

STB

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1 interests should be attended to.

2 I would conclude by simply saying that it is  
3 too soon to tell when we're going to get decisions and what  
4 those decisions are. But if history is any indicator of the  
5 future or the past is prolonged for the future, I'm worried,  
6 frankly, that the effort in which we were involved in in the  
7 mitigation study will be treated in the same fashion as the  
8 original efforts that we've put forth that resulted in and  
9 are still the continuing views of the board, that there is  
10 no significant impact that's occasioned to this community as  
11 a result of the merger. Could not be farther from the  
12 truth. But it seems to be the current operative view by the  
13 board. And I think it will be very difficult to dislodge.

14 I'll answer some questions.

15 COUNCILMEMBER HERNDON: Well, it's my  
16 understanding that there was another merger back East,  
17 Conrail and several others, and that this -- the Surface  
18 Transportation Board either directly ordered or participated  
19 in the ordering of a full environmental impact.

20 Is that the case, number one; and what would  
21 differentiate them in some way to receive that treatment  
22 where we, who went out and requested it, can't get?

23 PAUL LAMBOLEY: Well, I think that the short  
24 answer -- well, first of all, for the Conrail acquisition  
25 case, an EIS, a full EIS was ordered by the board even

1 before the application was filed. The formal application  
2 had not been filed when the board entered an order, ordering  
3 the EI -- indicating that an EIS would be conducted.

4 The difference, the rules under which the  
5 board operates are the same. No difference there. The  
6 difference, probably when you have ten billion dollars on  
7 the table you ask for an EIS and you embrace the notion of a  
8 EIS and say to the board, please do an EIS because you can  
9 bring some closure to the issue.

10 And you may not have a continued litigation  
11 over whether or not to do an EIS, but if there is an EIS,  
12 then all the parties understand what the ground rules are  
13 for the investigation and they know what they have to  
14 present and what issues are going to be dealt with in terms  
15 of formal scoping, formal definition. All the ground rules  
16 that we have been arguing ought to be in play here are now  
17 in play elsewhere.

18 And perhaps they looked at the Reno UP/SP  
19 experience and thought that, you know, it is better,  
20 perhaps, to have started out the right way when there is  
21 some demonstration. Except, for the life of me, there  
22 wasn't any record yet upon which there's a demonstration due  
23 an EIS over the entire system. We only asked for an EIS for  
24 Reno. We did not ask for an EIS for any other part of the  
25 system. But they are going to do one for the entire system.

1           Beyond that, and even those comments I think  
2           were a degree of speculation, but I think they're fairly  
3           closely grounded to what was the thinking.

4           COUNCILMEMBER HERNDON: Something we haven't  
5           touched on in our deliberations --

6           PAUL LAMBOLEY: We surely are pointing that  
7           out, and we have already pointed it out to the 9th Circuit  
8           that -- why we're here asking for some of this, by the way,  
9           this is a final decision, but there's an ongoing mitigation  
10          investigation effort, and we think it ought to be done in  
11          the ground rules. And by the way, they agreed, too, but not  
12          in this case.

13          COUNCILMEMBER HERNDON: It's only for other  
14          people.

15          PAUL LAMBOLEY: Yeah, it's like it's final in  
16          the west but not final in the east. It works for them.

17          COUNCILMEMBER AIAZZI: Just quickly, one  
18          question. If UP stepped up and funded this depression of  
19          the railroad tracks, would all these legal issues go away?  
20          Is that what we're saying?

21          PAUL LAMBOLEY: The short answer to your  
22          question is if we had a hundred and eighty million dollars  
23          from a lottery or whatever and came in and said put it on  
24          the table, no one would raise an issue about anything; we  
25          would be underway with evaluating how to do the project, not



1 whether to do the project.

2 COUNCILMEMBER AIAZZI: Thank you.

3 MAYOR GRIFFIN: Pierre?

4 COUNCILMEMBER HASCHEFF: Just quickly on the  
5 staff report that referred to decision 71, and they talked  
6 about the two phases or the two tiers with respect to  
7 funding.

8 Tier one is really what the board has  
9 jurisdiction over with the mandated mitigation, at least  
10 that's the way I read my staff report, and then tier two is  
11 one where you have to get consent from two parties.

12 What jurisdiction -- does the STB have any  
13 influence over the railroad to at least facilitate if not  
14 force the railroad to come up with some type of mutual  
15 agreeable funding mechanism where they just leave it at tier  
16 one and basically don't do anything further after that?

17 PAUL LAMBOLEY: Well, see we're accepting --  
18 you know, the short answer to your question is we don't  
19 accept the notion of tier one's and tier two's because we  
20 don't know -- that's a manufacturer's decision, which, as  
21 Merri points out, we weren't a party to.

22 But if you read the decision, you will have a  
23 chance to see that the general counsel for the Surface  
24 Transportation Board called the lawyers for the railroad  
25 after the petition was filed. They say it right there, and

1 we confirmed certain things.

2           The first we knew about that is when it was  
3 served. What it does or attempts to do is attempts to say,  
4 "We are limiting the mitigation jurisdiction. We are saying  
5 there is tier one jurisdiction and tier two. Tier one, we  
6 will oversee and exercise authority. Tier two, we don't.  
7 You're on your own."

8           The reason why the issue is important is  
9 ordinary environmental investigation documentation under any  
10 structure, and particularly under an EIS, is that there is  
11 no such thing as levels of mitigation that you look at or  
12 don't look at. You look at all of them and you make some  
13 recommendations regarding choices. Some may have different  
14 cost consequences than others and some of them may have  
15 different beneficial results than others, but you don't  
16 exclude any from the outset or exclude any from the possible  
17 recommendations.

18           And what this is, is nothing more than an  
19 attempt to limit board jurisdiction over mitigation, which I  
20 think is frankly contrary to law. And that's precisely what  
21 we will argue, that you cannot do a neat -- a statutory  
22 investigation and limit your jurisdiction, nor may you do  
23 things that influence people to limit the impacts while the  
24 investigation is ongoing.

25           But the larger question that you asked,

1 Councilman, is this: Really, what is the extent of the  
2 board's jurisdiction? The board has jurisdiction over  
3 Interstate Commerce. It has jurisdiction over some  
4 attributes of environmental investigation and documentation  
5 and solutions as it relates to Interstate Commerce.

6 It is attempting to limit that. I'm not sure  
7 that it can. And it's not precisely clear exactly where the  
8 board has jurisdiction and where the board loses  
9 jurisdiction. I will give you an example.

10 We have asked the board to do an air quality  
11 conformity study under the Clean Air Act. The board's  
12 answer to that was, "We have no jurisdiction over the  
13 operations of railroad and the emissions of air quality  
14 pollutants. So we don't have to do one." I guess that's  
15 interesting because the statute, in our view, is very point  
16 blank. An agency has the responsibility to do a conformity  
17 determination to transportation operations that's approved  
18 by an agency.

19 But they say they don't have responsibility  
20 for air quality. That's an EPA and state agencies. So now  
21 that's somebody else's table; ain't my table, is that  
22 answer.

23 Now, if you notice when we get into safety at  
24 the outset the FRA was responsible for safety, rail safety,  
25 and indeed they are, they're the principal federal agency



1 responsible for rail safety. But you notice that the  
2 Surface Transportation Board is engaging in an awful lot of  
3 safety-related analysis here. They didn't invite FRA into  
4 this as a part of the process; that is, as a lead agency,  
5 STB would normally be obligated to bring in the FRA and say,  
6 "In your area of expertise, tell us what we need to know of  
7 about rail ops or EPA on the area of air quality. Come in  
8 and tell us how the analysis ought to work."

9 So there is a blurring of this jurisdictional  
10 line constantly, and sometimes it is how does it suit us for  
11 the purposes in which we were pursuing. Okay.

12 I'm overall concerned at the end because they  
13 say in the conclusion that we will continue jurisdiction  
14 over this proceeding, and so if we impose conditions that  
15 are recommended by -- as a result of the study, that we will  
16 continue our jurisdiction over implementation of those  
17 recommendations and conditions. That also assumes very  
18 candidly that the board continues its own existence,  
19 because, as you know, the I.C.C. Termination Act gave the  
20 board a three-year lease on life.

21 The substitute of the Surface Transportation  
22 Board for the Interstate Commerce Commission was a  
23 three-year deal, and it will be up for reauthorization next  
24 year.

25 Also pending are considerations of reform of

1 the shipping act and the potential merger of the Federal  
2 Maritime Commission with the Surface Transportation Board,  
3 changing the make-up and potentially the responsibility of  
4 now a combined board, depending on how the legislation comes  
5 up.

6 The question then becomes, "What happens to a  
7 case such as this, where there's continued oversight and  
8 argument that is potentially arising over implementation?"  
9 We're not sure.

10 The long and the short of all that was  
11 councilmen to say that jurisdictional lines are blurred on  
12 the present study, jurisdictional lines over continued  
13 implementation jurisdiction is also blurred.

14 MAYOR GRIFFIN: Thank you.

15 COUNCILMEMBER HASCHEFF: That's all I have,  
16 Mr. Mayor.

17 MAYOR GRIFFIN: Anything else? We have one  
18 attendance card. Frank Partlow.

19 PAUL LAMBOLEY: Thank you very much.

20 MAYOR GRIFFIN: Thank you. We may bring you  
21 back up, Paul.

22 FRANK PARTLOW: Mr. Mayor, Members of the  
23 Council, my name is Frank Partlow, and I still, I think,  
24 although I haven't been home in a while, reside at 15  
25 Scattergun.



1           It's with great trepidation that you follow  
2 someone like Paul Lamboley, and I didn't intend to do that,  
3 that's why I tried to get in on the last item, which is  
4 where this properly should have been.

5           You all were doing so well, from my point of  
6 view, and covering all of the issues that I didn't feel any  
7 necessity to burden you with whatever I might have to say.

8           But after hearing David Aiazzi and then Pierre  
9 Hascheff talk, I am -- I am, as you may have forgotten,  
10 because of some other things I've been accused of in the  
11 community, I am primarily an analyst, and I was for two  
12 years a negotiator with a negotiating partner that might  
13 even be a little tougher than the Union Pacific, and that's  
14 the old Soviet Union.

15           And when I get into a negotiation, you like to  
16 see what sort of ammunition you have on your side of a  
17 negotiation. In the negotiations I was in, for example, we  
18 were negotiating to give away air (inaudible) nuclear forces  
19 missiles while we deployed them. It gave us a certain  
20 negotiating leverage.

21           There's a point to all this. David Aiazzi  
22 asked what happened to the negotiation. In essence, that's  
23 what you asked. And I'm going to tell you what my analysis  
24 showed happened to the negotiations, because I, like you,  
25 David, thought that we could get and we still may get a

1 negotiated settlement to all of this.

2 I went to most all of the meetings, and there  
3 was a reasonable expectation from decision 44 and from going  
4 to all the meetings that sooner or later tier one; that is,  
5 the mandatory requirements laid out by this government  
6 agency, under their own rules, Paul, not mine, theirs, that  
7 tier one would direct that the railroad do certain things to  
8 mitigate the effects of the increased traffic that was being  
9 projected through downtown Reno. Their own rules. Tier  
10 one.

11 And any participant in these studies would  
12 have began -- and this is all about money, folks. I hope  
13 this is no surprise to you, but it's all about money. Any  
14 reasonable participant would have thought that this number  
15 that they were going to come up with, the independent third  
16 party analysts were going to come up with, or third party  
17 whatever they call them, consultants, were going to come up  
18 with, would have been someplace in the order of something  
19 over 35 million, probably less than 100 million.

20 That's negotiating ammunition. That gets you  
21 very, very close to saying and we can be partners in this  
22 project because we, the City of Reno, through private and  
23 public sources, can come up with our half, roughly, of this  
24 project.

25 Now, why did I come up with those numbers?

1 Well, decision 44 says you're going to have to do a couple  
2 of grade separations, it looks to us like. I mean, any  
3 reasonable reader of the English language would have that.

4 And when you listen to the engineers talk  
5 about grade separations in a built-up area like our  
6 downtown, they were talking in terms of, you know, someplace  
7 between 20 and 30 million dollars for each one of these. A  
8 grade separation, incidentally, can be the track over the  
9 road or the road over the track.

10 So you add all this up and you come up with  
11 somewhere in the order of 70, 75 maybe, some number millions  
12 of dollars as a minimum out of all of this.

13 And the thing about the preliminary mitigation  
14 plan that screws the negotiations is that tier one always  
15 was going to drive tier two; the bigger the number in tier  
16 one, the better chance you had to accomplish something in  
17 negotiations under tier two. And they took my number from  
18 somewhere between 70, 75, 80 million dollars and they took  
19 it down to 15 million dollars, by your own -- by our staff's  
20 own analysis.

21 And guess what, as a negotiator? I'm screwed.  
22 I have nothing to work with anymore. I don't have something  
23 out there that says hey, you're already going to have to pay  
24 70, 80-some-odd million dollars, why don't you join with us,  
25 pay that and a little bit more and we'll solve this problem



1 for once and for all, as Paul has suggested 180-some-odd  
2 dollars might do.

3 So that's the benefit of my analysis, and I'm  
4 sorry to burden you with it, but tier one always drove your  
5 potential under tier two, and what they did to tier one with  
6 this preliminary mitigation plan is ludicrous. And to even  
7 say that you even have a chance after they gave you that  
8 preliminary mitigation plan to do anything under tier two,  
9 and that's the central issue that bothers me most. And I  
10 felt constrained, I'm sorry, Mr. Mayor, to rise. I'll go  
11 back to 15 Scattergun and watch you guys on T.V.

12 MAYOR GRIFFIN: I don't think that there's  
13 necessarily a need for any kind of a motion, but I would ask  
14 the council what their view is about one element that Mr.  
15 Lamboley mentioned that may need some concurrence from this  
16 body, and that was the one about a transcript for part of  
17 the record.

18 What's your pleasure on that? And I talked to  
19 the city manager. He doesn't think it's an enormously  
20 expensive operation to transcribe the audio recordings.

21 COUNCILMEMBER HERNDON: Mr. Mayor, I would  
22 make a motion that we do submit a factual transcription and  
23 accompany it with a copy of the videotape.

24 COUNCILMEMBER NEWBERG: Second.

25 MAYOR GRIFFIN: Choose which one.

1                   There's a motion and a second. Any further  
2 discussion?

3                   (No response.)

4                   MAYOR GRIFFIN: All those in favor, please  
5 signify by saying aye.

6                   (Councilmembers responded.)

7                   MAYOR GRIFFIN: Opposed?

8                   (No response.)

9                   MAYOR GRIFFIN: Great. Mr. Lamboley, it's  
10 always a pleasure to see you here. Okay.

## Pyramid Lake Paiute Tribal Council

Post Office Box 256

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CENTRAL ADMINISTRATIVE UNIT

REC'D: October 16, 1997

DOCUMENT # 10-16-97 5:00:53pm

JD #32760 RL04

October 14, 1997

Office of the Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K Street, NW, Room 700  
Washington, DC 20423-0001

Attn: Elaine K. Kaiser  
Chief, Section of Environmental Analysis  
Environmental Filing - Reno

Dear Ms. Kaiser:

The Pyramid Lake Paiute Tribe has the following concerns about the UP/SP Merger - Reno Mitigation Study, Preliminary Mitigation Plan (9/97). We are disturbed that this merger will increase the likelihood of a toxic spill into the Truckee River. This makes all the more urgent how such a spill will be contained. We feel that insufficient attention has been given to the Truckee River below the Reno-Sparks area and ask that the Pyramid Lake Paiute Tribe be given more opportunity to work with you on developing better alternatives, including the possibility of disapproving the merger. We are particularly concerned that PLPT was not contacted for the Environmental Assessment of April, 1996. There are many points we would like to have raised on this important step which affects the future of lower Truckee River waters and the Pyramid Lake. We note the error to exclude from consideration Pyramid Lake for its distance of 15 miles from the railroad, while only considering ecosystems within 5 miles. The effects of a toxic spill could easily extend to the Lake from even much greater distances than either of the above.

Concerning the endangered Cui-ui and the threatened Lahontan Cutthroat Trout, the recovery programs for these two species involve the whole Truckee River, as the plan is for their eventual restoration at spawning sites throughout the Truckee. This is directly related to the Pyramid Lake fish populations. In this regard, and also since Pyramid Lake is the ultimate downstream destination for Truckee waters, at least in their original natural course, it is a definite oversight not to have involved the PLPT, its environmental, water resources, and fisheries departments, in this major environmental-affecting merger of the two railroads, which will approximately double the traffic on the railroad and greatly increase risk of toxic spills.

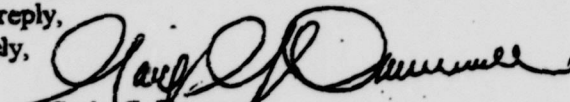


We consider the HAZMAT spill response to be inadequate. This needs to be much more concrete so that spills will not end up poisoning the Pyramid waters and ecosystem. The endangered Cui-ui is endemic to Pyramid Lake and the lower Truckee. A toxic spill could conceivably lead to the extinction of this rare and unusual species. This species is culturally very important to the Pyramid Lake Paiute tribe, was one of their chief staples, and the tribe was named for the fish, i.e. the "Cui-ui eaters". To treat the increased likelihood of exterminating this species lightly is to disregard issues that touch on the very cultural identity of the tribe. Were hazardous materials to reach the delta where the Truckee joins the Pyramid Lake and the Cui-ui do their current spawning, the species could be effectively prevented from reproducing and driven to extinction.

We are also concerned about your treatment of the Lahontan Cutthroat Trout and how increased chance of toxic spill jeopardizes its future survival. It is a very important source of livelihood for the tribe and the fact that it also occupies other parts of the West in no way abridges its local ecological and cultural significance and the obligation of the federal government to fend for this population.

We will be pleased to work with you in considering these and other points. Anxiously awaiting your reply,

Sincerely,



Craig C. Powner

Environmental Director-PLPT, P.O. Box 256, Nixon, Nevada 89424  
FAX 702-574-1008

FAX

TO: Michelle Tayler

202 955 1436

FR: Pyramid Lake Tribe  
Della John, Manager



CENTRAL ADMINISTRATIVE UNIT  
REC'D: OCT 14, 1997  
DOCUMENT # 10-16-97 3:08:59pm

JU#32760 RL.04

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**Statement of Arlan D. Melendez**

**Tribal Chairman of the Reno-Sparks Indian Colony**

**October 9, 1997**

**Regarding the Preliminary Mitigation Plan for the UP/SP Merger**

**Reno, Nevada**

Good afternoon. My name is Arlan Melendez. I am the Tribal Chairman of the Reno-Sparks Indian Colony. We appreciate the opportunity to comment on the proposed mitigation plan.

It is ironic that the first people to inhabit this area are the last people the Surface Transportation Board has consulted regarding the impacts of this merger. We were here before the railroad. We were here before the City of Reno existed. The Board issued its Environmental Assessment on the merger and did not even bother to include the Reno-Sparks Indian Colony on the service list. The Board did not bother to even send us a copy of the document, though they provided the other local governments and other organizations a copy.

We are also very disappointed that the Surface Transportation Board issued its decision not to prepare an

environmental impact statement on the merger--and in fact issued its decision to approve the merger--before it initiated any consultation whatsoever with our tribal government. Not only is this inconsiderate treatment of the original inhabitants of this valley, it is a clear violation of the federal trust obligation the federal agency owed to our Tribe and a clear violation of National Environmental Policy Act which mandates early consultation with affected Indian tribes.

Tomorrow we will file our amicus brief in support of the City of Reno in their challenge to the Board's decision in Federal Circuit Court in Washington, D.C. We point out in our amicus brief that the Board has violated our rights by failing to consult with our Tribe and by not preparing an EIS on this major federal action.

President Clinton and all three branches of the Federal Government acknowledge that the Federal-Tribal relationship is "Government to Government." Why is this concept so difficult for the Surface Transportation Board to understand? Our Tribe is not just an "interest group" on this matter. We are a sovereign government with recognized rights under the United States Constitution.

Our tribe will be impacted by this merger. Our lands lie just across the Truckee River from the railroad tracks. We hear those trains day and night. We breathe the air and drink the water that can be polluted by the trains. We are concerned for the safety of our people and our children who work and live in

proximity to these tracks. One toxic or nuclear spill into the Truckee River could destroy the lifeblood of this land which has been our home for centuries.

