likely to

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4 Refer to the previous page for response.

5 The Conservancy's support for the Notice of Interim Trail Use filed by Madison Transit is acknowledged.

6 The Conservancy's request that Certificates of Interim Trail Use or Notices of Interim Trail Use be extended for a two-year period is noted. Please refer to SEA's general statement on rails-to-trails and public use in Volume 1, Chapter 4 of the Post EA.

continue for a substantial period on many of these lines, it is prudent to issue the requested CITU's and NITU's not for the customary 180 days (subject, of course to extension) but instead for a two-year period. This period should be sufficient for UP to conclude its operations on the line, and to permit the completion of railbanking agreements without need to return to STB for extension orders. 6

J. Motion in connection with statements of willingness. RTC is serving 20 copies of the identified RTC "statements of willingness" upon STB, as well as serving the railroads, in conformity with regulations appearing at 49 C.F.R. § 1152.29. However, service of all these "statements" upon all parties to the merger proceeding is burdensome and almost certainly a matter of total irrelevance to almost all such parties. In order to avoid an unnecessary and unwarranted burden, RTC hereby specifically moves, pursuant to 49 C.F.R. § 1110.9, that 49 C.F.R. §1104.12 (service on all parties to the proceeding) be waived for purposes of the "statements of willingness," and instead that RTC be granted leave to file the "statements" with STB (a) with service at this time only on representatives of UP and SP so long as (b) RTC makes the statements available promptly to any other party to this proceeding requesting them.

III. Public Interest Conditions

A. Conditions Sought

The STB enjoys broad powers to impose conditions in merger proceedings to protect the public interest pursuant to statutes

6 Refer to the previous page for response.

such as 49 U.S.C. § 11346 (1995), as well as traditional sources of conditioning power in abandonment proceedings such as 49 U.S.C. § 10906 (recodified to § 10905 by the ICC Termination Act). Railroad corridors are unique assets, which are virtually impossible to reassemble once lost.[3] While a benefit of the merger may be economies resulting from an ability to cease current operation of particular lines, and while such economies may constitute a public benefit, loss through abandonment of approximately 600 miles of difficult-to-assemble rail corridor, much of which has previously served as mainline rail corridor for major carriers, constitutes a grave threat to the public interest in preserving transportation corridors. Measures must be taken to ensure that these corridors are preserved wherever this may be possible without significant cost to the merging carriers. Consonant with this objective, and in order to protect the public interest, RTC requests that STB impose several conditions on all merger-related abandonments. None of the requested conditions pose significant costs on the merging carriers. Moreover, all the conditions may be helpful in preserving the corridors in question, and the benefits of the

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[3] "[T]o assemble a right-of-way in our increasingly populous nation is no longer simple. A scarcity of fuel and the adverse consequences of too many motor vehicles suggest that society may someday have need either for railroads or for the rights-of-way over which they have been built. A[n] ... agency charged with designing part of our transportation policy does not overstep its authority when it prudently undertakes to minimize the destruction of available transportation corridors painstakingly created over several generations." Reed v. Meserve, 487 F.2d 646, 649-50 (1st Cir. 1973).

7 The Conservancy's position that abandonments should be conditioned upon preservation of rights-of-way for railbanking, interim trail use and other compatible public use has been reviewed by SEA. Please refer to the general statement on rails-to-trails and public use in Volume 1, Chapter 4 of the Post EA.

conditions easily outweigh any burdens attributable to them.

In particular, RTC requests the issuance of the following conditions:

1. Preserve Surface Transportation Board (STB) jurisdiction to issue "railbanking" or other appropriate orders over all merger-related abandonments for a period of 180 days following the date UP actually ceases to use the line in question, and otherwise consummates any abandonment authority received from STB. 8

2. Bar UP from disposing or otherwise transferring (other than for public use) any real estate interests, bridges, culverts, or similar structures for a period of 180 days following the date UP actually ceases to use the line in question, and otherwise consummates any abandonment authority received from STB. 9

It is RTC's understanding that possible toxic contamination exists on or adjacent to the "Tennessee Pass" line in Colorado.[4] The presence of Superfund sites, or known toxic contamination, can be detrimental to all parties, including the railroad, in the context of abandonment proceedings.[5] Some baseline information on the corridor is vital to ensure that a timely railbanking arrangement can be reached, and to ensure that the

[4] In particular, it is RTC's understanding that there are three Superfund sites along or near the corridor: the California Gulch Superfund Site in Leadville, the Eagle Mine Superfund Site in Minturn, and the Smeltertown Superfund Site in Salida. It is further RTC's understanding that the merged railroad will own an interest in certain slag piles at Leadville which may contain toxic material, and some material from the slag piles may have been employed as ballast on the line.