We will be submitting more detailed written comments to the Board on October 15. At this time, I would like to emphasize some of our major concerns with the preliminary mitigation study:

- We object to the Board beginning its consultation with our Tribe after it has approved the merger and made the decision to not prepare an EIS. This is an insult to our sovereignty and our legal rights. It is like inviting us to the treaty making after the document is signed. The mitigation study is a transparent attempt to support the Board's previously reached decision not to prepare an EIS, rather than a serious scientific analysis that complies with NEPA.
- July 10, 1997 consultation was inadequate and was conducted by consultants. This was the first attempt at tribal consultation and occurred nearly one year after the Board approved the merger. It should have occurred at the front-end of the process before the environmental assessment was hurried through.
- We believe the public review and participation process in the mitigation study was short-changed. The Board abruptly canceled the August and September 1997 meetings. In



addition, the request of the Task Force members (which included our tribal representative) that the study calendar be extended to allow local concerns to be addressed was not honored.

- The report makes it appear that the Colony would be opposed to depressing the railroad tracks downtown because of potential cultural impacts. That is not the case. The Colony supports the City's efforts to seek depressed trackage. We drive those streets too. Of course the Board would have to comply with federal laws protecting any cultural properties that may be encountered and we would want to be fully involved in that process, as required by the 1992 Amendments to National Historic Preservation Act.
- The discussion of Native American concerns in the mitigation report is superficial. The entire discussion of environmental impacts to the Colony in the report is less than one page and not informative.
- The report largely ignores public health and safety issues. These impacts may be more severe with the increased train speeds recommended in the report.
- Many of our environmental concerns were similar to the City of Reno's and have not been adequately addressed in the

mitigation study for the reasons stated in the City's  
testimony.

Thank you for the opportunity to comment, and we will file more  
detailed comments by the October 15 deadline.



SMITH & GUENTHER, P.C.

October 16, 1997

Sent by Fax and Federal Express

Elaine K. Kaiser  
Chief, Section of Environmental Analysis  
Office of the Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K Street, N.W., Room 700  
Washington, DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT

REC'D: 10-16-97

DOCUMENT # 10-17-97 1:28:53pm

FD #32760 RL04

RE: Written Comments of Reno-Sparks Indian Colony on UP/SP Merger  
Finance Docket No. 32760 - Reno Preliminary Mitigation Plan

Dear Ms. Kaiser:

These comments are being faxed and federal expressed pursuant to my telephone discussions with Mike Dalton today.

Our firm represents the Reno-Sparks Indian Colony. The Tribal Chairman of the Colony, Arlan D. Melendez, presented the Tribe's comments on the Reno Mitigation Plan at the public hearing held in Reno, Nevada, on October 10. His statement is part of the record at the hearing.

In addition, the Colony would like to supplement his comments with written comments by incorporating by reference and adopting the detailed comments of the City of Reno that have been recently submitted on the Reno Mitigation Plan.

The Colony hereby incorporates the City of Reno's written comments on the Reno Mitigation Plan by reference and submits them as our comments as well.

Thank you for the opportunity to comment.

Sincerely,

SMITH & GUENTHER, P.C.

By: Patrick L. Smith  
Patrick L. Smith

PLS:rk  
cc Chairman Arlan Melendez

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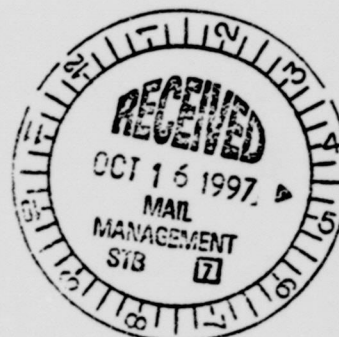
CENTRAL ADMINISTRATIVE UNIT

REC'D: October 16, 1997

DOCUMENT # 10-116-97 5:13:51pm

JD#32760 RLD4

DOT-5



Before the  
SURFACE TRANSPORTATION BOARD  
Washington, D.C.

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

Finance Docket 32670

**RENO MITIGATION STUDY  
PRELIMINARY MITIGATION PLAN**

**Comments of the  
UNITED STATES DEPARTMENT OF TRANSPORTATION**

Introduction

The Surface Transportation Board ("STB" or "Board") in this proceeding approved the consolidation of the Union Pacific Railroad Company ("UP") and the Southern Pacific Transportation Company ("SP"), subject to a number of conditions. Decision No. 44, August 12, 1996. One condition directed a staff unit of the STB, the Section of Environmental Analysis ("SEA"), to conduct studies to determine whether additional mitigation measures would be appropriate to address further the environmental impacts of merger-related increases in train traffic on the City of Reno and Washoe County, Nevada. Id., Condition No. 22. The UP projected an increase in train traffic occasioned by the merger of 11.3 trains per day (from a pre-merger average of 12.7 through freight trains per day

to 24.0 post-merger). On September 15, 1997, SEA issued its Preliminary Mitigation Plan for the City of Reno and Washoe County ("PMP").<sup>1</sup>

The United States Department of Transportation ("DOT" or "Department") hereby offers these comments on the Preliminary Mitigation Plan. DOT is concerned that the analysis used by the SEA in developing its proposed mitigation may not be based on a sufficiently robust sample of conditions in the Reno area to assure the adequacy of the mitigation process. We also wish to encourage continued dialogue between representatives of Reno and the UP. Finally, DOT understands that state law may require sounding of train horns in the interest of safety. However, the Federal Railroad Administration ("FRA"), an operating administration within DOT, will soon propose federal rules on this subject under a statutory mandate enacted in 1994. Under the circumstances the Department recommends that the STB retain jurisdiction until after the conclusion of the pending rulemaking on train horns; this would allow the Board to consider whether to impose additional conditions after the FRA has brought its expertise to bear on the subject. The Department further urges that these communities and the UP consider participation in the FRA's "Operation Respond" program to further mitigate the risks from potential hazardous material releases.

#### PRELIMINARY MITIGATION PLAN FOR THE CITY OF RENO AND WASHOE COUNTY

##### I. Environmental Impacts on Reno and Washoe County

As more fully discussed below, for Reno and Washoe County the PMP considered the environmental impacts of the UP/SP merger on eleven specific areas: traffic delay, emergency vehicle access, pedestrian safety, train-vehicle accidents, derailments (including the risk of the release of hazardous materials), train operations, biological resources, air quality, noise, vibration, and Native American issues. PMP at 6-1.

##### Traffic Delay

Among the significant impacts noted is the additional vehicular delay;

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<sup>1/</sup> The Board also directed the SEA to conduct an assessment of merger-related impacts and mitigation measures with respect to the City of Wichita and Sedgwick County, Kansas. Our comments on this study are being filed simultaneously.



without any mitigation, SEA estimates an increase from 189 vehicle-hours per day under pre-merger conditions to 373 under post-merger conditions. *Id.* at 6-6. The average crossing blockage time would increase from 1.98 minutes for each of 5,740 vehicles to 2.01 minutes for each of 11,130 vehicles. *Id.* Coupled with increased train traffic, this would add to the potential delay faced by emergency vehicles, with attendant health and safety impacts. *Id.* at 6-6.

#### Pedestrian Safety

Pedestrian safety in the PMP primarily concerns pedestrian crossing of the tracks in downtown Reno. Crowds at periodic special events downtown would exacerbate possible safety impacts. *Id.* at 6-10.

#### Train-Vehicle Accidents

Using a methodology developed by FRA, the SEA estimates that the predicted frequency of train-vehicle accidents at all 16 grade crossings combined would increase from 0.795 accidents per year pre-merger to 0.952 accidents per year post-merger. *Id.* at 6-19.

#### Other Environmental Impacts

The SEA generally did not find the merger's other likely impacts to be severe. Air quality impacts were expected to result from increased locomotive emissions, due to increases in the number of trains, and from additional vehicular emissions, due to increased vehicular delay at grade crossings. *Id.* at 6-53. The increase in total emissions is very small (*id.* at 6-56, 6-57), except for oxides of nitrogen ("NO<sub>x</sub>"), which would grow from 1.63 percent to 3.08 percent of total county-wide emissions. *Id.* at 6-56. The SEA study team believes that the NO<sub>x</sub> increase due to the merger is unlikely, by itself, to result in a change from attainment to nonattainment under current air quality standards. *Id.* at 6-55. Within the Truckee Meadows nonattainment area, in which Reno is situated, carbon monoxide and particulate matter increases are small when compared to the overall emissions inventory, and they are not expected to have a detrimental impact on air quality within the air basin. *Id.*

## II. Recommended Mitigation Measures

The Board directed the SEA to consider two different mitigation levels: one would redress adverse environmental impacts from the merger's increased train operations, and the means adopted for this purpose would be mandatory and funded solely by UP; the second would entail "more far-reaching" measures where implementation would be dependent upon a voluntary agreement among

the parties. Decision No. 71 (April 15, 1997). The PMP contains both levels, denominated as "Tier I" and "Tier II." The Department takes no position on Tier II measures insofar as the Board will not impose them absent agreement among UP and the communities.

The SEA put forth a number of recommendations in its proposed Tier I Mitigation Package (Table 8.4.4-1, PMP at 8-19 through 8-22), addressing each of the previously noted significant areas, except noise. Proposed requirements include increasing train speed (requiring improved track and train movement controls), improving communications to better coordinate emergency responses, discontinuing the practice of adding "helper" locomotives in the Woodland Avenue area, installing pedestrian crossing gate "skirts" at certain sites, installing four-quadrant crossing gates (extending across two lanes of traffic on both sides of the track) at nine locations, instituting safety education and training programs, consulting with Native Americans, constructing two pedestrian grade separations in downtown Reno (and conducting prehistoric and historic surveys during their construction), installing additional equipment to detect potential train defects, establishing a community advisory panel, and issuing quarterly status reports. PMP at 8-19 through 8-22.

### III. Noise Impacts

The SEA's evaluation indicates that the noise impact from the additional trains in Reno will increase from 31 to 44 the number of noise-sensitive receptors subject to Ldn of 65 dBA or greater.<sup>2</sup> PMP at 6-43; Table 6.2.9-3. The number of casinos and hotels subject to Ldn of 65 dBA or greater is expected to increase from 34 to 61. *Id.*

The PMP notes that, "[t]he overwhelming majority of noise generated by rail operations in Reno is that which emanates from warning horns located on the locomotives." *Id.* at 8-28. The recommended mitigation package does not include any measures designed to reduce this noise, however, because of various legal and safety concerns. Nevada law requires the sounding of a bell or whistle at least 80 rods (1320 feet) from a highway-rail crossing. Nev. Rev. Stat. Ann. § 705.430 (1991). Moreover, although federal regulations do not currently specify when warning devices are to be used, they do require that locomotives be

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<sup>2</sup>/ "Ldn" is the day-night average sound level or the average noise levels in a 24 hour period; "dBA" is the term for decibel; a "receptor" is considered to be a discrete structure with people inside on a regular basis, such as a school, residence, hospital, church, etc. *Id.* at 6-40.

equipped with audible warning devices that provide a warning of 96 dBA at 100 feet in front of the locomotive. 49 C.F.R. § 229.129. Recognizing that state laws and railroad operating rules generally specify use of the horn as a warning at highway-rail crossings, the Environmental Protection Administration's Railroad Noise Emission Standards exclude horn noise from limitations at the perimeter of railroad property. 49 C.F.R. § 201.10.

The SEA also correctly notes that, pursuant to 1994 statutory requirements (49 U.S.C. § 20153), FRA is now preparing proposed rules that would require that train horns be sounded when approaching and going over public highway-rail crossings. PMP at 8-29. Exceptions will be proposed for "quiet zones" where "supplementary safety measures" compensate for loss of the train horn as a warning device, but the final shape of those exceptions will be determined through the rulemaking process. The SEA suggests that when these regulations are issued, officials within Reno and Washoe County will have the opportunity to apply to the FRA to establish "quiet zones" and other alternatives to sounding horns. *Id.*

Finally, the SEA quotes the Board's view, expressed in Decision No. 44, that "any attempt significantly to reduce noise levels at grade crossings would jeopardize safety, which we consider to be of paramount importance." PMP at 8-28. As a consequence, the SEA did not seek to reduce merger-related noise impacts because any decrease in the sounding of horns would lead to an increase in safety risk. DOT agrees that a reduction in this particular noise, whether in loudness or duration, may have a negative impact on safety under existing circumstances.

We also appreciate the difficulties facing the SEA and the Board on this subject: the most noteworthy source of train noise in Reno is required to continue in the interests of safety. In these circumstances DOT believes that the STB should not now reach a final decision on this point, but should retain jurisdiction of at least this aspect of the instant proceeding until FRA completes its impending rulemaking. Once FRA has assessed the evidence, arguments, and alternatives relating to the creation of quiet zones, its final decision should clarify the extent to which such zones may be available to mitigate the noise at issue here. At that time, SEA can assess the cost and effectiveness of any options provided for establishing quiet zones in the subject communities and make recommendations to the Board. Since the noise impacts at issue are a direct consequence of the merger, assuming the actions required to implement quiet



zones meet the standards established in Decision 44, UP should be responsible for funding such improvements, unless the cost of such modifications unduly interferes with UP's right to conduct business and provide rail freight service to its customers. PMP at 8-3. Although the Department understands the desire of the Board, the UP, and the communities to resolve this issue expeditiously, the fact that the Board retained oversight of the entire proceeding for five years indicates that in a matter of this complexity, a rapid resolution of all problems is not always possible.

#### IV. Additional Recommendations

Operating more trains through a corridor increases the risk of a derailment, absent other measures. The percentage of cars carrying hazardous materials through the Reno and Washoe County areas is anticipated to remain at the current level of 3.3 percent, and therefore as the total number of such cars rises, the risk of a derailment and subsequent release of hazardous materials is expected to increase post-merger. *Id.* at 6-24. The SEA estimates that the risk of a hazardous materials release in the corridor between Truckee, California, and Fernley, Nevada (which includes the rail line through Reno), increases from 0.02514 per year to 0.03650, or an expected release every 27.4 years post-merger compared to every 39.8 years pre-merger. *Id.* at 6-27. The PMP also notes that a number of the system-wide mitigation measures ordered by the Board in Decision No. 44 address concerns about the increased risk of derailments and subsequent releases of hazardous materials.

Although the increased risk is still slight, the potential risk to endangered fish species and other impacts of a release lead the Department to suggest that the City of Reno and Washoe County join with the UP as participants in "Operation Respond." This FRA program is designed to reduce the impact of accidental releases of hazardous materials through an improved information system, which provides fire and police officials quick, accurate information on the correct contents of rail and motor vehicles, as well as information on emergency procedures. FRA will provide technical assistance to the parties in this area, as needed.

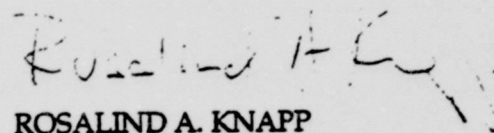
The Department is concerned about a number of issues that have been raised about the accuracy of the analysis on which the choice of mitigation measures is based and on the adequacy of the coordination process that was used in preparing the PMP. We believe that in a matter where such serious public

health and safety concerns are raised, a careful review of the study, including the adequacy of the limited observations conducted to predict the potential health, safety, and delay impacts, and a broader examination of mitigation options is warranted. We urge that SEA address the issues raised to assure the citizens of Reno that the UP/SP merger will not casuse them harm.

V. Conclusion

The Department appreciates the difficulty facing SEA in providing a comprehensive mitigation analysis in a limited time period. In the interests of safety and community viability, we urge the SEA to expand the study to assure that it meets all the concerns of the citizens of Reno. We further urge the Board to encourage constructive discussions between the parties and to facilitate an agreement satisfactory to all. The Department stands ready to assist SEA or the Board by providing additional information on the SEA's recommendations and our suggestions, and by offering DOT's expertise to review safety impacts of the measures recommended in the PMP.

Respectfully Submitted



ROSALIND A. KNAPP  
eputy General Counsel

BOB MILLER  
Governor

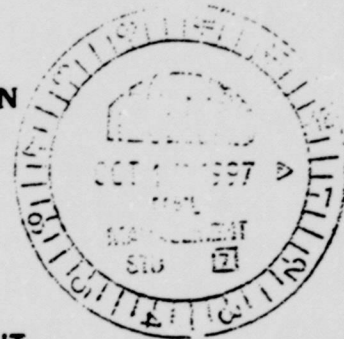
STATE OF NEVADA

JOHN P. COMEAUX  
Director



DEPARTMENT OF ADMINISTRATION

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



October 13, 1997

Office of the Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K Street, NW, Room 700  
Washington, DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT

REC'D: 10-17-97

DOCUMENT # 10-20-97 5:31:02pm

FD#32760 RL04

Attn.: Elaine K. Kaiser  
Chief, Section of Environmental Analysis  
Environmental Filing - Reno, NV

Re: SAI NV # E1998-045

Project: UP/SP Merger Finance Docket No. 32760  
Preliminary Mitigation Plan: Reno, NV

Dear Ms. Kaiser:

Enclosed are the comments from the Nevada Division of Environmental Protection concerning the above referenced project. These comments constitute the State Clearinghouse review of this proposal as per Executive Order 12372. Please address these comments or concerns in your final decision. If you have any questions please contact me at (702) 687-6367.

Also, please note our new mailing address:

Nevada State Clearinghouse  
Department of Administration  
209 East Musser Street, Room 200  
Carson City, NV 89701-4298

Sincerely,

Julie Butler, Coordinator  
Nevada State Clearinghouse/SPOC

Enclosure

s:\shardat\clear\comment.doc



PETER C. MORRIS, Director  
L.H. DODGION, Administrator

(702) 687-4670  
TDD 687-4678

Administration  
Mining Regulation and Reclamation  
Water Pollution Control  
Facsimile 687-5856

STATE OF NEVADA

BOB MILLER  
Governor



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OCT - 8 1997

DEPT. OF ADMINISTRATION  
DIRECTOR'S OFFICE

Waste Management  
Corrective Actions  
Federal Facilities

Air Quality  
Water Quality Planning  
Facsimile 687-6396

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL PROTECTION

333 W. Nye Lane, Room 138  
Carson City, Nevada 89706-0851

October 7, 1997

CLEARINGHOUSE COMMENTS

NDEP # 1998-045  
SAI NV # E1998-045

TITLE: USDOT/STB - Union Pacific/Southern Pacific Merger "Reno Mitigation Study"

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

The Division in conjunction with the US EPA and the State of California have been cooperating in the development of a spill contingency plan for the Truckee River. The Surface Transportation Board is reminded that increased rail traffic the corridor will substantially expand the potential for spills into the Truckee River. This river is very important to Northern Nevada, since it is the prime drinking water source for the Reno metro area. In addition, lowering the railroad tracks will likely encounter polluted groundwater in the affected corridor.

A handwritten signature in cursive script, reading "David R. Cowperthwaite".

David R. Cowperthwaite  
Clearinghouse Coordinator  
Division of Environmental Protection



BOB MILLER, Governor

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION  
1263 S. Stewart Street  
Carson City, Nevada 89712

October 14, 1997



Office of the Secretary  
Case Control Unit  
Finance Docket No. 32760  
Surface Transportation Board  
1925 K Street, NW, Room 700  
Washington, DC 20423-0001

UP/SP Merger-Reno Mitigation Study  
Preliminary Mitigation Plan-Comments

Attn: Elaine K Kaiser  
Chief, Section of Environmental Analysis  
Environmental Filing - Reno

CENTRAL ADMINISTRATIVE UNIT  
REC'D: 10-16-97 → By Fax  
DOCUMENT # 10-17-97 2:11:01pm

JD#32760 RL.04

Dear Ms. Kaiser,

The outcome of the City of Reno's Mitigation of the UP/SP Merger will affect NDOT's Railroad Safety Program. The following comments are provided in regards to elements of the plan.

**Tier 1 Recommendations** (improvements mandated by the STB)

- Increased Train Speeds

The train speed is regulated by the class of track as determined by the Railroad. Since the State does not regulate train speeds, our comments have been restricted to operation of existing warning devices and other human factors.

The approach speeds of the trains provide the necessary warning time for higher speeds. According to the UPRR, the proposed circuitry has already been installed for all crossings impacted by the higher speeds. The automatic warning devices compensate for changes in speed. Traffic signal preempt timing is automatically adjusted for those traffic signals close to the tracks.

Reaction time for vehicle and pedestrian trespassers (those who choose to violate the warning devices) will be reduced. Preventing the opportunity for these occurrences is addressed in other areas of the plan.



- Train location video displays

Video displays and detection may ultimately facilitate signal coordination which could reduce congestion and related traffic crashes. The displays could also warn pedestrians of the oncoming trains in some areas. However, without enforcement, the safety benefits may not be achieved.

- Cameras and Monitors showing Rail Line

These devices could be utilized to enforce right-of-way violations. Enabling legislation will be required but has been successful in Southern California. Providing lighting and signing to dissuade trespassers should also be considered. Again, without enforcement pedestrians will continue to take risks in front of oncoming trains.

- Four-Quadrant Crossing Gates at Nine Locations

The proposed FRA criteria for four quadrant gates include median barriers. Median barriers were not proposed by the City since traffic flow on Third St. and Commercial Row will be inhibited, to the detriment of casinos and their valet parking services. Additionally, the proposed FRA regulations preclude four-quadrant gates when preemption for traffic signals exists. The regulations do allow for regular gates with median barriers. This will be less expensive and require no additional maintenance.

The concept of preventing vehicles from bypassing the warning devices with gates is good but four quadrant gates are not acceptable in many of the suggested locations.

- Pedestrian Crossing Gate Skirts

The pedestrian gates were installed under the Railroad Safety Program. Like all material installed under this program, NDOT maintains authority over the use and disposal of the property. The skirts will add weight that could run down the emergency battery system in the gates. Battery operation is required by the FRA, which would be extremely expensive with heavy gates. Pedestrians ride the gates when they ascend. There is space for pedestrians to walk between the gates and the fence. Gates only serve as a warning, not a blockade. The skirts will not improve this. The bizarre pedestrian behavior, captured on video and presented to the STB, demonstrated that skirts will be ineffective. Educational billboards and active enforcement are more likely to have an impact.

- Electronic Warning Signs for Pedestrians

This is an enhancement for pedestrian safety but will have a minimal impact on pedestrian behavior.

Office of the Secretary

October 14, 1997

Page 3

- Pedestrian Grade Separations

It is questionable whether the available right-of-way will allow for the construction of "effective" overpass or underpass pedestrian facilities at the suggested locations. Escalators and elevators would be required to meet ADA requirements. Proper design and location will encourage pedestrian use only by restricting access to the roadway.

**Tier 2 Recommendations (not mandated by the STB)**

More costly solutions, such as the depressed train way, will eliminate safety problems. Grade separations need to be addressed. Whenever grade separations are constructed, they should occur with the closure of adjacent crossings. The possibility of closures is never mentioned in this study. In the past, the City was reluctant to close even the least used crossing.

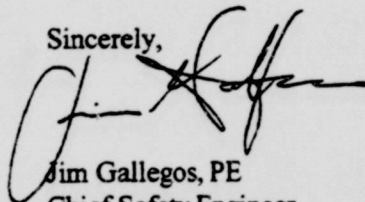
The national policies all indicate closure of crossings that are close together with low ADT. Crossings suggested for closure in the City of Reno include:

Sage St. (1,500 ADT)	Needs to be closed if the Sutro St. grade separation is constructed.
Vine St. (4,000 ADT)	Likely candidates for closure if grade separations are constructed at Keystone Ave. and Arlington St.
Washington St. (2,000 ADT)	
Ralston St. (4,000 ADT)	
West St. (4,700 ADT)	

Evans Ave. is not currently an open crossing. The City obtained permission from the PSC, to open an at-grade crossing at this location. A grade separation is not proposed for this location. If a grade separation is not built, an at-grade crossing should not be opened.

The proposals for closures will be extremely unpopular, but it is inappropriate for them not to at least receive consideration. Closures, combined with grade separations will eliminate most train horn noise in downtown, without instituting a whistle ban, which requires installation of medians, etc. There are no crashes where there are no at-grade crossings.

Sincerely,



Jim Gallegos, PE  
Chief Safety Engineer  
Administrator, NDOT Railroad Safety Program

JAG:dmg



Regional Emergency Medical Services Authority

October 6, 1997

Office of the Secretary  
Surface Transportation Board  
Finance Docket 32760  
1925 K Street, NW, Room 700  
Washington, DC 20078-5646



Attention:  
Elaine K. Kaiser  
Chief, Section of Environmental Analysis  
Environmental Filing - Reno

CENTRAL ADMINISTRATIVE UNIT  
REC'D: 10-15-97  
DOCUMENT # 10-17-97 2:55:21pm

Dear Ms. Kaiser,

JD# 32760 PL.04

The Regional Emergency Medical Services Authority (REMSA) is dismayed and disappointed at the Surface Transportation Board's Section of Environmental Analysis (SEA's) "Union Pacific - Reno Preliminary Mitigation Plan", specifically regarding emergency responses.

The proposed mitigation of speeding up trains and installing a video monitoring system to alert emergency crews that trains are approaching is extremely short sided, dangerous to both the public and emergency responding crews, and ignores long-term uncertainties of train frequency and length. This proposal assures nothing for the public's health and safety. No one can predict when and where emergencies will occur, how many trains will pass through Reno over the next five, ten, or twenty years, how long those trains will be, or how many emergency responses and real people's lives will be adversely affected.

Our collective focus should not be to "mitigate", but rather to "eliminate" wherever possible the problems created by the merger, especially where human life, suffering, and safety are involved. The old saying in medicine "that an ounce of prevention is worth a pound of cure" is quite applicable here.

The city of Reno after great thought and study has urged that a depressed railway be constructed through the downtown corridor - we strongly agree. Their proposal "eliminates" emergency response delays, thereby saving lives;



it "eliminates" the potential for vehicle or pedestrian accidents; it ensures the safest possible transportation of dangerous materials through a highly populated area; it "eliminates" noise pollution, and it reduces air pollution from vehicles waiting at crossings, all of which improve the quality of life in the community.

We believe the SEA, while taking their job seriously, has missed an important opportunity and left the citizens in the Reno area at great risk. In the first page of the Executive Summary they state:

"The Board clearly stated that the study should focus only on *merger-related* train traffic and that "[mitigation of conditions resulting from the pre-existing development of hotels, casinos, and other tourist oriented businesses on both sides of the existing SP rail line in Reno ... are not within the scope of the [study]."

The summary continues to state:

"The Board has broad authority to impose conditions in railroad merger cases, but its powers are not limitless. Any conditions imposed by the Board must be reasonable and must address issues directly related to the merger."

We believe the SEA could and "must" propose a depressed railway through the Reno area. We believe this option *is not* in conflict with meeting the Board's directives above.

A depressed railway clearly solves the majority of "merger related" problems confronting the community. This requirement would not be in conflict with the SEA's mission especially considering the city's willingness to fund a share of the cost. The city's funding offer for a depressed railway frees the SEA from the pre-existing, pre-merger development restriction and should allow full consideration of this better option for the community and the railroad.

We are very disappointed at Union Pacific's position on this issue. The railroad would also benefit from this option. A depressed railway would reduce their liability and costs associated with accidents, hazardous spills, and other such malfeasances. Further, it provides a safer alternative for their own employees. The city has proposed a good faith public/private partnership by researching municipal bonding at all-time low rates and paying a fair share themselves. Yet Union Pacific, a multi-billion dollar company, has reduced its financial offer of assistance.

The SEA should exert its broad powers to ensure long-term health and safety of our children and community. We urge you to revisit, revise, and

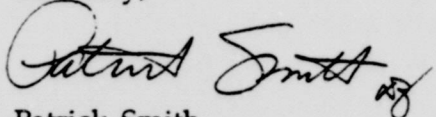
recommend a final proposal to depress the railway through Reno, recognize the city's good faith efforts and offerings, and require Union Pacific to pay its fair share.

Finally, it is sad and frustrating that everyone should have to go to such lengths and arguments when the path is so clear. It is sad that a multi-billion dollar company does not see the "opportunity" to help a community while still making money. It is sad that the SEA has (at least for the moment) placed any real potential of resolving this important issue in serious question by recommending unrealistic and short-sided solutions.

We believe our legacy for our children should be that all parties worked together ensuring everyone's safety and well being far past the year 2000.

Thank you for taking the time to consider our comments on this important issue.

Sincerely,



Patrick Smith  
President, Regional Emergency Medical Services Authority

cc: Reno City Council  
Nevadans For Fast and Responsible Action  
Washoe County District Board of Health  
Senator Harry Reid  
Senator Richard Bryan  
Congressman Jim Gibbons

# Regional Transportation Commission

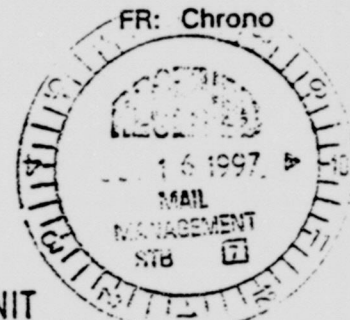
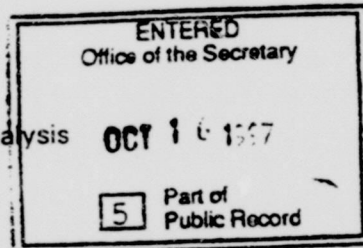
Planning Department ♦ 600 Sutro Street ♦ Mailing Address: P.O. Box 30002 ♦ Reno, Nevada 89520-3002  
Telephone 702-348-0480 ♦ FAX 702-348-0450

Thomas H. Herndon, Chairman  
John R. Mayer, Vice Chairman

James M. Shaw, Commissioner  
Michael C. Mouliot, Commissioner  
Celia G. Kupersmith, Executive Director

October 14, 1997

Ms. Elaine K. Kaiser, Chief  
Section of Environmental Analysis  
Environmental Filing—Reno  
Office of the Secretary  
Case Control Unit  
Finance Docket No. 32760  
Surface Transportation Board  
1925 K Street NW, Room 700  
Washington, DC 20423-0001



CENTRAL ADMINISTRATIVE UNIT

REC'D: 10-16-97

JD# 32760

DOCUMENT # 10-17-97 3:36:10pm RL.04

RE: COMMENTS ON CITY OF RENO PRELIMINARY MITIGATION PLAN (PMP)—UNION  
PACIFIC/SOUTHERN PACIFIC MERGER

Dear Ms. Kaiser:

RTC planning staff has participated in the Reno Mitigation Task Force process that is assessing the impacts of the additional train traffic caused by the Union Pacific/Southern Pacific merger. Recently, staff received a copy of the Preliminary Mitigation Plan (PMP) that recommends that higher train speeds and only one pedestrian crossing are sufficient to mitigate the effects of the merger. Based on these findings in the PMP, staff has prepared the following comments.

1. According to the Nevada Department of Transportation (NDOT) and RTC forecasts, traffic at the six major crossings between Wells Avenue and Keystone Avenue will increase from 78,000 Average Daily Traffic (ADT) to more than 90,000 ADT. Staff is concerned that even the PMP's recommendation of faster trains does not address the need for additional grade separations to handle the forecasted traffic increases through the downtown core.
2. Concerns over emergency vehicle access with additional train traffic are important. The PMP identifies actions such as more aggressive behavior by emergency vehicle drivers, the random nature of emergency calls, and emergency operators already having plans in place avoid trains. The PMP does not mention real solutions to emergency access, such as the benefit of additional grade separations, so that there would be no chance that emergency vehicles would be delayed by train traffic even on a random basis.
3. The accident portion of the PMP mentions mitigations such as the elimination of grade crossings through street closures or operational changes such as one-way streets.

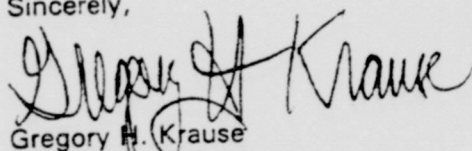


Again, no mention of the creation of grade separations is mentioned as the best way to eliminate train/vehicle conflicts. Additionally, staff does not recollect any analysis done on street closures or operational changes recommended by the PMP.

4. Citifare operations include more than 700 daily crossings of the tracks carrying an average of nearly 40 passengers per hour of service. Currently, there are already major sight distance problems for Citifare vehicles at Lake Street and Center Street railroad crossings. These concerns obviously become much more critical with the proposal to increase the train speeds. There is no discussion about the mitigation of eliminating train/bus conflicts by providing grade separations throughout the downtown Reno area, and particularly at the locations with current sight distance problems.
5. There is concern about the ability to reach 30 MPH between the required stop in the Sparks yard and the short distance to the Reno downtown area. The inability to reach this speed will increase delays for vehicles waiting at train crossings; thus, benefits of the PMP mitigations are overestimated. mitigation measures contained in the PMP inaccurate.
6. The air quality portion of the PMP admits the small but significant rise in post merger emissions from additional train traffic. However, the mitigations measures contained in the report discuss "options," not commitments, by the railroad to convert to cleaner burning locomotives. There is no cost associated with this conversion and no commitment from the railroad to change to different locomotives. As a primary air quality modeling agency, RTC staff is concerned about any increase in emissions that are not fully mitigated through a dedicated process paid for by the merging companies.
7. RTC staff, as part of the Mitigation Task Force, feels strongly that the PMP removes viable mitigating measures such as grade separations from serious consideration. The installation of grade separations can reduce delay and increase safety by eliminating train/vehicle conflicts.

Please call me at 348-0480 if you have any questions regarding RTC staff comments.

Sincerely,



Gregory H. Krause  
Planning Manager

GHK/JML/dsc

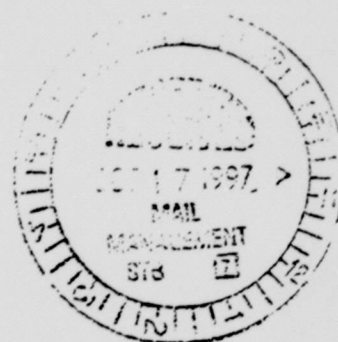
cc Mark Demuth, MADCON  
Charles McNeely, City of Reno



Washoe County  
Department of  
Community  
Development

1001 E. Ninth St. Bldg A  
Post Office Box 11130  
Reno, NV 89520-0027  
Tel: 702-328-3600  
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October 16, 1997



Office of the Secretary  
Case Control Unit  
Finance Docket No. 32760  
Surface Transportation Board  
1925 K Street, NW, Room 700  
Washington, DC 20423-0001

Attn: Elaine K. Kaiser  
Chief, Section of Environmental Analysis  
Environmental Filing - Reno

CENTRAL ADMINISTRATIVE UNIT  
REC'D: 10-16-97 → BY FAX  
DOCUMENT # 10-17-97 2:33:30pm

FD#32760 RL04

Subject: Formal Comments from the Washoe County Commission on the Preliminary Mitigation Plan (Reno) for the UP/SP Merger, Finance Docket No. 32760

The Washoe County Board of County Commissioners (BCC) held a public hearing on Tuesday, October 14, 1997 to review, and provide formal comments on, the Reno Mitigation Study Preliminary Mitigation Plan (PMP) for the Union Pacific (UP) and Southern Pacific (SP) merger. A copy of the staff report prepared for the public hearing is attached to his letter. Additionally, one (1) copy of a tape recording for this item on the BCC agenda is included as part of the formal comments from Washoe County on the PMP. The tape recording should be made part of the public record for this case. This letter will highlight the BCC action taken during the public hearing.

The Washoe County Commission unanimously voted (4 voting for with 1 absence) to adopt the following motion concerning formal comments on the Reno Mitigation Study PMP for the UP/SP merger:

1. Based on information provided to the Washoe County Board of County Commissioners during the public hearing concerning the Reno Mitigation Study Preliminary Mitigation Plan (PMP) for the Union Pacific (UP) and Southern Pacific (SP) merger, the Board supports and endorses the City of Reno comments on the PMP. The City of Reno comments are recorded within the *City of Reno Preliminary Mitigation Plan Comment Document* submitted on October 15, 1997 for Finance Docket No. 32760. A copy of the text of this comment document was provided to the County Commissioners during their public hearing on October 14, 1997.
2. The Board of County Commissioners further supports County staff comments on specific items within the PMP which are inadequate. These staff comments were noted in the staff report prepared for the public hearing and are as follows:
  - a. No time limit is provided in the PMP for the Union Pacific Railroad to complete its inspection of railroad tracks and railroad crossings within Washoe County. Additionally, the PMP should contain specific mitigation measures requiring the Union Pacific Railroad to repair any noted deficiencies within a specified time period.

John B. Hester, AICP  
Director

Jess S. Traver, P.E.  
County Building  
Official



COMMUNITY  
DEVELOPMENT

Letter to: Office of the Secretary, Surface Transportation Board, Docket No. 32760  
Subject: Formal Comments from the Washoe County Commission on the Preliminary  
Mitigation Plan (Reno) for the UP/SP Merger  
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- b. The PMP should include a specific mitigation measure to inform residences and businesses on the south side of the railroad tracks serviced by Woodland Avenue of the emergency access route available should the railroad crossing be blocked.
  - c. The PMP should provide specific mitigation measures to provide for emergency access to the residential communities serviced by the following roads: Stag Lane, Del Curto Lane, and Canal Road. The PMP does not evaluate emergency access for either Stag Lane or Canal Road. Although the PMP does evaluate emergency access for Del Curto Lane, the plan does not provide costs nor alternatives to provide emergency access to that area. Additionally, the conclusion of the PMP to not mandate the construction of an emergency access route for the Del Curto Lane area is unacceptable.
  - d. The PMP does not discuss merger related impacts on the community of Gerlach, Nevada which lies along the Feather River route. Of particular concern is the potential for hazardous material spills and subsequent slow response times to an emergency due to the remoteness of Gerlach. The PMP should fully evaluate environmental impacts in the Gerlach area.
  - e. HAZMAT mitigation measures specific to the Truckee Meadows (Reno, Sparks, and south Washoe County) are not contained in the PMP. The PMP relies upon system wide mitigation conditions imposed by the STB in its Decision 44 as adequate to address HAZMAT spills in the Truckee Meadows. Mitigation measures should be specific to the Truckee Meadows area and should contain identified time periods for the Union Pacific Railroad to complete the measures. Additionally, the PMP should evaluate the potential for either ground or surface water contamination through normal operations on the railroad tracks or in the railroad yards at Sparks (e.g., oil or diesel fuel spills).
  - f. The PMP does not evaluate nor analyze noise impacts on the community of Verdi, Nevada. A noise evaluation, analysis, and appropriate mitigation measures for Verdi should be part of the PMP.
3. There are serious and real economic damages resulting from increased train traffic through Reno and Washoe County that need to be mitigated, whether through the Reno Mitigation Study process or outside of the process, but in some definitive manner.
  4. The Preliminary Mitigation Plan inadequately addresses public safety, specifically with regard to response for maintenance and preventive maintenance.
  5. The time frame for allowing increased train traffic through the Reno and Washoe County area is too short and will occur too soon. This short time frame is a disincentive to any reasonable negotiations to resolve the serious problems noted in this public hearing. The time period before allowing increased train traffic should be extended.
  6. An additional reason to not proceed with increased train traffic through Reno and Washoe County, and to illustrate the inadequacy of the PMP mitigation measures, is that the PMP does not take into account that the existing rail system is inadequate for present levels of train traffic. The evidence shown in the video (taken along the railroad tracks from the Nevada State line toward Reno) highlights rotting railroad ties and totally unsafe conditions next to our water supply. The Southern Pacific Railroad knew that it was financially in trouble, so they were not making adequate repairs nor were they improving their system because they were short of cash flow. The Board of County Commissioners is opposed to expanding the train traffic levels on a system that is already inadequate for its current train traffic loads.



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7. The Board of County Commissioners emphasizes the importance of an Environmental Impact Statement under the National Environmental Protection Act (NEPA) being completed for the Reno, Sparks, and Washoe County area as part of the merger.
8. Air Quality concerns noted by Dr. Jennison (Air Quality Officer for the Washoe County District Health Department) during the public hearing are not adequately addressed in the PMP. These concerns include:
  - a. The railroad currently represents between 4 and 5 percent of the total inventory of oxides of nitrogen in Washoe County. If the Union Pacific Railroad increases the number of trains in the Truckee Meadows (Reno, Sparks and south Washoe County), there will be a concentration of the impacts of emissions from locomotives in the area where the majority of our citizens live.
  - b. Washoe County District Health Department would like to see an air quality model run to characterize the possible impacts of the increase in oxides of nitrogen. This model would preferably be included as part of an EIS on the merger.
  - c. If additional train traffic is approved as part of the merger and the Reno Mitigation Study, then mitigation measures should be enacted which will require the Union Pacific Railroad to only use their most modern and "cleanest" locomotives in the Truckee Meadows area (Reno, Sparks, and south Washoe County).
9. The Board of County Commissioners feels that the exclusion of pre-existing conditions from the Reno Mitigation Study is inadequate and does not recognize current conditions within Reno and Washoe County. The Board believes that several of the conditions proposed to be imposed as Tier 1 measures (e.g., improvements on tracks and in yards to accommodate increased train speeds, installation of four quadrant gates, installation of detectors, etc.) address pre-existing conditions and would probably be implemented by the Union Pacific Railroad as sound operational practices, or to limit their liability, regardless of the PMP.
10. The above comments will be forwarded to the Surface Transportation Board as the formal comments of the Washoe County Board of County Commissioners on the Reno Mitigation Study Preliminary Mitigation Plan for the UP/SP Merger. These comments will also be forwarded to other interested agencies and local governments, such as the City of Reno.