[5] To make a long story short, applicable Federal and State law renders current owners of contaminated property strictly liable. Prior owners may also be liable. Transfer of title may result in liability for prospective owners. The issue of possible liability, and it scope, can easily complicate arrangements to preserve a rail corridor, even though such conservation is highly desirable from an environmental point of view.

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8 The Conservancy's request that Certificates of Interim Trail Use or Notices of Interim Trail Use be extended for a two-year period has been reviewed. The Surface Transportation Board's authority extends for only 180 days.

9 The Conservancy's comment that railroad infrastructure and real estate interests on the proposed abandonments be maintained for a two-year period is acknowledged. Prohibiting the UP from disposing or transferring real estate (other than for public use) is beyond the scope of the Board's jurisdiction.

impasse which has bewildered the "Wallace Branch" in northern Idaho is avoided. In connection with the two proceedings relating to the "Tennessee Pass" line in Colorado -- AB-12 (Sub 189X) and AB-12 (Sub 188), RTC accordingly also requests the issuance of the following public interest condition:

> 3. Within 180 days of authorization of abandonment, UP shall complete and supply to the State of Colorado and RTC a report (by an independent third entity) commonly known as a Phase I environmental survey, which report shall identify all possible toxic contamination on the corridor based upon an on-site inspection, thorough canvass of all local, state and federal environmental agencies, and reasonable investigation of internal company records. The independent third entity shall be selected by UP from a list of qualified companies or individuals acceptable to the State of Colorado for purposes of conducting the survey in question.

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B. More Detailed Justification for Conditions Sought

Conditions 1 and 2. The first public interest condition sought be RTC, a bar on disposal or transfer on real estate, bridges and related structures for 180 days from the date of [illegible] post-abandonment cessation of use, is similar to public [illegible] conditions generally requested under 49 C.F.R. § 1152.28, with two exceptions. First, we seek an order running for 180 days from the date the railroad actually ceases all use of the corridor (including overhead or local use, or storage or work train use) or consummation, whichever is later. Ordinarily the 180 day period runs from the effective date of the abandonment authorization. The reason for the difference is that UP has indicated that the railroad is likely to operate for as much as a year or more over many of these corridors in order to ensure a smooth transition of service for customers of the merged

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10 The Conservancy's request for filing of information on hazardous materials on the Tennessee Pass line is noted. This request is similar to comments filed by EPA Region 8 and the Colorado Department of Public Health. SEA has addressed mitigation for hazardous materials which is detailed in Volume 1, Chapter 5 of the Post EA.

statement" or "EIS." STB to date has evinced no plan to prepare an EIS, and instead is preparing an "environmental assessment" ("EA"). Insofar as is germane here, an EA is appropriate to assess environmental impacts where there is an assurance that there will be no significant environmental consequences by reason of the prospective agency action.[7] But loss of some 600 miles of important transportation corridors as proposed as part of this merger application would constitute a significant adverse environmental impact necessitating an EIS.[8] The only available method lawfully to avoid the EIS requirement would be to place appropriate conditions on all merger-related abandonment authority so as to ensure that the various corridors are preserved for railbanking/trail use purposes, at least in all cases where a qualified entity files a "statement of willingness." Only in this fashion would there be any reasonable assurance that the merger-related abandonments would not involve substantial environmental considerations.[9] The measures sought herein would also be compatible with preserving historic structures consistant with the National Historic

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7 40 C.F.R. §§ 1501.4 & 1508.9.

8 This is a point RTC has already made in our letter to Elaine Kaiser (STB, Section of Environmental Analysis) dated 16 February 1996.

9 Completion of a Phase I environmental survey in a fashion acceptable to the State as sought through Condition 3 as requested by RTC may also serve as part of a program to ensure that significant adverse environmental consequences by reason of toxic contamination do not occur in the event the Board authorizes abandonment of the Tennessee Pass line from Sage to Canon City in Colorado.

11 SEA acknowledges the Conservancy's position on the need for an EIS. Please refer to the general statement on environmental assessment in Volume 1, Chapter 4 of the Post EA.