If you have any questions on these formal comments from the Washoe County Board of County Commissioners, please do not hesitate to call me at (702) 328-3623.

Sincerely,

*Bob Webb*

Bob Webb  
Community Coordinator

CRW:bw

cc: City of Reno  
City of Sparks  
Washoe County Board of County Commissioners  
John MacIntyre, County Manager



October 2, 1997

Washoe County  
Department of  
Community  
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TO: Washoe County Commission

FROM: Bob Webb, Community Coordinator

SUBJECT: Background Report and Possible Action on the Preliminary Mitigation Plan.  
UP/SP Merger - Reno Mitigation Study

This memorandum provides background information on the Preliminary Mitigation Plan (PMP) prepared by the Surface Transportation Board, Section of Environmental Analysis (SEA) on the Reno Mitigation Study for the Union Pacific/Southern Pacific Railroads (UP/SP) merger. The memorandum also summarizes correspondence from Washoe County concerning the UP/SP merger and the subsequent Reno Mitigation Study.

#### Recommendation

Staff recommends the Washoe County Commission review the background information and recommendations from the Section of Environmental Analysis contained in the Preliminary Mitigation Plan. Staff asks the County Commissioners to provide formal comments on the PMP as part of the public review process for that document. Staff will transmit County Commission comments in writing to the Section of Environmental Analysis. All public comments on the PMP must be postmarked by October 16, 1997 to meet public review requirements imposed by the SEA.

#### Background

The Surface Transportation Board (STB) approved the merger of the Union Pacific and Southern Pacific railroads on August 12, 1996. The Board's decision was recorded in Decision No. 44, which contained several conditions specific to the Reno area. A copy of that decision is attached to this memorandum as enclosure 1. Condition No. 22 of the STB's decision imposed a number of measures specific to Reno, to include the requirement for SEA to conduct an additional 18 month mitigation study in Reno (condition 22c). The purpose of this study, as outlined in the PMP, was:

"...to develop additional mitigation measures, in addition to those system-wide and corridor-specific environmental mitigation measures already imposed in Decision No. 44, that are specifically tailored to address the unique circumstances of Reno, Washoe County, and the surrounding area encompassing the former SP rail line. ...the study should focus only on *merger-related* train traffic and that mitigation of conditions resulting from the preexisting development of hotels, casinos, and other tourist-oriented businesses on both sides of the existing SP rail line in Reno...are not within the scope of the study."

Mitigation measures in the PMP are divided into two distinct levels, or tiers, as established by Decision No. 71 issued by the STB on April 15, 1997. Tier 1 are those "measures that will be mandated mitigation for UP to implement and fund entirely". Tier 2 are those "measures that are

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Director

W. Dean Diedrich, AICP  
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more far-reaching and for which implementation and funding would require voluntary participation of UP and other interested parties and can therefore not be mandated by the Board". A copy of Decision 71 is attached as enclosure 2.

SEA will consider all public comments on the PMP and issue a Final Mitigation Plan (FMP). Public review and comments on the FMP will be considered by SEA in its final recommendations to the STB. The STB will then decide what additional mitigation measures (if any) to impose on UP as part of the UP/SP merger.

#### *Tier 1 Measures*

SEA's preliminary Tier 1 recommendations for mitigation measures to the STB are shown in enclosure 4.

#### *Tier 2 Measures*

Possible Tier 2 mitigation measures are shown in enclosure 5.

#### *Reno Study Mitigation Task Force*

A Reno Study Mitigation Task Force was established by SEA on January 15, 1997. A roster of task force members is included at enclosure 3. I represented Washoe County at the majority of the task force meetings. I prepared a memorandum to the task force members in early January 1997 outlining the impacts to Washoe County of the merger. These impacts mirror the concerns expressed by the County Commission during a public hearing to discuss the merger held on March 26, 1996. A copy of that memorandum is attached as enclosure 6; however, a brief outline of those impacts is:

##### *Public Safety:*

- emergency access for isolated communities (Woodland Avenue, Stag Lane, Del Curto Lane, and Canal Road)
- existing, substandard railroad crossings
- long trains blocking multiple crossings
- speed of trains in outlying areas

##### *Economic:*

- delay to tourists at railroad crossings
- potential negative publicity to tourist based economy in the event of a major traffic accident or HAZMAT spill

##### *Environmental:*

- HAZMAT spills at railroad switching yards and/or along the railroad tracks
- potential contamination of surface and/or ground water supplies
- increased HAZMAT shipments through Gerlach
- air quality impacts of idling vehicles at railroad crossings
- air quality impacts of switch yard railroad traffic

##### *Miscellaneous:*

- noise from train whistles
- noise from passing trains
- future of the Reno Branch line and Reno intermodal facility at Parr Boulevard



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I was unable to attend the last meeting of the mitigation task force on July 9, 1997 and so sent a letter to SEA outlining what I believed to be appropriate mitigation measures to consider for the PMP. A copy of that letter is at enclosure 7; however, an outline of the proposed mitigation measures (sorted according to SEA categories) is:

*Pedestrian Safety/Emergency Vehicle Access/Train-Vehicle Accidents:*

- evaluate and repair, as appropriate, railroad crossings in Washoe County
- inform residents and business owners of the emergency access road providing secondary access to the Woodland Avenue area
- provide emergency access to the Stag Lane, Del Curto Lane, and Canal Road areas
- provide a system which alerts emergency responder dispatch centers as to when trains are on the tracks

*Deraillments/Spills/Water Quality:*

- develop a plan to respond to HAZMAT spills/accidents in or near Gerlach
- develop a plan to address the impact of spills and leaks of HAZMAT along railroad tracks and in railroad yards (e.g., catch basins)
- develop a plan to address train deraillments and/or HAZMAT spills in the proximity of the Truckee River (includes control of train speeds and location of appropriate spill containment equipment in the Truckee Meadows)

*Evaluation of PMP and Proposed Mitigation Measures*

The Tier 1 and Tier 2 measures should be the primary focus when evaluating the PMP. However, other areas not mentioned as either a Tier 1 or Tier 2 measure (and not previously mentioned in the STB's Decision 44) should be brought to the attention of the SEA as public comments for possible inclusion in the PMP.

I have reviewed the main parts of the PMP and offer the following observations on the proposed mitigation measures as outlined in my letter to SEA dated July 8, 1997:

1. Evaluate and repair, as appropriate, railroad crossings in Washoe County.  
SEA noted my comment. Condition A1 from Decision 44 discusses system wide measures for track inspection and Condition A3 requires the posting of an 800 number on certain railroad crossings. However, no time line is given for track inspection and I could not find any reference to evaluating existing railroad crossings, either system wide or specifically in Washoe County.
2. Inform residents and business owners of the emergency access road providing secondary access to the Woodland Avenue area
3. Provide emergency access to the Stag Lane, Del Curto Lane, and Canal Road areas.

Tier 1 mitigation measure number 4 would require UP to discontinue the use of "helper" locomotives in the Woodland Avenue area (note: UP officials have publicly stated that they stopped such practices in January of 1997). This measure should help alleviate railroad caused delays at the Woodland Avenue crossing. The PMP also mentions that a road south of the railroad tracks connecting Woodland Avenue to Mayberry Drive has been recently widened, paved, and a gate which restricted access has been removed. This road provides emergency access to the Woodland Avenue area if Woodland Avenue is blocked by a train. The PMP does not address public information measures to notify residences and businesses of this emergency access road.

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The PMP discusses Del Curto Drive and states that, "given the low vehicular traffic levels using Del Curto Drive, that no mitigation is warranted, particularly with the possible adverse impacts to parklands and the Truckee River. Therefore, SEA does not recommend that mitigation measures for Del Curto be imposed".

There is no analysis, and therefore no discussion of possible mitigation measures, for either the Stag Lane or the Canal Road areas.

4. Provide a system which alerts emergency responder dispatch centers as to when trains are on the tracks.

Tier 1 mitigation measure number 3 proposes the installation of cameras and video monitors showing the rail line between Keystone Avenue and Lake Street.

5. Develop a plan to respond to HAZMAT spills/accidents in or near Gerlach.
6. Develop a plan to address the impact of spills and leaks of HAZMAT along railroad tracks and in railroad yards (e.g., catch basins).
7. Develop a plan to address train derailments and/or HAZMAT spills in the proximity of the Truckee River (includes control of train speeds and location of appropriate spill containment equipment in the Truckee Meadows).

The system wide mitigation measures numbered A1, A2, A5, A7, and A12 in Decision No. 44 address safety and potential HAZMAT spills. According to the PMP, SEA believes that these system wide mitigation measures "provide a high level of protection from hazardous materials events in the Reno and surrounding area". However, in order to augment these system wide measures, Tier 1 mitigation measures 13 and 14 would require SP to install an additional high, wide, shifted load detector and a hot box detector at milepost 40 (about three miles west of Reno). These additional measures would provide "optimum detection capability" in the Reno area.

The PMP does not indicate whether any of the system wide measures have been implemented in the Truckee Meadows. The PMP does not address mitigation measures for potential contamination of surface and/or ground water through normal operations along the rail lines nor at the railroad yards in Sparks. Additionally, the PMP does not evaluate the Feather River route and any potential HAZMAT occurrences in the vicinity of Gerlach.

I also evaluated the PMP with regard to comments I made to the Reno Mitigation Task Force (also included SEA representatives) in my memorandum dated January 21, 1997. I offer the following from portions of that memorandum:

- a. Economic concerns (i.e., delay to tourists at railroad crossings and potential negative publicity to tourist based economy in the event of a major traffic accident or HAZMAT spill).

According to the PMP, the STB directed a review of potential environmental impacts of merger-related increased train traffic levels. Therefore, SEA determined that additional economic analysis was not required as part of the PMP.

- b. Air quality impacts.

I provided a copy of the PMP to Brian Jennison, Director for the Air Quality Management Division with the District Health Department. I asked Mr. Jennison to provide his comments directly to SEA in accordance with their deadlines. As of the

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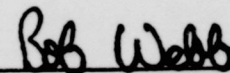
submittal of this staff report. I do not have a copy of comments he may have written. If I receive a copy of his comments, I will provide them to the County Commission prior to their public hearing on October 14, 1997.

c. Noise impacts in the Verdi area.

The PMP did extensive evaluation of noise related impacts (both from train whistles and passing trains) in the Reno area. The STB was concerned about noise levels during its review of the UP/SP merger; however, the Board noted that any attempt to significantly "reduce noise levels at grade crossings would jeopardize safety, which we consider to be of paramount importance". Therefore, possible mitigation measures outlined in the PMP are included in possible Tier 2 mitigation measures.

I should note that no noise analysis was conducted in the Verdi area, though even if such analysis was done it is likely that the PMP recommendations would remain the same.

I will attend the caucus on October 13, 1997 to answer any questions you may have, to the best of my ability, on this staff report or the PMP. Please do not hesitate to call me at 328-3623 for questions or clarification on the staff report in the interim.

  
\_\_\_\_\_  
Community Coordinator

CRW:bw

Enclosures

cc: Charles McNeely, Reno City Manager  
John MacIntyre, County Manager  
Merri Belaustegui-Trafficanti, Deputy City Attorney, City of Reno, Mitigation Task  
Force contact for the City of Reno



# Enclosure 1

## EXCERPTS RELATING TO RENO MITIGATION STUDY

### SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

Decision No. 44  
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Decided: August 6, 1996  
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#### **ENVIRONMENTAL CONSIDERATIONS.**

**Extensive Environmental Review Process.** Under the National Environmental Policy Act (NEPA) and related environmental laws, the environmental effects of the merger and the ancillary abandonment and construction projects that were proposed by applicants must be considered, and we have thoroughly done so. Our environmental staff, the Section of Environmental Analysis (SEA), conducted various public outreach activities to inform the public about the proposed merger and to encourage and facilitate public participation in the environmental review process.<sup>1</sup>

As part of its environmental review, SEA prepared detailed analyses not only of the systemwide effects of the proposed merger, but also of particular merger-related activities that would affect individual rail line segments, rail yards, and intermodal facilities to a degree that would meet or exceed our thresholds<sup>2</sup> for environmental analysis. See 49 CFR

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<sup>1</sup> SEA sent approximately 400 consultation letters to various agencies seeking their comments. In addition, SEA consulted with federal, state, and local agencies, affected communities, UP and SP, and UP/SP's environmental consultants to gather and disseminate information about the proposal, identify potential environmental impacts, and develop appropriate mitigation measures.

<sup>2</sup> These thresholds ensure that those rail line segments and facilities that would experience a substantial increase in traffic as a result of the transaction are thoroughly analyzed for potential air quality, noise, transportation, and safety impacts.

1105.7(e)(5)(i) and (ii).<sup>3</sup> SEA conducted a thorough independent analysis, which included verifying projected rail operations; verifying and estimating noise level impacts; estimating increases in air emissions; assessing potential impacts on safety; and performing land use, habitat, surface water and wetlands surveys, ground water analyses, and historic and cultural resource surveys.

Based on the information provided by the parties and other agencies, SEA issued a comprehensive Environmental Assessment (EA) on April 12, 1996. SEA received approximately 160 comments following issuance of the EA. To address those comments and the other environmental comments received throughout the environmental review process (approximately 400 in total), SEA undertook additional environmental analysis, which culminated in the issuance of a detailed Post Environmental Assessment (Post EA) on June 24, 1996, refining some of the discussion and mitigation recommended in the EA.

As a result of its investigation, SEA concluded that the merger would result in several environmental benefits, including a systemwide net reduction of 35 million gallons of diesel fuel consumption (based on 1994 figures) from rail operations and truck-to-rail operations, systemwide improvements to air quality from reduced fuel use, and a reduction in long-haul truck miles, highway congestion and maintenance, and motor vehicle accidents.

SEA also concluded that the merger and related rail abandonments and constructions could have potential environmental effects regarding safety, air quality, noise, and transportation, including the transportation of hazardous materials, and, in the EA, SEA proposed mitigation measures addressing the environmental concerns that were raised. In the Post EA, based on further analysis and review of the environmental comments, SEA developed more comprehensive and specifically tailored mitigation recommendations. As a result of consultations with SEA, UP/SP agreed to undertake particular mitigation measures. In addition, several local communities negotiated memoranda of understanding with UP/SP to implement mitigation measures and take other appropriate actions to address their particular environmental concerns.

SEA concluded that, with the Post EA mitigation measures, the proposed merger would not significantly affect the quality of the human environment on a systemwide, regional, or local basis. We agree that the conditions recommended in the Post EA will

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<sup>3</sup> SEA and its independent third-party consultant conducted approximately 150 site visits. They also analyzed UP/SP's Environmental Report, operating plan, Preliminary Draft Environmental Assessment and other pleadings, all of the settlement agreements entered into during the environmental review process, and technical studies.



adequately mitigate the potential environmental impacts identified during the course of the environmental review, and we will impose those conditions here (see Appendix G).<sup>4</sup> We also adopt SEA's environmental analysis and the conclusions reached in the EA and the Post EA.

**No Need for Environmental Impact Statement.** We have considered the arguments of some parties that an environmental impact statement (EIS) is required here, but do not believe that one is needed. An EIS is required only for "major federal actions significantly affecting the quality of the human environment." 42 U.S.C. 4332(2)(C).<sup>5</sup> Under our environmental rules, 49 CFR 1105.6(b)(4), an EA is normally sufficient environmental documentation in rail merger cases to allow us to take the requisite "hard look" at the proposed action.<sup>6</sup> Moreover, interested parties received essentially the same benefits they would have received with an EIS. As the EA and Post EA show, SEA conducted a thorough and comprehensive environmental review. There was extensive notice and opportunity for input from the public and appropriate agencies throughout the process. In addition to the EA, SEA issued a detailed Post EA which contains SEA's individual responses to the comments on the

---

<sup>4</sup> We note that the mitigation recommended in the Post EA for two proposed abandonments in Colorado (Sage to Leadville and Malta to Cañon City) has been modified to reflect our decision to permit only discontinuance of rail service, and not abandonment, at this time. Other clarifying changes have been made as well.

<sup>5</sup> The identification of such actions is a matter for the agency to determine, as long as the determination is not arbitrary or capricious. See Goos v. ICC, 911 F.2d 1283, 1292 (8th Cir. 1990), citing Marsh v. Oregon Natural Resources Council, 490 U.S. 360, 377 (1989).

<sup>6</sup> While this merger involves somewhat more trackage than other merger proposals that have come before our predecessor agency, the ICC, that does not mean that the qualitative environmental effects of this merger are greater (or different) than those of the other railroad mergers that have been considered. Similarly, the extensive trackage rights that we are granting in this decision to preserve competition generally will not create additional traffic (or potentially significant environmental impacts). Traffic that can be efficiently handled by train would be handled by train whether or not the trackage rights at issue here were granted.



EA and thus reflects not only the work of SEA but also the critical views of interested parties and agencies.

Finally, the environmental mitigation we are imposing here is far reaching and comprehensive.<sup>7</sup> As appropriate, it addresses impacts on a variety of levels: systemwide, rail corridor-specific, and local. There is mitigation for particular rail line segments, rail yards, intermodal facilities, and rail abandonments and constructions. In short, no EIS is required because our environmental mitigation conditions specifically address the potential environmental impacts associated with the merger and ensure there will be no significant environmental effects.<sup>8</sup>

Reno and Wichita. As discussed in the Post EA, in developing mitigation for two cities, Reno, NV, and Wichita, KS, SEA concluded that further, more focused mitigation studies are warranted, notwithstanding the extensive analysis (including site visits and meetings with city officials, emergency response representatives and business interests) that already has been done to identify environmental concerns and arrive at appropriate mitigation for these two communities. Nothing in the record here, however, suggests that the potential environmental effects of the merger in Reno or Wichita are so severe that implementation of the merger should not proceed prior to the

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<sup>7</sup> For example, with respect to safety, our mitigation includes more frequent track and train car inspections, signs on grade crossings identifying toll free numbers to call in the event of a signal malfunction, and a requirement that UP/SP provide emergency response personnel with information regarding anticipated train movements and work with communities to develop plans to deal with the transportation of hazardous materials, emergencies, and the upgrading of grade crossing signals. In addition, UP/SP will be required to equip certain trains carrying hazardous materials with two-way end-of-train devices to enhance braking capabilities on particular line segments. In response to concerns involving air pollution, UP/SP will have to reduce idling of locomotives, close box car doors on empty cars, and use more efficient locomotives when the equipment becomes available.

<sup>8</sup> See, e.g., Sierra Club v. DOT, 753 F.2d 120, 127 (D.C. Cir. 1985); Cabinet Mountains Wilderness v. Peterson, 685 F.2d 678, 682 (D.C. Cir. 1982).

completion of the studies.<sup>9</sup> To the contrary, in both Reno and Wichita the environmental impacts are limited to the effects of an increase in traffic on existing rail lines. Also, the mitigation conditions that we are imposing now assure that, while SEA conducts these studies, the environmental status quo will essentially be preserved in Reno and Wichita.<sup>10</sup>

As the EA and Post EA show, SEA already has carefully assessed the impact of the merger on Reno and Wichita and identified its likely environmental effects. Based on its analysis, SEA concluded that, with the systemwide and corridor-specific mitigation already imposed and the conditions to be arrived at following the independent mitigation studies, there will be no significant environmental impacts to Reno and Wichita, and we agree.

The sole purpose of the mitigation studies will be to arrive at specifically tailored mitigation plans that will ensure that localized environmental issues unique to these two communities are effectively addressed. For example, with respect to vehicular and pedestrian safety, SEA has determined that separated grade crossings and pedestrian overpasses and/or underpasses will be needed to address safety concerns on the existing rail lines in Reno and Wichita. Accordingly, the studies will identify the appropriate number and precise location

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<sup>9</sup> We note that the Supreme Court has rejected arguments that NEPA demands the formulation and adoption of a plan that will fully mitigate environmental harm before an agency can act. Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 352-53 (1989). Rather, the deferral of a decision on specific mitigation steps until more detailed information is available is embraced in the procedures promulgated under NEPA. See Public Utilities Comm'n of California v. FERC, 900 F.2d 269, 282-3 (D.C. Cir. 1990). NEPA "does not require agencies to adopt any particular internal decisionmaking structure." Baltimore Gas & Electric Co. v. NRDC, 462 U.S. 87, 100 (1983). It is well settled that NEPA does not repeal other statutes by implication and that if the agency meets NEPA's basic requirements, it may fashion its own procedural rules to discharge its multitudinous duties. Vermont Yankee v. NRDC, 435 U.S. 519 (1978); United States v. SCRAP, 412 U.S. 669, 694 (1973).

<sup>10</sup> The courts have recognized that there is no violation of NEPA where proposed actions will not effect a change in the status quo. See Sierra Club v. FERC, 754 F.2d 1006, 1509-10 (9th Cir. 1985).

of highway/rail grade separations and rail/pedestrian grade separations in Reno and Wichita. With respect to air quality, we have imposed mitigation measures that reduce locomotive fuel consumption and air pollution, call for more efficient railroad equipment and operating practices, and require consultation with air quality officials.<sup>11</sup> As further insurance, the studies will consider additional mitigation to address the air quality effects unique to Reno and Wichita. In this merger, noise impacts would result from more frequent exposure to horn noise rather than greater intensity of sound. No additional types of noise would be introduced. To address noise impacts, we are requiring UP/SP to consult with affected counties to develop focused noise abatement plans. As the Post EA notes, however, safety dictates that railroads sound their horns at grade crossings.<sup>12</sup> Any attempt significantly to reduce noise levels at grade crossings would jeopardize safety, which we consider to be of paramount importance.

The studies will be conducted by SEA with the assistance of an independent third party contractor. Although retained by UP/SP, SEA will select the contractor. The contractor will work under the sole supervision, direction, and control of SEA.

The mitigation studies will include consultations with the affected communities, counties, and states, Native American tribes, the FRA, and other appropriate agencies, as well as UP/SP. There will be public notice and participation. The public will be consulted regarding the range of additional mitigation to most effectively address increased rail traffic on the existing rail lines in Reno and Wichita. SEA will prepare draft mitigation studies and make them available to the public for review and comment. After SEA assesses the comments, it will design the most effective mitigation for these particular communities to add to the mitigation that has already been imposed.

SEA's final mitigation studies and its recommended mitigation plans for Reno and Wichita will be made available to

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<sup>11</sup> Because trains are mobile, rather than stationary sources, air quality impacts associated with locomotive emissions are spread over a large area. Therefore, the impacts at any individual location are typically relatively minor.

<sup>12</sup> SEA indicates that FRA has been directed by the Swift Act generally to require that horns be sounded at all grade crossings.



the public and will be submitted to us for our review and approval. We will then issue a decision imposing specific mitigation measures. This entire process will be completed within 18 months of consummation of the merger.

In the meantime, as explained in the Post EA, during the 18-month study period UP/SP will be permitted to add only an average of two additional freight trains per day to the affected rail line segments (Chickasha, OK, to Wichita and Roseville, CA, to Sparks, NV),<sup>13</sup> which is below the threshold level for environmental analysis.<sup>14</sup> UP/SP will be prohibited from increasing traffic to the levels they projected under the merger (11.3 daily trains for Reno and 7.4 trains for Wichita) without our approval.<sup>15</sup> Thus, there will be no significant adverse environmental impacts to these communities while SEA, the Board, and the parties work to arrive at additional tailored mitigation for those cities.

It should be noted that the studies will focus only on the mitigation of the environmental effects of additional rail traffic through Reno and Wichita resulting from the merger.

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<sup>13</sup> For nonattainment areas such as Reno, our rules permit railroads to operate up to three additional trains per day. The threshold for attainment areas such as Wichita is normally an increase of eight trains or more a day. Here, we are taking a more conservative approach and will permit for Wichita only an average increase of two trains per day. In short, these limited increases for Reno and Wichita are at or below the threshold levels, and the environmental status quo will essentially be maintained. This addition of an average of two trains a day includes BNSF trains but does not include Amtrak trains, which are unrelated to the merger.

<sup>14</sup> We note that an existing railroad can increase its level of operations without coming to us, and without limitation. Thus, if UP and SP had not proposed this merger, SP on its own could have increased the number of trains on its line in Reno to any level it considered appropriate. Allowing an increase of up to two trains per day during the interim period takes into account that the number of trains going through Reno and Wichita might have been increased even without the merger.

<sup>15</sup> UP/SP will be required to file verified copies of station passing reports of train movements for Reno and Wichita on a monthly basis with SEA for the duration of the study period. We will review them to ensure compliance.

Mitigation of conditions resulting from the preexisting development of hotels, casinos, and other tourist-oriented businesses on both sides of the existing SP rail line in Reno, or the preexisting switching operations that are a primary source of the congestion associated with the existing UP line in Wichita, are not within the scope of the studies. Similarly, the construction of a new rail line now under consideration by Reno is too preliminary to be assessed now.<sup>16</sup>

The studies will carefully examine private and public funding options, as we believe that the cost of mitigation for Reno and Wichita should be shared. Finally, the studies will provide the parties with additional time to pursue and agree to independent and innovative mitigation plans (such as the memorandum of understanding executed by UP/SP and Truckee, CA, whereby UP/SP will share in the cost of an underpass construction project and contribute to a fund to buy back obsolete wood burning stoves).

In sum, pending determination of the exact mitigation measures to be required for Reno and Wichita, UP/SP will be subject to a traffic cap on the affected rail lines to ensure that no adverse effects to the environment will occur and existing environmental conditions will essentially remain unchanged. Because we already know the nature and general parameters of the appropriate mitigation measures for Reno and Wichita, based on our analysis of the environmental impacts and imposition of systemwide and regional mitigation, we find that, with the more specific mitigation that will be developed, the merger will not significantly affect the quality of the environment in those two locations.

**Comments of EPA.** On July 12, 1996, we received comments from the United States Environmental Protection Agency (EPA) on various aspects of the EA and the Post EA.<sup>17</sup> EPA notes that, in

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<sup>16</sup> Plans for such a line are only in the development stage. SEA indicates that such a project could take up to 10 years to finalize. If the contemplated construction reaches the stage of an actual proposal requiring our approval, SEA would prepare an appropriate environmental document at that point. See Kleppe v. Sierra Club, 427 U.S. 390, 410 n.20 (1976); Crounse Corp. v. ICC, 781 F.2d 1176, 1193-96 (6th Cir. 1986).

<sup>17</sup> SEA agreed to EPA's request for an extension of time to comment on the Post EA. We welcome EPA's input after reviewing  
(continued...)

analyzing air quality, the EA failed specifically to identify "maintenance" areas,<sup>18</sup> which it believes may have caused air quality concerns to be overlooked.<sup>19</sup> But maintenance areas were not ignored in SEA's analysis. For those areas that were not classified as nonattainment, SEA applied the EPA conformity emission threshold levels applicable to maintenance areas. This means that SEA analyzed both attainment and maintenance areas under the more rigorous standards applicable to maintenance areas, and that, if anything, the anticipated effects of the proposed merger on air quality are conservative. We believe that air quality has been thoroughly analyzed, and that the mitigation we are imposing here, along with the more specific measures which will be arrived at in the further mitigation studies for Reno and Wichita,<sup>20</sup> adequately mitigates any potential adverse air impacts.

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<sup>17</sup>(...continued)  
our environmental analysis, since, as EPA notes, it generally does not comment on EAs.

<sup>18</sup> There are three classifications for air quality: attainment areas, in which levels of certain pollutants are considered equal to or better than federal and state ambient air quality standards; nonattainment areas, in which levels of one or more pollutants do not meet federal and state ambient air quality standards; and maintenance areas, which were at one time nonattainment areas but have subsequently improved their air quality and are now in attainment for the relevant pollutant(s).

<sup>19</sup> We note that EPA does not disagree with SEA's determination that the proposed merger is not subject to EPA's regulations entitled "Determining Conformity of General Federal Actions to State or Federal Implementation Plans" (General Conformity). The General Conformity criteria do not apply directly to railroad operations, except for future locomotive emission standards. SEA properly concluded that the proposed merger does not meet the definitions in the General Conformity regulations at 40 CFR 51.852 because, as a regulatory agency, the Board does not maintain program control over railroad emissions as part of its continuing responsibilities.

<sup>20</sup> SEA will take into account EPA's concerns and consult with them in conducting its mitigation studies for Reno and Wichita.



EPA further states that the EA used the terms NO<sub>x</sub> and NO<sub>2</sub> incorrectly. We recognize that NO<sub>x</sub> is not a criteria pollutant under EPA and state ambient air quality standards. In assessing air quality emissions, SEA looked at emission factors applicable to NO<sub>x</sub>, instead of NO<sub>2</sub>, because NO<sub>x</sub> emission factors are readily available through EPA documents and other sources, while NO<sub>2</sub> emissions are not. SEA based its calculations on the conservative assumption that all NO<sub>x</sub> emissions are composed of NO<sub>2</sub>. This conservative approach, which is widely accepted, ensured that the criteria pollutant NO<sub>2</sub> was adequately assessed in SEA's analysis. Moreover, by using this approach, SEA used higher NO<sub>2</sub> emissions than would actually be emitted.

EPA also expressed some difficulty understanding SEA's estimates of the projected net increase and decrease in air emissions with the mitigation measures we are imposing. While we believe that the text of the Post EA adequately explains the data in Tables 3-5 and 4-4, we have generated and attached as Appendix H an additional table to further clarify the net emissions reflecting mitigation.

EPA notes that some of the proposed rail line abandonments in Colorado run through or near EPA-designated Superfund sites. EPA is troubled that soil in and around the railroad lines could require remediation, that UP/SP might not be obligated to honor a consent decree, and that possible future trail use could expose the public to hazardous substances. These concerns are premature because, as discussed above, we are permitting only the discontinuance of rail service, and not abandonment of the involved lines. Thus there will be no salvage of these lines or opportunity for trail use unless and until UP/SP obtains our authority to abandon these lines.<sup>21</sup>

While trail use requests can be made if the abandonments are granted, any trail arrangement would not supersede the requirements of the specific laws that govern Superfund sites.<sup>22</sup> Nor would we thereby become involved in negotiating or enforcing consent decrees involving remediation of those sites.

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<sup>21</sup> At that point, we will analyze the potential environmental impacts of the proposed abandonments.

<sup>22</sup> See Union Pac. R.R. -- Abandonment -- Wallace Branch, ID, Docket No. AB-33 (Sub-No. 70) (ICC served Dec. 2, 1994).

EPA does not view requiring UP/SP to comply with existing federal, state, and local regulation as mitigation. We believe, however, that requiring compliance with other laws and regulations, such as FRA's safety regulations, can assist in reducing the potential environmental impacts of the actions before us. If the railroad fails to comply with conditions that we have imposed, parties can notify us and request that we (as well as the agency that has promulgated the regulation) take appropriate action.

In any event, the mitigation we are imposing here goes well beyond requiring compliance with other laws and regulations. For example, it includes more frequent track and train car inspections to reduce anticipated safety impacts and reduced idling of locomotives and the use of more efficient locomotives to offset air pollution emissions associated with the merger. Moreover, to enhance safety, UP/SP will be required to equip certain trains carrying hazardous materials with two-way end-of-train devices to improve braking capabilities on particular line segments.

EPA suggests that we failed to discuss the environmental impacts associated with the handling and disposal of waste materials for the proposed abandonments and constructions. But we have included detailed mitigation for these actions. See Appendix G, including conditions #26, #27, #62 and #63.

EPA questions whether SEA considered all the settlement agreements reached with competing railroads and trade associations. SEA specifically took all settlement agreements into account in its analysis, as the EA and Post EA show.

Finally, we disagree with EPA's suggestion that SEA should revisit its consultation efforts with Native American tribes. SEA's efforts to contact and consult with Native American tribes have been extensive. As part of its outreach activities, SEA contacted approximately 11 area offices of the Bureau of Indian Affairs to inform them about the proposed merger; three offices commented and provided the names of tribes that should be contacted. Both the EA and Post EA were distributed to 31 American Indian tribes. In addition, there was newspaper and Federal Register notice to inform all affected tribes and communities about the proposed merger and how they could participate. To ensure continued participation, SEA will contact the affected Native American tribes when initiating its mitigation studies for Reno and Wichita and invite them to participate.

**APPENDIX G: ENVIRONMENTAL MITIGATING CONDITIONS**

The environmental mitigating conditions imposed in Finance Docket No. 32760 are categorized as follows: (A) Systemwide, (B) Corridor-Specific, (C) Rail Line Segments, (D) Rail Yards and Intermodal Facilities, (E) Proposed Abandonments, and (F) Construction Projects. These mitigation conditions are numbered sequentially.

**A. SYSTEMWIDE MITIGATION**

The following systemwide mitigation conditions apply to rail line segments, rail yards, intermodal facilities, and rail line construction projects on new right-of-way.

1. UP/SP shall adopt UP's existing formula-based standards for track inspection for all rail lines of the merged system, which will increase the frequency of inspections on SP rail lines.
2. UP/SP shall adopt UP's existing tank car inspection programs for all appropriate facilities on the merged system.
3. For all highway grade crossing signals, UP/SP shall provide visible instructions designating an 800 number to be called if signal crossing devices malfunction.
4. UP/SP shall provide 800 numbers to all emergency response forces in all communities. These numbers shall provide access to UP/SP supervisors who shall provide train movement information and work cooperatively with communities in emergency situations. These numbers are not to be disclosed to the general public.
5. UP/SP shall participate on a systemwide basis in the TRANSCARE program to develop hazardous material and emergency response plans in cooperation with communities.
7. UP/SP shall adopt UP's training program for community and emergency response personnel for locations on the SP rail lines, and include personnel from SP served locations in UP's school at Pueblo, CO, for additional emergency response training.
8. UP/SP shall adopt existing UP training and operating practices that are designed to reduce locomotive fuel consumption and air pollution. These include: throttle modulation, use of dynamic braking, increased use of pacing and coasting trains, isolating unneeded horsepower, shutting down locomotives when not in use for more than an hour when temperatures are above 40 degrees, and maintaining and upgrading SP locomotives to UP standards.
9. As suggested by UP/SP, UP/SP shall extend to SP rail lines UP's program of closing boxcar doors on empty cars before movement on



the system in order to reduce wind resistance and, thereby, fuel consumption.

10. As suggested by UP/SP, UP/SP shall use its own security forces to conduct its own arrests and bookings, reducing reliance on local police forces.
11. UP/SP shall convert all railroad locomotives to the standards for visible smoke reduction that are established in the South Coast Air Quality Basin.
12. UP/SP shall adopt UP's existing policy of using head-hardened rail on curves in mountainous territory for SP rail lines to promote safer operations.
13. UP/SP shall comply with all applicable FRA rules and regulations in conducting rail operations on the merged system.

B. CORRIDOR MITIGATION

General

The following mitigation conditions apply to the Central, Southern, Northern, Illinois-Gulf Coast, and Pacific Coast (I-5) Corridors.

14. UP/SP shall implement the draft emissions standards for diesel-electric railroad locomotives that the Environmental Protection Agency (EPA) has developed. It is the Board's understanding that EPA plans to propose these standards and make them available for public comment in December 1996. Under these standards, UP/SP shall utilize newly manufactured or re-built locomotives that are more fuel efficient and produce less emissions. When this equipment becomes available, UP/SP shall assign these locomotives on a priority basis to the corridors or portions thereof specified below:

- Southern Corridor:
  - Fort Worth, TX, to West Colton, CA.

- Central Corridor:
  - Cheyenne, WY, to Hinkle, OR.
  - Chicago, IL, to Fremont, NE.
  - Ogden, UT, to Roseville, CA.
  - Denver, CO, to Grand Junction, CO.

- Pacific Coast (I-5) Corridor:
  - Seattle, WA, to West Colton, CA.
  - Sacramento, CA, to Bakersfield, CA.

15. To further facilitate the improvement of air quality for specific locations, UP/SP shall consult with appropriate state and local

air quality officials in the States of Arizona, California, Colorado, Illinois, Nevada, Oregon, Texas, Washington, and Wyoming, through which the Pacific (I-5), Southern, Central, and Northern Corridors extend in part. UP/SP shall advise SEA as to the status and the results of these consultations.

16. To address noise impacts, UP/SP shall consult with the affected counties that have communities that would experience an increase of 3 dBA or more as a result of the increased rail traffic over rail lines in the States of California, Colorado, Illinois, Kansas, Louisiana, Nebraska, Nevada, Oklahoma, and Texas. If appropriate, UP/SP shall develop a noise abatement plan. UP/SP shall submit the result of these consultations to SEA who will review these findings with FRA.

**Specific**

The following mitigation conditions apply to specific rail line segments within the Central, Southern, and Illinois-Gulf Coast Corridors.

17. UP/SP shall give priority to equipping key trains, as defined by Union Pacific Railroad Form 8620, on the corridor segments listed below with two-way end of train devices. This requirement also applies to BNSF key trains operating between Iowa Junction, LA, and Avondale, LA.
  - **Central Corridor**
    - North Platte, NE, to Oakland, CA (UP and SP).
    - Cheyenne, WY, to Denver, CO (UP).
  - **Southern Corridor**
    - Houston, TX, to Avondale (New Orleans), LA (SP).
    - Iowa Junction, LA, to Avondale, LA, via Kinder and Livonia (UP).
    - Houston, TX, to West Colton, CA (SP).
  - **Illinois-Gulf Coast Corridor**
    - St. Louis, MO, and East St. Louis/Salem, IL, to Houston, TX and Avondale, LA (UP and SP).

C. RAIL LINE SEGMENT MITIGATION

General

The following mitigation conditions apply to all of the rail line segments in the states identified below.

18. UP/SP shall consult with the states and appropriate local officials as well as FRA to develop a priority list for upgrading grade crossing signals, where necessary, due to increases in rail traffic resulting from the proposed merger. This process shall be undertaken for all rail line segments in the States of Arkansas, California, Colorado, Kansas, Nevada, Oregon, and Texas. UP/SP shall advise SEA as to the status and the results of these consultations.

Specific

The following detailed mitigation conditions apply to the specific rail line segments and/or locations identified below.

City of Reno

- 22a. UP/SP shall operate no more than a daily average count of 14.7 freight trains per day through the City of Reno. (This reflects the Base Year daily average of 13.8 trains -- 12.7 freight trains and 1.1 passenger trains -- plus 2 additional freight trains.) The addition of two freight trains per day does not exceed the Board's threshold for environmental analysis at 49 CFR 1105.7(e)(5)(ii). The 14.7 average freight train count per day does not include the following types of movements: (1) maintenance-of-way trains, (2) light locomotive movements, (3) local and industry switching train movements, (4) emergency trains operated under detour authority, for snow removal, for fire or other natural disaster purposes, and wreck removal purposes. This condition will be effective upon consummation of the merger and will continue in effect for 18 calendar months in total.
- 22b. For the purpose of monitoring the preceding condition, UP/SP shall file on a monthly basis with the Board verified copies of station passing reports of train movements through Reno, NV, for each day of each preceding month in the specified 18-month period. These reports shall also identify those train movements, specified in the above condition, that are excluded from the 14.7 trains per day average count.



- 22c. UP/SP, in consultation with and subject to the approval of SEA, shall retain an independent, third-party consultant to prepare a specific mitigation study to address the environmental effects on the City of Reno of the additional rail freight traffic projected as a result of the proposed merger. This study shall be prepared under the sole direction and supervision of SEA. It shall include a final mitigation plan based on a further study of the railway, highway, and pedestrian traffic flows and associated environmental effects on the City of Reno. This study would tailor mitigation to address environmental effects such as safety, hazardous materials transport, air quality, noise and water quality. UP/SP shall comply with the final mitigation plan developed under this study.

The study, which shall be completed within 18 months from the date of consummation of the merger, shall include the following:

- Projected post-merger increases in rail freight traffic on the Sparks to Roseville line segment.
  - Consultations with the City of Reno, Washoe County, the Federal Railroad Administration, affected Native American Tribes, and other appropriate Federal, state and local agencies, and other interested parties.
  - Consultations with UP/SP.
  - Review of all existing information and studies including those prepared by the City of Reno, Washoe County and UP/SP.
  - Independent analyses.
  - With respect to vehicular and pedestrian safety, mitigation measures that identify the number and location of highway/rail grade separations and rail/pedestrian grade separations in downtown Reno.
  - Funding options.
  - Submission of a draft study to the public for review and comment and then issuance of a final mitigation study.
- 22d. SEA will submit the final mitigation study and its recommendations to the Board, which shall then issue a decision imposing mitigation. In the event UP/SP and the City of Reno and other appropriate parties reach agreement on a final mitigation plan, UP/SP and the City of Reno shall immediately notify SEA, and the Board will take appropriate action consistent with such an agreement.

# Enclosure 2

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SERVICE DATE - APRIL 17, 1997

## SURFACE TRANSPORTATION BOARD

### DECISION

Finance Docket No. 12760

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

[Decision No. 71]

Decided: April 15, 1997

In Decision No. 44 (served August 12, 1996), we approved the common control and merger of the rail carriers controlled by Union Pacific Corporation (Union Pacific Railroad Company and Missouri Pacific Railroad Company) and the rail carriers controlled by Southern Pacific Rail Corporation (Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and the Denver and Rio Grande Western Railroad Company) (collectively UP/SF), subject to various conditions, including numerous environmental mitigating conditions. As pertinent here, the environmental conditions imposed in Decision No. 44 call for further, more focused, mitigation studies to arrive at specifically tailored mitigation plans for Wichita, KS and Reno, NV, in addition to the environmental mitigation that already has been imposed, to assure that localized environmental issues unique to those two communities are effectively addressed.

After Decision No. 44 was issued, the City of Wichita and the Board of County Commissioners of Sedgwick County, KS (Wichita/Sedgwick) filed an environmental court challenge in the United States Court of Appeals for the District of Columbia Circuit. No. 96-1293, City of Wichita v. Surface Transportation Board (pet. for review filed Aug. 21, 1996) (Wichita). From pleadings filed in that litigation, it became apparent that the Wichita appeal is addressed solely to the sentence in Decision No. 44 (at p. 223) stating, "The [mitigation] studies [that are

Proceedings pending before the Interstate Commerce Commission (ICC) on January 1, 1996, must be decided under the law in effect prior to that date if they involve functions retained by the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803. This proceeding was pending with the ICC prior to January 1, 1996, and to functions retained under Surface Transportation Board (Board) jurisdiction pursuant to new 49 U.S.C. 11323-27. Citations are to the former sections of the statute, unless otherwise indicated.

Another environmental court challenge is pending in the D.C. Circuit in No. 96-1418, City of Reno v. Surface Transportation Board (Reno). The D.C. Circuit, on its own motion, ordered the Reno and Wichita appeals consolidated with the petitions for review raising issues other than environmental issues that were filed in that court. The Board and the United States have moved to cover the Reno and Wichita appeals from the other cases seeking review of Decision No. 44 and to hold briefing in abeyance in these two cases because, unlike the other petitions seeking review of Decision No. 44, the Reno and Wichita petitions are environmental court challenges that are not ripe or final for judicial review at this time. That motion remains pending in the court.

now underway for Wichita and Reno) will carefully examine private and public funding options, as we believe that the cost of mitigation for Reno and Wichita should be shared. Then, following an inquiry looking toward settlement of the Wichita litigation, petitioners' counsel in the Wichita case advised our General Counsel, by letter dated April 7, 1997, that if the Board issues a decision clarifying that UP/SP will be required to pay 100% of the cost of mandated environmental mitigation, Wichita/Sedgwick will withdraw their appeal.

Petitioners' counsel states that Wichita/Sedgwick understands that, consistent with Decision No. 44, the Board is considering both "base line" mitigation, i.e., mitigation including, but not limited to, the type discussed in Decision No. 44, that UP/SP would be required to implement and fund in order to increase the number of through trains operating through Wichita/Sedgwick, and alternative mitigation, i.e., more expensive options. As to the latter, Wichita/Sedgwick understands that the Board may suggest funding alternatives, but such suggestions would be in no way binding. See Addendum A.

Having ascertained that UP/SP has no objection to the issuance of a decision clarifying the intent of the sentence at page 223 of Decision No. 44, quoted above, in the manner requested by Wichita/Sedgwick, it appears to us appropriate to clarify our intent with respect to developing final mitigation for Wichita and Reno. Specifically, the final environmental mitigation that will be developed for Wichita and Reno following the completion of the ongoing mitigation studies will include (in addition to the mitigation that has already been imposed) both (1) mandated or base line mitigation, which the Board will require UP/SP to implement and entirely fund, and (2) alternative mitigation that might be a more far reaching solution for all concerned, but which will not be binding absent a voluntary agreement by the parties to share costs or expend greater resources.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The discussion of environmental mitigation in Decision No. 44 is clarified as set forth in this decision.

2. This decision is effective on the date of service.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams  
Secretary

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A copy of that letter is attached as Addendum A.



STB

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# Enclosure 3

## UP/SP MERGER RENO MITIGATION STUDY TASK FORCE MEMBERSHIP LIST

STB Section of Environmental Analysis Representatives and/or Contacts Elaine K. Kaiser Program Director/Legal Counsel	
Harold McNulty Reno Co-Study Director	Vicki Rutson Reno Co-Study Director
Dave Mansen Reno Mitigation Study Project Manager	Kay Wilson Reno Mitigation Study Community Coordinator
City of Reno Representatives Manager's Office Merri Belaustegui Deputy City Attorney	City of Reno Alternates Manager's Office Michael E. Halley Deputy City Attorney
Engineering Steve Varela, City Engineer City of Reno Public Works	Engineering Tom Gribbin Pyramid Engineering
Environmental Mark Demuth MADCON Consultation Services	Environmental Colleen Henderson Environmental Management Associates
Emergency Services Larry Farr, Fire Marshall Reno Fire Department	Emergency Services Chuck Lowden Fire Chief
Jim Weston, Chief of Police Reno Police Department	Tom Robinson Reno Police Department
Reno Citizens Representative General Interests Steve Bradhurst	Reno Citizens Alternates General Interests No Alternate Named
River Banks Homeowners Richard Vitali	River Banks Homeowners No Alternate Named
Native American Representatives Paula Berkeley Paula Berkeley and Associates	Native American Alternate Arian Melendez, Director Reno-Sparks Indian Colony

**UP/SP MERGER  
RENO MITIGATION STUDY TASK FORCE MEMBERSHIP LIST**

<b>Business Community Representative</b> Bill Osgood, Chairperson Reno Downtown Improvement Assoc.	<b>Business Community Alternate</b> Harry York Reno-Sparks Chamber of Commerce
<b>NTRA Representative</b> Bob Burn, Chairperson Nevadans for Fast & Responsible Action	<b>NTRA Alternate</b> John Frankovich
<b>Washoe County Representative</b> Bob Webb, Community Coordinator Washoe Co. Dept. Of Comprehensive Planning	<b>Washoe County Alternate</b> Dean Diederich Principal Planner of Washoe County Department of Community Development
<b>Regional Transportation Commission Rep.</b> Greg Krause, Planning Manager Regional Transportation Commission	<b>Regional Transportation Commission Alt.</b> Jack Lorbeer
<b>State of Nevada Representative</b> Tim Crowley, Executive Assistant Nevada Governor's Office	<b>State of Nevada Alternate</b> No Alternate Named
<b>Nevada Public Service Commission Rep</b> Galen Denio, Commissioner Nevada Public Service Commission	<b>Nevada Public Service Commission Alt.</b> Craig Wesner, Mgr. Engineering Svcs. Nevada Public Service Commission
<b>City of Sparks Representative</b> Rob Pyzel, Senior Planner Planning & Community Development	<b>City of Sparks Alternate</b> Randy Mellinger Community Development Director
<b>UP Railroad Representative</b> Mike Hemmer Covington & Burling	<b>UP Railroad Alternate</b> Joe Guild Union Pacific Railroad
<b>Amtrak Representative</b> Ron Scolaro Amtrak	<b>Amtrak Alternate</b> Raymond Lang Amtrak Intercity Rail Service
<b>State Economic Interest Representative</b> Ken Lynn Economic Dev Authority of Western Nevada	<b>State Economic Interest Alternate</b> No Alternate Named



**UP/SP MERGER  
RENO MITIGATION STUDY TASK FORCE MEMBERSHIP LIST**

**Warehousing/Distribution Representative**

David Loring  
Dermody Properties

**Warehousing/Distribution Alternate**

Scott L. Hutcherson  
Eagle-Picher Minerals, Inc.

# Enclosure 4

## FORMAL CONDITIONS FOR BOARD CONSIDERATION

The preliminary Tier 1 mitigation measures proposed in Section 8 by the Surface Transportation Board's (Board's) Section of Environmental Analysis (SEA) are restated here for public review and comment and for Board consideration as additional conditions to the UP/SF merger decision.

<b>Table 10-1</b> <b>Preliminary Tier 1 (Fully Funded by UP) Mitigation Measures</b> <b>for Consideration by the Board and Public</b>	
<b>Mitigation Measure</b>	<b>Proposed Board Conditions</b>
<b>Increased Train Speeds</b>	1. UP shall make the necessary operating changes and capital improvements such as centralized traffic control (CTC), track reconfiguration, and track rehabilitation, as appropriate in the Reno/Sparks, Nevada area, to enable trains to operate over the rail line segment between the east end of the Sparks yard (approximately Mile Post [MP] 247) and a point just west of Keystone Avenue (approximately MP 242) in Reno at a speed of 30 miles per hour. UP shall then operate, and require BN/SF to operate, all trains over the described rail line segment at a speed of 30 miles per hour consistent with safe operating practices dictated by conditions present at the time each train traverses the segment.
<b>Train Location Color Video Displays</b>	2. Subject to the written concurrence of the City of Reno, UP shall install in the new City of Reno emergency communications center (or another location if desired by the City) color video displays coordinated with the UP signal system circuitry showing the location of each train present on the rail line segment from approximately MP 245 on the west side of the Sparks Yard to MP 238 (approximately Woodland Avenue) on the west side of Reno.
<b>Cameras and Video Monitors Showing Rail Line</b>	3. Subject to the written concurrence of the City of Reno, UP shall install television cameras over or near the rail line along with corresponding video monitors at the same emergency communications center location that continuously show real-time conditions on the right-of-way through downtown Reno in the area bounded by and including the grade crossings at Keystone and Lake Streets.
<b>Discontinued Use of the Addition of "Helper" Locomotives in Woodland Area</b>	4. UP shall discontinue the practice of adding "helper" locomotives in the Woodland Avenue area.
<b>Four-quadrant Crossing Gates at Nine Locations</b>	5. UP shall install four-quadrant crossing gates at rail-highway crossings at Sutro, Lake, Virginia, West, Arlington, Raiston, Washington, Vine, and Keystone streets.

<p align="center"><b>Table 10-1</b>  <b>Preliminary Tier 1 (Fully Funded by UP) Mitigation Measures</b>  <b>for Consideration by the Board and Public</b></p>	
<b>Mitigation Measure</b>	<b>Proposed Board Conditions</b>
Enhanced Rail Safety Programs	<p>6. UP shall augment its safety training programs for drivers and pedestrians including:</p> <p>A. Supplementing its participation in the "Operation Lifesaver" Program, and</p> <p>B. Supplementing existing school educational programs in Reno and Washoe County (e.g., driver's training), and</p> <p>C. Establishing a safety training program for Reno's downtown employees.</p>
Pedestrian Crossing Gate "Skirts" at Six Locations	UP shall install devices known as pedestrian crossing gate "skirts" on pedestrian crossing gates at Lake, Center, Virginia, Sierra, West, and Arlington streets.
Electronic Warning Signs for Pedestrians at Six Locations	8. UP shall install electronic warning signs for pedestrians at Lake, Center, Virginia, Sierra, West, and Arlington streets. These signs shall be designed and constructed so that they are clearly visible and easily read by pedestrians.
Construction of a Pedestrian Grade Separation at Virginia Street	9. UP shall construct a pedestrian overpass or underpass at Virginia Street with street level access on both sides of the tracks
Construction of a Pedestrian Grade Separation at Sierra Street	10. UP shall construct a pedestrian grade overpass or underpass at Sierra Street with street level access on both side of the tracks
Prehistoric and Historic Survey for Pedestrian Underpass(es) and Monitoring During Construction for Archeological Resources	11. Prior to construction of a pedestrian underpass at either Virginia or Sierra streets, UP shall conduct a survey of potential historic and prehistoric resources in consultation with the Nevada State Historic Preservation Office (SHPO). If any such resources are discovered during construction, UP shall cease construction and consult with the SHPO.
Consultation with Native Americans	12. Prior to construction of a pedestrian underpass at either Virginia or Sierra streets, UP shall consult with Native American interests regarding possible impacts to Native American resources from underground construction. If any such resources are discovered during construction, UP shall immediately stop construction and consult with Native American interests and the SHPO.
Installation of a high, wide, shifted load detector at MP 240	13. UP shall install a high, wide, shifted load detector at MP 240 for both mainline tracks.
Installation of a Hot Box Detector at MP 240	14. UP shall install an additional hot box detector on the westbound track at MP 240.



<b>Table 10-1</b> <b>Preliminary Tier 1 (Fully Funded by UP) Mitigation Measures</b> <b>for Consideration by the Board and Public</b>	
<b>Mitigation Measure</b>	<b>Proposed Board Conditions</b>
<b>Establishment of a Community Advisory Panel</b>	15. UP shall establish a Community Advisory Panel, consisting of representatives of the Reno/Sparks/ Washoe County community, including Native Americans, who are willing to work with UP management on a regular basis to review safety, environment, and health issues associated with rail operations, particularly as they relate to the transport of hazardous materials.
<b>Certification to the Board and Notice to the City of Reno and Washoe County of UP's Compliance with Certain Installation Requirements</b>	16. When compliance has been completed for each of the installations required in Conditions 1, 2, 3, 5, 7, 8, 9, 10, 13, and 14 above, UP shall certify such completion to the Board, with copies to the City of Reno, and Washoe County. Each certification shall be made within two weeks of the date of compliance for each condition.
<b>Environmental Mitigation Status in Quarterly Reports</b>	17. UP's quarterly reports to the Board shall include the status of compliance with the environmental mitigation measures pertaining to Reno and Washoe County for the duration of the Board's oversight proceeding. Copies of these reports shall also be provided to the City of Reno and Washoe County.

# Enclosure 5

quality mitigation measures would certainly be considered by the Board, as was done in Truckee, California for its air quality mitigation agreement.

Table 8.5-1 provides a summary list of possible Tier 2 mitigation measures.

Table 8.5-1 Measures Identified as Potential Tier 2 Mitigation	
Mitigation Measures	Comments
Depressed Railway	<ul style="list-style-type: none"> <li>• Would reduce potential environmental impacts related to the merger, but also pre-existing conditions.</li> <li>• Rail impacts on surrounding land uses pre-date the merger, so it would not be appropriate to require UP alone to absorb extensive costs of a depressed railway.</li> <li>• Casinos and hotels have consistently built their facilities next to the existing UP (formerly SP) tracks.</li> <li>• Impact of rail operations has been a matter of local concern for decades. In a 1980 ballot measure, the citizens of Reno considered the issue of a depressed railway. (In the 1980 ballot measure, the citizens of Reno voted down a bond issue for construction of a depressed railway through downtown Reno.)</li> <li>• A depressed railway would bestow substantial benefits on the City as well as private property owners in the area of the existing track.</li> <li>• A depressed railway would benefit the railroad.</li> <li>• Would involve secondary environmental impacts (e.g., construction, groundwater, emergency vehicle access).</li> <li>• Cannot equate benefits of a depressed railway to potential merger-related impacts only.</li> <li>• SEA urges the parties to continue negotiations with respect to the depressed railway, if appropriate.</li> <li>• If a mutually acceptable agreement were reached for a depressed railway, SEA could recommend that the Board impose an obligation upon UP to comply with such agreement.</li> </ul>
Rail/Highway Grade Separations	<ul style="list-style-type: none"> <li>• Tier 1 mitigation measures comprise a package that provides substantial additional mitigation beyond that already imposed in the Board's Decision No. 44.</li> <li>• Grade separations would have major property acquisition, displacement, and other impacts.</li> <li>• Grade separations would adversely affect vehicular access to properties that front on the adjoining streets.</li> <li>• Increasing train speeds serves to reduce the vehicular delay associated with merger-related increases in train traffic to below pre-merger levels, and none of the highway/rail grade separations would achieve this level of delay reduction.</li> <li>• The City of Reno has stated its opposition to grade separations as a mitigation measure.</li> </ul>
Elevated Railway	<ul style="list-style-type: none"> <li>• Downtown business interests and the City have raised concerns about potential adverse environmental impacts associated with an elevated railway in Reno, including the visual barrier that would be created, the associated division of the City, possible derailments and spills of hazardous materials from elevated trains, and the need to demolish existing structures over the tracks.</li> <li>• As with the depressed railway, a shoofly track would be needed to permit the construction.</li> </ul>

Table 8.5-1 Measures Identified as Potential Tier 2 Mitigation	
Mitigation Measures	Comments
I-80 Bypass	<ul style="list-style-type: none"> <li>No support in the Board's precedent or case law for requiring a railroad seeking merger authority to construct a new railroad line to bypass a City.</li> <li>No source of funding.</li> <li>Questionable feasibility.</li> <li>The City has indicated that, while it does not want to drop the bypass from consideration, the depressed railway is a priority in Reno.</li> <li>Private parties could pursue and fund an I-80 bypass. Doing so would require that the appropriate authority to construct and operate be sought from the Board. At that time, the Board would undertake the environmental review that was warranted for a bypass alternative.</li> </ul>
Grade Crossing Safety Measures (Vehicular)	
<ul style="list-style-type: none"> <li>Street median barriers</li> </ul>	<ul style="list-style-type: none"> <li>Would reduce the width of the street traffic lanes and could introduce access problems from adjoining land uses.</li> <li>Not be needed with four-quadrant gates (proposed as Tier 1 mitigation).</li> </ul>
<ul style="list-style-type: none"> <li>Conversion of existing two-way streets to one-way</li> </ul>	<ul style="list-style-type: none"> <li>Far-reaching implications for downtown traffic circulation and businesses.</li> <li>Should be part of a broader transportation, land use, and property access planning process for the areas surrounding the grade crossings.</li> <li>One-way street couplets (pairs of one-way streets) were reviewed during a 1995 analysis of downtown traffic and parking to reduce traffic conflict and increase intersection capacity. Study notes that one-way streets offer some advantages but can confuse motorists, especially visitors, and can be frustrating to local motorists.</li> <li>Local businesses may also oppose one-way streets because of potential access problems.</li> <li>Four-quadrant gates proposed as Tier 1 mitigation eliminate advantages from the standpoint of railroad/highway safety.</li> </ul>
Grade Crossing Safety Measures (Pedestrians)	
<ul style="list-style-type: none"> <li>Crossing guards</li> </ul>	<ul style="list-style-type: none"> <li>Proposed Tier 1 mitigation measures include pedestrian crossing gate skirts, electronic warning signs, and pedestrian/rail grade separations, all in addition to the pedestrian warning signals and gates that currently exist at the heavily-used pedestrian crossings in Reno.</li> <li>Would entail unnecessary ongoing costs.</li> </ul>



Table 8.5-1 Measures Identified as Potential Tier 2 Mitigation	
Mitigation Measures	Comments
<b>Air Quality Measures</b>	
<ul style="list-style-type: none"> <li>Implementing the proposed EPA locomotive emission standards</li> <li>Concentrating operation of new EPA-certified low-emission locomotives in Reno</li> <li>Early introduction of low-emission locomotives</li> <li>Diesel engine modifications</li> <li>Improved diesel fuels</li> <li>Diesel exhaust after treatment</li> <li>Use of alternative fuels</li> </ul>	<ul style="list-style-type: none"> <li>EPA regulations not yet in place.</li> <li>Would be applicable to all locomotives operating through Reno and introduce unknown costs.</li> <li>Inadequate information exists to recommend at this point.</li> <li>Other system-wide mitigation measures that are already imposed appear to mitigate impacts.</li> </ul>
<ul style="list-style-type: none"> <li>Offsetting the increase in Locomotive Emissions</li> </ul>	<ul style="list-style-type: none"> <li>Would not directly mitigate effects of the increased train levels.</li> <li>Goes beyond authority of the Board and requires voluntary compliance, e.g., Truckee Memorandum of Understanding (MOU).</li> <li>Other system-wide mitigation measures that are already imposed appear to mitigate impacts.</li> </ul>

In conclusion, SEA would certainly review and consider any of the above Tier 2 mitigation measures if they were agreed upon voluntarily and became part of a memorandum of understanding between UP and appropriate interested parties.

## 8.6 Noise

Noise is a distinct and separate area of environmental concern, because of its paramount role in providing for the public safety. The overwhelming majority of noise generated by rail operations in Reno is that which emanates from warning horns located on the locomotives. The Board addressed the public safety implications of the train horn noise in its Decision No. 44. Specifically, the Board noted that "[a]ny attempt significantly to reduce noise levels at grade crossings would jeopardize safety, which we consider to be of paramount importance."

# Enclosure 6

## WASHOE COUNTY

"To Protect and To Serve"



1001 E. 1ST STREET  
POST OFFICE BOX 11111  
RENO, NEVADA 89521-0011  
PHONE 702 328-3600  
FAX 702 328-3649

DEPARTMENT OF COMPREHENSIVE PLANNING

January 21, 1997

TO: Reno Mitigation Task Force

FROM: Bob Webb, Community Coordinator

SUBJECT: Impacts on Washoe County

As part of the preliminary mitigation and evaluation criteria, task force members were asked to consider the impacts of the railroad merger in order to better evaluate potential mitigation measures. The following list of impacts is derived from staff reports prepared for the Washoe County Commission, comments by County Commissioners during public meetings, and the staff report prepared for the Environmental Assessment on the merger. Impacts are divided into three general categories: public safety, economic, environmental, and miscellaneous.

### Public Safety:

- emergency access for isolated communities served by Woodland Avenue, Stag Lane, Del Curto Lane, and Canal Road. Canal Road is located off the Interstate 80 Patrick Exit and provides access for about 35 residences in Storey County. Concern is two fold: first, blockage of tracks during normal operations for emergency response agencies. Second, blockage during a train accident and/or hazardous material spillage for community access/evacuation.
- existing, substandard railroad crossing throughout Washoe County.
- long trains blocking multiple crossings (particularly should a train stop and block two or more railroad crossings).
- speed of trains in outlying areas. Information supplied by Union Pacific officials show that trains will be traveling at 65 mph on tracks east of Reno (i.e., through the east Truckee Canyon) and at 45 mph on tracks west of Reno (i.e., through the Verdi area). Obviously, faster trains mean longer braking distances in case of vehicles or pedestrians on the tracks.

### Economic:

- delays to tourists (pedestrian and vehicle) at railroad crossings.
- potential negative publicity to tourist based economy in the event of a major traffic accident or HAZMAT spill (similar to effects of national media attention during the 1997 floods).

### Environmental:

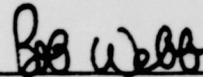
- hazardous material spills at railroad switching yards (Sparks and Parr Boulevard) and along the railroad tracks. This impact also involves clean up of hazardous materials, even if accumulation of small amounts occurs over a long period of time.

Memo to: Reno Mitigation Task Force  
Subject: Impacts on Washoe County  
January 21, 1997  
Page 2

- potential contamination of surface water (primarily Truckee River where municipal water intakes are located very close to the railroad) and groundwater supplies. This concern includes contamination due to normal operations (e.g., oil leaks from engines on the railroad bed).
- increased HAZMAT shipments on the Feather River railroad route and potential impacts to the Gerlach community.
- air quality impacts of idling vehicles waiting at railroad crossings.
- air quality impacts of switch yard railroad traffic (e.g., switching engines, adding additional engines for the climb up Donner summit).

**Miscellaneous:**

- noise from train whistles (County staff reports highlighted the Verdi area as a primary concern, but noise also effects nearby residences near the tracks through both Reno and Sparks).
- noise from passing trains (particularly at slow speeds, for instance in the downtown area).
- future of the Reno Branch line and the Reno intermodal facility at Parr Boulevard (particularly should there be increases in rail traffic).



---

Community Coordinator

CRW:bw

cc: John MacIntyre, County Manager





# Enclosure 7

July 8, 1997

Washoe County  
Department of  
Community  
Development

1001 E. North St. Bldg. A  
Post Office Box 11130  
Reno, NV 89520-0027  
Tel: 702-328-3600  
Fax: 702-328-3648

Elaine K. Kaiser, Chief  
Harold McNulty, Reno Co-Study Director  
Section of Environmental Analysis  
Surface Transportation Board  
1925 K Street NW  
5th Floor  
Washington, DC 20423

Subject: Recommended Mitigation Measures

Dear Ms. Kaiser and Mr. McNulty:

In your letter of July 2, 1997 to Charles McNeely, City Manager for the City of Reno, you stated that the Reno Mitigation Study Task Force would not meet in August as your section will be finalizing the Preliminary Mitigation Plan. Your section will issue the plan in September and the process will then move into a formal public review phase. As a member of the study task force, I have waited for the appropriate task force meeting to raise issues of concern to Washoe County as a whole and it appears as if opportunities to discuss these issues in a task force meeting will be slim (particularly since I will be unable to attend the task force meeting on July 9, 1997).

The following comments are mitigation measures which I believe should be considered as part of a larger mitigation plan for Washoe County (to include the Cities of Reno and Sparks). The comments are segregated by the appropriate categories for evaluation (provided to task force members during the meeting on June 11, 1997). These mitigation measures have appeared in a letter to you dated April 30, 1996 and were reiterated in a memorandum to the Reno Mitigation Study Task Force dated January 21, 1997.

## **Pedestrian Safety and/or Emergency Vehicle Access and/or Train/Vehicle Accidents**

1. Evaluate existing railroad crossings (public and private) in Washoe County and repair those crossing which do not meet appropriate Federal or State regulations. Southern Pacific Railroad repaired the railroad crossing at Woodland Avenue prior to the merger and a similar effort should be provided for all crossings in Washoe County.
2. Inform residents and business owners of the emergency access road which provides secondary access should Woodland Avenue be blocked at the railroad crossing. Information should include agencies to contact should an emergency arise which would cause the need for secondary emergency access.
3. Provide emergency access to residents in the Stag Lane, Del Curto Lane, and Canal Road areas. There should be, at a minimum, discussion between railroad officials, the Public Service Commission, and appropriate County staff as to measures to be taken to provide emergency access and/or evacuation should the railroad crossings at those locations be blocked.
4. 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

John B. Hester, AICP  
Director

Jess S. Traver, P.E.  
County Building  
Official



Letter to: Elaine Kaiser and Harold McNulty  
Subject: Recommended Mitigation Measures  
July 8, 1997  
Page 2

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.

#### **Deraillments/Spills/Water Quality**

5. Develop a plan to respond to hazardous material spills and/or accidents in or near Gerlach, Nevada (Feather River route). The plan should identify the equipment needed for minimum response and the location of this equipment, the agency(s) (both public and private) charged with responding to an incident, and response times to an incident.
6. 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.
7. 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.

I would appreciate a written response to each of these items either separately or within the Preliminary Mitigation Plan. I also request that this letter be made part of the public record. If you have any questions, please do not hesitate to call me at (702) 328-3623.

Sincerely,

*Bob Webb*

Bob Webb  
Community Coordinator

CRW:bw

cc: Grant Sims, Chair, Washoe County Board of County Commissioners  
John MacIntyre, County Manager  
John Hester, Director  
Reno Mitigation Study Task Force members

# WASHOE COUNTY SHERIFF

*Dedicated Service in Partnership with our Community*



Richard Kirkland  
Sheriff

October 10, 1997

Office of the Secretary  
Case Control Unit  
Finance Docket No. 32760  
Surface Transportation Board  
1925 K Street, NW, Room 700  
Washington, DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT

REC'D: 10-21-97

DOCUMENT # 10-28-97 11:22:27am

30# 32760 R.L.D.



Attn: Elaine K. Kaiser  
Chief, Section of Environmental Analysis  
Environmental Filing - Reno

RE: **UP/SP MERGER - RENO MITIGATION STUDY PRELIMINARY MITIGATION PLAN**

The Washoe County Sheriff's Office has reviewed the Preliminary Mitigation Plan and considered the impact the proposed merger and mitigation measures may have on the community we serve and on our delivery of services.

The Sheriff's Office provides police services to residences on Del Curto lane. The increased train traffic at this crossing caused by the merger will delay non-emergency and emergency responses into this area. The Sheriff's Office feels that crossing delays at Del Curto caused by the merger need to be mitigated, however, the Sheriff's Office takes no position on which mitigation measure should be implemented at this crossing.

The Sheriff's Office provides police services to residential and commercial properties and a Washoe County Park which are accessible by the Woodland Avenue. The relocation of "helper" locomotives away from the Woodland Avenue area appears to be a reasonable mitigation measure.

The increased train traffic at this crossing caused by the merger will delay non-emergency and emergency responses into this area. Table 7.3.1, page 7-65, shows the proposed mitigation measure of widening, paving, and dedicating an existing road south of the tracks has already been implemented. I inspected the site and found that this is inaccurate. The existing paved one lane access road that is south of the tracks, runs parallel to Superior Mini-Storage, and connects White Fir Street to Mayberry Drive has not been widened. Signs are still in place at it's intersection with White Fir that show it as one way street. Signs are still in place at it's intersection with Mayberry Drive that indicated wrong way do not enter. The gates are open and unlocked, but still in place at each end of this road and could be closed and locked without notice by malicious third parties.



The intersection of this access road with Mayberry Drive is not easily visible to east bound traffic because Mayberry Drive curves, goes down under the railroad track. The road design or configuration and the bridge abutments cause the poor visibility. At night, the visibility is worse because there is no street light at this intersection.

The point at which this access road intersects with Mayberry Drive, is a location that has been flooded and closed due to high water during times of heavy rainfall. If such flooding occurs, then the only access will be by way of the Woodland Avenue crossing.

The Sheriff's Office recommends the following immediate actions be taken for this access road provided it is a dedicated road:

- Current signs be removed and replaced with signs indicating a narrow one lane road.
- Removal of the gates at each end.

The Sheriff's Office recommends the following additions to the proposed mitigation measure of widening and paving of the existing road:

- Installation of a sign on east bound Mayberry Drive at least 100 feet or more west of the intersection of the access road, warning of a "T" intersection.
- Installation of a street light at the intersection of the access road and Mayberry Drive.

The Sheriff's Office is a second responder to emergencies in the City of Reno, assisting the Reno Police Department on critical incidents or major criminal events. The Sheriff's Office transports approximately 30-50 prisoners every day to three downtown locations, the Washoe County District Courthouse, Reno Justice Court, and Reno Municipal Court. The Sheriff's Office feels the increased crossing delays need to be mitigated so as not to delay emergency responses or the transport of prisoners.

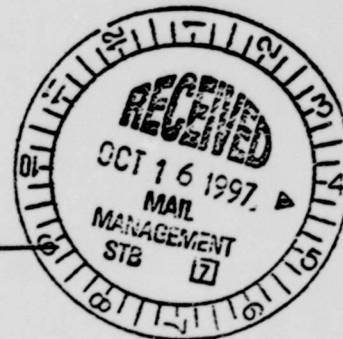
If you have questions or need further information, please feel free to call me at (702) 328-3353.

Sincerely,

RICHARD KIRKLAND, SHERIFF

By Franklin N. Barnes #102  
Franklin N. Barnes, Captain  
Patrol Division Commander

BEFORE THE  
SURFACE TRANSPORTATION BOARD



---

Finance Docket No. 32760

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

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COMMENTS ON PRELIMINARY MITIGATION PLAN (PMP)  
FOR THE CITY OF RENO, ISSUE DATE SEPTEMBER 15, 1997

---

Paul H. Lambole  
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Facsimile: (702) 334-2420

October 16, 1997

Counsel for The City of Reno

**COMMENTS ON PRELIMINARY MITIGATION PLAN (PMP)  
FOR THE CITY OF RENO  
ISSUE DATE SEPTEMBER 15, 1997**

The City of Reno here submits Comments on the Preliminary Mitigation Plan (PMP) for the City of Reno, issued September 15, 1997. The contents of the ring binder Comment Document which accompanies these Comments are expressly incorporated by this reference as if set out in full herein.

This prefatory statement emphasizes the City's view that the Board should have required preparation of an environmental impact statement (EIS) for the Reno/Sparks/Truckee Meadows Basin under requirements of the National Environmental Policy Act (NEPA), 42 USC 4332(2), and regulations of the Council on Environmental Quality (CEQ), 40 CFR Parts 1500-1508. Had the Reno Mitigation Study (RMS) been undertaken as an EIS, the Preliminary Mitigation Plan (PMP) could have avoided two flaws fatal to its credibility: first, the failure to comply with the study mandate in Decision No. 44; and second, the unlawful delegation of the actual selection and implementation of the principal mitigation measure proposed.

**1.    The PMP Fails To Comply With The Study  
Mandate In Decision No. 44.**

In relevant part Decision No. 44 provides:

The sole purpose of the mitigation studies will be to arrive at specifically tailored mitigation plans that will ensure that localized environmental issues unique to the two communities are effectively addressed. For example, with respect to vehicular and pedestrian safety, SEA has determined that separated grade crossing and pedestrian overpasses and/or underpasses will be needed to address safety concerns on the existing rail lines in Reno and — .



Wichita. Accordingly, the studies will identify the appropriate number and precise location of highway/rail grade separations and rail/pedestrian grade separations in Reno and Wichita. With respect to air quality, we have imposed mitigation measures that reduce locomotive fuel consumption and air pollution, call for more efficient railroad equipment and operating practices, and require consultation with air quality officials. As further insurance, the studies will consider additional mitigation to address the air quality effects unique to Reno and Wichita. In this merger, noise impacts would result from more frequent exposure to horn noise rather than greater intensity of sound. No additional types of noise would be introduced. To address noise impacts, we are requiring UP/SP to consult with affected counties to develop focused noise abatement plans. As the Post EA notes, however, safety dictates that railroads sound their horns at grade crossings.<sup>1</sup> Any attempt significantly to reduce noise levels at grade crossings would jeopardize safety, which we consider to be of paramount importance.

Decision No. 44, p. 221 - 222. (footnotes omitted.)

The study protocol requires public consultation "regarding the range of additional mitigation to must effectively address increased rail traffic on the existing rail lines in Reno and Wichita." Decision No. 44, p. 222.

The goal of the Mitigation Study is to "design the most effective mitigation for these particular communities to add to the mitigation that has already been imposed." Id.

In Decision No. 55, the Board further explained Decision No. 44, stating:

In Decision No. 44 we found that our environmental mitigation conditions (including Condition #22) specifically remedy the environmental impacts associated with the merger and ensure that there will be no significant environmental effects. We noted that, in Reno, the environmental impacts are limited to the effects of an

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<sup>1</sup> SEA indicates that FRA has been directed by the Swift Act generally to require that horns be sounded at all grade crossings.

increase of traffic on an existing rail line. As the environmental assessment (EA), post-environmental assessment (Post-EA) and Decision No. 44 (At 220-23) show, we have already assessed the impact of the merger on Reno and identified its likely environmental effects. We explained that, with the systemwide and corridor-specific mitigation already imposed, and the conditions to be arrived at in the Reno mitigation study, there will be no significant environmental impacts to Reno. We emphasized that we already know the nature and general parameters of the appropriate mitigation measures for Reno, and that the sole purpose of the Reno study is to arrive at a specifically tailored mitigation plan to address impacts of additional traffic that will eventually move through Reno.

Decision No. 55 p.3 (emphasis added.)

Even a casual reading demonstrates that the PMP does not identify the "appropriate [or for that matter any] number and precise location of highway/rail grade separations in Reno", as tailored mitigation specific to the significant adverse impacts to public health, safety and environment that will result from the merger in the City of Reno. The Reno Mitigation Study consequently fails to achieve its stated objective or fulfill its directed mission. Rather, the PMP proposes to increase train speeds to 30 mph as the prime mitigation measure for the significant adverse impacts resulting from the merger in the City of Reno.<sup>2</sup>

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<sup>2</sup> "UP shall make necessary operating changes and capital improvements...to enable trains to generate over the rail line segment between the east end of the Sparks yard (approximately MP 247) and a point just west of Keystone Avenue (approximately MP 242) in Reno at a speed of 30 miles per hour. UP shall then operate, and require BNSF to operate, all trains over the described rail line segment at a speed of 30 mph consistent with safe operating practices dictated by conditions present at the time each train traverses the segment."

PMP pp. ES-5, 10-1. Not only does PMP fail its purpose, in proposing increase in train speeds it abandons mitigation responsibility to the discretion of others.<sup>3</sup>

**2. In Proposing An Increase In Train Speeds,  
The PMP Unlawfully Delegates The Actual  
Selection And Implementation Of The Principal  
Mitigation Measure To The Railroads.**

Train safety and operating speeds limits are not specifically set by any agency, but are generally governed according to class of track under Federal Railroad Administration (FRA) regulations. See 49 CFR 213.9. Accordingly in Reno, the line segment Class 3 track status authorizes rail operations up to a maximum speed of 40 mph. 49 CFR 213.9(a). No where are other speed limits set. In short, specific train speed within the maximum authorized for the class of track lies solely within the operating discretion of the railroad. Thus, selection of train speed, and consequently implementation of the mitigation measure is delegated to the discretion of the railroad.

The delegation of environmental investigation and documentation responsibilities under NEPA by the Interstate Commerce Commission (ICC), the STB's predecessor agency, has been consistently held unlawful. See State of Idaho v. ICC, 35 F3d 585, 595 (DC Cir. 1994); Illinois Commerce Comm'n v. ICC, 848 F2d 1245, 1258 (DC Cir. 1988); Harlem Transportation Ass'n v. Stafford, 500 F2d 328, 335-36 (2nd Cir. 1974).

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<sup>3</sup> A persuasive argument can be made that grade separation mitigation was not a significant consideration in the PMP because under Decision No. 71 the costs of such measure would be borne by the railroad. Such infrastructure mitigation costs are now known to be substantially more than costs associated with mitigation through operational changes.



If environmental investigation cannot be lawfully delegated, abdication of responsibility for actual selection and implementation of mitigation measures to others, is even less supportable. In this instance, the delegation to the railroad is not limited in choice of train speed, length of trains, numbers or frequency of trains.

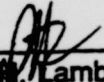
### **Conclusion**

The Preliminary Mitigation Plan issued September 12, 1997 demonstrates the current lack of both process and substance in the Reno Mitigation Study. If NEPA procedural structure is recognized as facilitating substantive determination, the Board should now order site-specific EIS for the Reno/Sparks/Truckee Meadows Basin to properly explore an appropriate range of mitigation alternatives. See 40 CFR Parts 1500-1508.

It is now painfully evident that because of the unstructured, ad hoc nature of the Reno Mitigation Study undertaken to date, the parties and the Board are no closer to a rational, responsible approach to mitigation of the significant adverse impacts to public health, safety and environment in the City of Reno. Surely, the PMP cannot be fairly construed as reducing or minimizing the significance of the impacts to support the FONSI determination as anticipated in Decision No. 44. Indeed, the proposed increase in train speed, which was not subject to serious review by the Study Task Force, creates more problems than remedies.

Ordering preparation of an environmental impact statement (EIS) will contribute substantially to resolution of mitigation issues,<sup>4</sup>

Dated: October 16, 1997

  
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<sup>4</sup> This will be true even if retention of the current independent contractor is continued.

**Certificate of Service**

This is to certify that I have this 16th day of October, 1997, served a copy of the foregoing Comments on Preliminary and ring binder Comment Document Mitigation Plan (PMP) for the City of Reno, Issue Date September 15, 1997, via the most expeditious means first-class mail, postage prepaid on:

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# **CITY OF RENO**

## **Preliminary Mitigation Plan Comment Document**



**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**

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**Service Date: September 15, 1997  
Comment Due Date: October 16, 1997  
Submission Date: October 15, 1997**

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### LIST OF ACRONYMS AND SYMBOLS

automatic block signal .....	ABS
average daily traffic .....	ADT
Air Quality Control Region .....	AQCR
Air Sciences Inc. ....	ASI
Brown-Buntin Associates, Inc. ....	BBA
Council on Environmental Quality .....	CEQ
Code of Federal Regulations .....	CFR
centralized traffic control .....	CTC
decibels .....	dB
adjusted decibel level .....	dBA
De Leuw, Cather & Company .....	DCCo
day-night average level .....	DNL
data validation activities .....	DVAs
Environmental Assessment .....	EA
Employment Development Department .....	EDD
Environmental Impact Statement .....	EIS
environmental noise model .....	ENM
Environmental Report .....	ER
executive summary .....	ES
Endangered Species Act .....	ESA
Federal Emergency Management Agency .....	FEMA
Final Mitigation Plan .....	FMP
Finding of No Significant Impacts .....	FONSI
Federal Register .....	FR
Federal Railroad Administration .....	FRA
hydrocarbons .....	HC
Highway .....	Hwy
Interstate Commerce Commission .....	ICC
Joint Intermodal Terminal .....	JIT
Lahontan cutthroat trout .....	LCT
day/night equivalent sound level .....	L <sub>dn</sub>
Meyer, Mohaddes Associates, Inc. ....	MMA
Nevada Department of Transportation .....	NDOT
National Environmental Policy Act .....	NEPA
Nevadans for Fast and Responsible Action .....	NFRA
National Historic Preservation Act .....	NHPA
National Register of Historic Places .....	NRHP



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#### LIST OF ACRONYMS AND SYMBOLS (continued)

Preliminary Mitigation Plan .....	PMP
parts per million .....	ppm
Regional Emergency Medical Services Authority .....	REMSA
Reno Police Department .....	RPD
Section of Environmental Analysis .....	SEA
Sound Exposure Level .....	SEL
Burlington Northern/Santa Fe .....	BN/SF
Surface Transportation Board .....	STB
University of Nevada - Reno .....	UNR
<u>United States Code</u> .....	USC
U.S. Fish and Wildlife Services .....	USFWS
volatile organic compounds .....	VOC
volumes .....	Vols.
westbound .....	wb
Washoe County District Health Department	
Air Quality Management District .....	WCAQMD
Wilson, Ihrig & Associates, Inc. ....	WIA

*...anticipated impacts to public health and safety for the Reno / Sparks / Truckee Meadows area include...*

- *Increased number of trains: Union Pacific indicates an increase of 11.3 trains per day over the next 5 years (without any adjustment for future expansion or Port of Oakland growth). Based upon these projected train numbers...*
- *Increased traffic delay time: Idling vehicle delay time will more than double from 188 hours to 473 hours*
- *Increased air pollution: Carbon Monoxide (CO) will increase by 68 tons per year and Nitrogen Oxides (NO<sub>x</sub>) by 390 tons*
- *Increased emergency service calls delays: 564 Police calls, 168 ambulance calls, and 108 fire calls will be delayed in one year*
- *Increased train vehicle accidents and pedestrian fatalities: Accidents and fatalities may increase from 1 accident every 15 months to 1 accident every 13 months*
- *Increased risk of Derailment and potential hazardous material accidents: Existing risk of 1 contamination event every 53.1 years will increase to 1 event every 29.4 years*
- *Increased Noise: A total of 118 homes, 185 apartment units, 1,136 hotel rooms, and 1 church will be impacted by train whistles noise; Interior noise levels in hotel rooms would increase by 2.7 dB, aggravating the existing unacceptable condition; the increased number of train is expected to cause a 90 percent increase in awakening*

## EXECUTIVE SUMMARY





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## Preliminary Mitigation Plan Comment Document

### EXECUTIVE SUMMARY

On August 12, 1997 the Surface Transportation Board (STB), in Decision No. 44, Finance Docket No. 32760, approved the Union Pacific/Southern Pacific (UP/SP) Merger application. As part of this approval, the STB reached a Finding of No Significant Impact (FONSI) regarding all environmental impacts associated with this merger. Nonetheless, the STB concluded that as a condition of this approval the STB's Section on Environmental Analysis (SEA) must conduct a "mitigation study" for both the Reno, Nevada area and the Wichita, Kansas area to "arrive at specifically tailored mitigation plans that will ensure that localized environmental issues unique to these two communities are effectively addressed" (STB, 1997d:Appendix A, p. 5). The STB directed SEA to do the following:

...[W]ith respect to vehicular and pedestrian safety, SEA has determined that separated grade crossings and pedestrian overpasses and/or underpasses will be needed to address safety concerns on the existing rail lines in Reno and Wichita. Accordingly, the studies will identify the appropriate number and precise location of highway/rail grade separations and rail /pedestrian grade separations in Reno and Wichita" (STB, 1997d:Appendix A, p. 5).

Despite this clear, unambiguous directive, the Preliminary Mitigation Plan (PMP), issued September 15, 1997, fails to require the UP to implement any underpasses or overpasses for vehicles in the Reno area. The City of Reno (City) opposes final implementation of this merger because the merged operations proposed by UP/SP will have unmitigated significant adverse impacts on the environment, public health and safety, as well as commerce of the City. Neither the application nor UP/SP, nor the Environmental Assessment (EA), nor the Post EA, nor the PMP proposes mitigation measures 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 National Environmental Policy Act (NEPA) or under any "reasonableness" standard because of the increases in significant adverse impacts.

The PMP is the final step in the process of developing "specifically tailored mitigation plans" to adequately mitigate the adverse impacts of the merger on the Reno / Sparks / Truckee Meadows area. Although the City has never agreed with the concept of deferred mitigation (as evidenced by the City's comprehensive comments on the EA and Post EA) the PMP was supposed to contain specific mitigation measures whose sole purpose were to reduce all merger related impacts to less than significant levels. The PMP falls miserably short of this intended goal. As such, the Environmental Assessment (EA) prepared April 12, 1996, which heavily relied on deferred mitigation to prepare a FONSI, is not valid. In the event that the Final Mitigation Plan (FMP) does not contain adequate provisions to mitigate each and every

# CITY OF RENO

## Preliminary Mitigation Plan

### Comment Document

#### EXECUTIVE SUMMARY (continued)

significant effect of the merger (as set forth in this comment) the NEPA process must be re-initiated, and a new EA prepared and circulated for public review and comment.

The STB and SEA have stated that both the EA and the Post EA are a complete analysis sufficient to reach a FONSI determination. That being so, this mitigation study appears to be an undefined attempt to support a previously reached FONSI conclusion, rather than a scientific study based upon established NEPA procedures to resolve identified serious environmental impacts in the Reno / Sparks / Truckee Meadows resulting from the merger.

The PMP states that NEPA requires that agencies take a "hard look" at environmental consequences of their decisions and that this directive served as SEA's guide in conducting this mitigation study. The City can only interpret this statement to mean that SEA took a "hard look" at the increased speed mitigation option, and the other mitigation options received a "softer", less discerning "look". This is evidenced by the lack of specific analysis reported on both grade separations and the depressed railway mitigation options. SEA's approach appears to be that when typical construction project impacts such as dust / noise and potential pre-historic and historic resource clearances are present, these "impacts" are used as an excuse to justify the discontinuance of that "hard look" and "need for further study", such is the case with grade separations and the depressed railway. Ironically, a "no further study required" determination was made by SEA relating to the building of pedestrian overpasses which would have the identical dust / noise and potential pre-historic and historic resource clearances (the identical basis for "needing further study" determinations by SEA for grade separations and the depressed railway).

As specifically set forth in this comment, the City opposes the suggestion that the major "required" mitigation solution for this area is to increase train speeds to run "consistently" at 30 mph. The City provides comments refuting SEA's assumptions upon which it based its conclusions regarding the "benefits" of the increased speed "requirement". The City questions the basis for the "required" speed mitigation, and if the necessary UP rail yard improvements with out additional capacity, are sufficient and are not simply operational changes imposed only to facilitate train operations and interstate commerce, which do little or nothing to protect the safety and health concerns proven to be significantly impacted by this merger throughout the Truckee Meadows area. This issue must be given a "hard look" and rectified in the FMP.

The PMP's reference to perceived details of private negotiations, and speculation as to the status of such negotiations, are inappropriate and have no place in a federally mandated environmental mitigation study. The PMP sets forth no authority for discussing the perceived details of

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### Comment Document

#### EXECUTIVE SUMMARY (continued)

private negotiations, nor does the PMP explain why such information is useful or relevant to the STB mandated environmental (vs. economic) mitigation study. Further, SEA can only, at best, speculate as to the status of private negotiations between the City and the UP because it is not a participant in those negotiations. Any reference to details of private negotiations between UP and the City must be deleted from the FMP.

The PMP sets forth a measure of impact of average daily gate down time per crossing on major crossings. The City does not consider this appropriate. If the existing potential for blocked emergency response vehicles is 12 times a day under current conditions, then the post-merger 24 times a day is a 100 percent increase in blockage. The fact that the current 12 blockages total 42.9 minutes per day compared to the mitigated 24 blockages totaling 54.8 minutes or 27 percent increase is not a comparable, as each emergency response which is blocked must either be re-assigned or re-routed - emergency vehicles do not and will not wait at crossings during responses or transports.

The PMP explains that the Federal Railroad Administration (FRA) is conducting a safety review which includes the rail line through both the Reno / Sparks / Truckee Meadows area as well as the larger Washoe County area. The City is unaware of the scope and extent of this safety review because the PMP addresses this critical issue with only one line of text and no specific explanation. The PMP does not mention or address any of the serious safety issues and problems that caused the safety review in the first place. This is another example of how SEA and its environmental consultants are bias towards the UP and do not provide an adequate analysis of this issue. The City has directly requested the FRA to include the Reno / Sparks / Truckee Meadows area in its in-depth study of UP operations. To date, the City has not received a response.

Throughout the Reno Mitigation Study process, the City requested that SEA put the issue of endangered species inhabiting the Truckee River (the endangered cui-ui and the threatened Lahontan cutthroat trout [LCT]) on the Reno Mitigation Task Force agenda so that this critical issue could be publicly studied and reasonable mitigation solutions could be discussed. SEA failed to honor this request.

A review of SEA's request to the United States Fish and Wildlife Service (USFWS) reveals that certain misleading information was given to the USFWS to consider. This misleading information was in the form of an incomplete summary of a study conducted by James Carr, Ph.D., P.E. of the University of Nevada, Reno. SEA reported that based upon Dr. Carr's findings, the probability (risk) of a contamination event in the Truckee River was once in every



# CITY OF RENO

## Preliminary Mitigation Plan Comment Document

### EXECUTIVE SUMMARY (continued)

154.15 [sic] years. This finding was not based on the increased train traffic (post merger 24 trains per day per UP), but rather it was based upon existing baseline train traffic (14.7 trains per day) and only the Nevada portion of the Truckee River. In a September 2, 1997 letter to the City, Dr. Carr verified that the summary information from his report provided by SEA to the USFWS was in fact misleading.

The SEA study team independently estimated the likelihood of a hazardous materials release associated with a derailment on the portion of the UP rail line (formerly the SP rail line). The City would also question the scientific independence of the SEA study team performing this "likelihood" study as De Leurw, Cather & Company (DCCo) admittedly has worked for UP and other railroads prior to this "third party independent study".

The City, on the other hand, has no financial relationship with the author of an unpublished study *Development of an Integrated Computer Platform for the Evaluation of Contaminant Mitigation Scenarios along the Truckee River: Risk of Transporting Hazardous Substances Adjacent to the Truckee River* by University of Nevada, Reno (UNR), Geological Engineering Professor and statistician James R. Carr, Ph.D., P.E. (commissioned by and independently completed for Sierra Pacific Power Company) which estimated that a rail accident that spilled hazardous substances into the Truckee River could happen once every 53.1 years (Carr, 1996:26). The Carr study was based the 1996 rail traffic of 14 trains per day; however, based on the UP's proposed 25 trains per day or the City estimate of approximately 35 trains per, thereby increasing the statistical certainty of contaminating the Truckee River every 29.4 years and 21.0 years respectively (Carr, 1996:19, 29, 30). Risks of accidents increased with steeper grades, stronger curves, and higher trains speeds. All these factors are most prevalent in the upper Truckee River canyon between Truckee, California, and Verdi, Nevada, where the probability of a spill is therefore greatest (Carr, 1996:18, 19, 21).

Initially when Carr's report was released, UP embraced the report claiming the railroad industry's superior safety in transporting hazardous materials, as evidenced by the July 28, 1996, *Reno Gazette-Journal* article entitled *Rail study: River spill odds fairly low*: "There is no accepted method that we are aware of to accurately predict any future event, certainly including the possibility of toxic spill into the Truckee River," said Mike Furtney, Southern Pacific spokesman. "But having said that, we are impressed by the positive nature of UNR's statistics." (July 28, 1996:C1).

Based upon information provided to the USFWS by the City which was not previously provided by SEA, SEA rightfully determined to re-initiate informal consultation with the

# CITY OF RENO

## Preliminary Mitigation Plan

### Comment Document

#### EXECUTIVE SUMMARY (continued)

USFWS (regarding biological resources) on September 29, 1997. However, it would appear that the public, who has indicated that risk of hazardous materials spills is a priority environmental concern for the community, will have no opportunity to evaluate that consultation process prior to the end of the comment period (October 16, 1997). This is unacceptable to the citizens of Reno and the City. The adequacy of the proposed "mitigation" can not be evaluated without the complete consultation process of the USFWS.

Required consultation with the Native Americans was never conducted during the EA and Post EA NEPA process, and as evidenced in the PMP, has not been completed during the preparation of the PMP. All attempts to conduct Native American consultation were initiated following completion of the EA NEPA process which is a violation of NEPA. It is the City's understanding that only one meeting was held with Reno-Sparks Indian Colony and no direct meetings or contacts have been completed with the Washoe or Paiute Nations.

The PMP states that the Sparks switchyard operations are not associated with the merger. In fact, if the increase in freight trains through the Reno / Sparks / Truckee Meadows area increases the switchyard activity levels, then the increase in switchyard activities and associated air emissions are an effect of the merger, just as the increase in emissions due to vehicle delays is an effect of the merger. The Sparks rail yard impacts from increased traffic must be given a "hard look" in the FMP.

Contrary to the PMP, the STB is subject to general conformity as discussed in AST's recently released report (ASI, 1997:Sect. 5). The STB's ability to limit freight train traffic through Truckee Meadows during the mitigation study period (see STB, 1996c:222) is evidence of the STB's program control over railroad emissions.

The PMP fails to set forth any economic analysis outlining decreased performances of the entire downtown area which will occur even after implementation of the mitigation measures identified in the PMP. Some of these impacts will occur due to restricted access and impaired utilization which will financially affect the downtown casinos and businesses. The PMP does not address the fact that downtown casinos and businesses represent a major source of funding for cultural activities, parks, schools, police and fire protection, and other services offered by the City and if casinos and businesses located downtown are financially affected, so are the financial resources that help to fund those services.

The PMP sets forth the assumption that any type of mitigation for noise would be based upon change or reduction of the noise source. The City acknowledges that "to alter noise would

# CITY OF RENO

## Preliminary Mitigation Plan Comment Document

### EXECUTIVE SUMMARY (continued)

jeopardize safety which is of paramount importance". However, there are other ways, including other mitigation options, to mitigate the increased number of sensitive receptors exposed to post-merger noise which must be given a "hard look" by SEA.

The City finds the PMP's explanation and history of the depressed railway project lacks factual analysis. During the February 13, 1997, SEA public meetings in Reno, UP presented a model of the depressed railway and made statements to the public and the media touting the benefits of the depressed railway. Due to UP's January 31, 1997 proposal to provide the depressed railway at no cost to the City, the City Council subsequently (February 18, 1997) directed the City Manager to emphasize the depressed railway as the City's primary objective. UP has strongly advocated the construction of depressed railway as demonstrated by UP's lobbying efforts the week of March 17-21, 1997, when UP again presented its model of the depressed train and lobbied state legislators for a week regarding funding options.

Finally, SEA staff member and study director Harold McNulty stated at the SEA public hearings held in Reno on October 9, 1997 that SEA has studied the rail line through Reno "more thoroughly" than any study has ever been done on any stretch of any other rail line and that "we've gone far beyond the EIS process". The City, and the numerous citizens who presented testimony at the public hearings, emphatically disagree that this mitigation study has gone "far beyond" the EIS process as evidenced by the facts and scientific evidence presented for consideration in this comment document. A full EIS, following established NEPA procedures, and based upon sound scientific data, must be conducted by SEA rather than this undefined mitigation study which appears to reach conclusions contrary to sound scientific evidence, common sense and logical itself.



*Union Pacific Railroad is committed to protecting the environment for our customers, our employees, and the communities in which we operate. Beyond compliance with laws and regulations, Union Pacific is committed to the development and use of new technologies to preserve the environment for future generations.*

*Richard K. Davidson, Chairman, President, and Chief Executive Officer of Union Pacific Corporation, Union Pacific Railroad's World Wide Web Page*

*As discussed in the previous section, severity of train/vehicular accidents can be expected to slightly increase with train speed. However, for train/pedestrian accidents, the same tragedy occurs independent of the speed.*

*Section of Environmental Analysis, Reno Preliminary Mitigation Plan*

## **INTRODUCTION/ OVERVIEW**

## 1.0 INTRODUCTION/OVERVIEW

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### 1.1 PURPOSE

The City of Reno (City), Nevada has conducted a comprehensive review of the Preliminary Mitigation Plan (PMP) (STB, 1997d) prepared for the Union Pacific / Southern Pacific (UP/SP) merger (Finance Docket No. 32760) by the Surface Transportation Board (STB), Section of Environmental Analysis (SEA) dated September 15, 1997 and has been reviewed for compliance with the statutory provisions outlined in the National Environmental Policy Act of 1969, as amended (NEPA) (Pub. L. No. 91-190, 42 U.S.C. 4321 et seq.); the Council on Environmental Quality (CEQ) Regulations (40 Code of Federal Regulations [CFR] 1500-1508, 43 Federal Register [FR] 55990, Nov. 28, 1978, Revised through July 1, 1991); the Interstate Commerce Commission (ICC) Regulations (49 CFR 1105, 56 FR 36105, July 31, 1991) adopted by the STB<sup>1</sup>; and accepted professional environmental and engineering analyses practices along with consideration of community issues and concerns.

The following documents were evaluated in the City's Review of the PMP:

Air Sciences Inc. (ASI). 1997. *Analysis of Air Emission Increases Resulting From the Union Pacific and Southern Pacific Railroad Merger and Effects on the Management of the Air Resource of the Truckee Meadows Nonattainment Area*. Manuscript (Ms.) copy available from Nevadan's for Fast and Responsible Action (NFRA), Reno. (ASI, 1997).

Brown-Buntin Associates, Inc. (BBA). 1997. *Railroad Noise/Vibration Assessment: UP/SP Merger*. Ms. copy available from Nevadan's for Fast and Responsible Action (NFRA), Reno. (BBA, 1997).

City of Reno, v.d. "City of Reno Mitigation Task Force Meeting Summaries: October 23 & 24, 1996 - Kick-off Meetings Summaries; January 15, 1997 - Task Force #1 Meeting Summary; February 12, 1997 - Task Force #2 Meeting Summary; March 12, 1997 - Task Force #3 Meeting Summary; April 23, 1997 - Task Force #4 Meeting Summary; May 14, 1997 - Task Force #5 Meeting Summary; June 11, 1997 - Task Force #6 Meeting Summary; and July 9, 1997 - Task Force #7 Meeting Summary. Ms. copy available from Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (City of Reno, v.d.)

Meyer, Mohaddes Associates, Inc. (MMA). 1997. *UP/SP Railroad Merger Impact Analysis: Traffic / Delay Analysis*. Ms. copy available from Nevadan's for Fast and Responsible Action (NFRA), Reno. (MMA, 1997).

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<sup>1</sup>The ICC Termination Act of 1995, PL 104-88, 109 Stat. 803, which was enacted on December 29, 1995 and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred its railroad merger approval functions to the Surface Transportation Board.

Peters, Stuart M. Ph.D. (1997). "Comments on Union Pacific's *Downtown Reno & the Railroad*". Ms. copy available from Nevada's for Fast and Responsible Action (NFRA), Reno. (Peters, 1997).

Surface Transportation Board. 1995. *Railroad Merger Application, ICC Finance Docket No. 32760*, Applicant's Environmental Report and Operating Plan, Union Pacific / Southern Pacific Control and Merger, Volumes 1-7. November 30, 1995. Ms. copy available from Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (STB, 1995).

Surface Transportation Board. 1996a. *Environmental Assessment, Finance Document No. 32760*, Vols. 1-5, Union Pacific Corp., et al. — Control and Merger — Southern Pacific Rail Corp., et al. April 12, 1996. Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (Note: this includes the *Errata to Environmental Assessment* issued April 18, 1996, by the Surface Transportation Board, Section of Environmental Analysis. Ms. copy available from Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (STB, 1996a).

Surface Transportation Board. 1996b. *Post Environmental Assessment, Finance Docket No. 32760*, Union Pacific Corp. et al. — Control and Merger — Southern Pacific Rail Corp., et al., June 24, 1996. Ms. copy available from Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (STB, 1996b).

Surface Transportation Board. 1996c. *Final Merger Order No. 44*, issued on August 12, 1996 in Union Pacific Corp., et al. — Control and Merger — Southern Pacific Rail Corp., et al., Finance Docket No. 32760. Ms. copy available from Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (STB, 1996c).

Surface Transportation Board. 1996d. *Decision No. 55*, issued on September 27, 1996 in Union Pacific Corp., et al. — Control and Merger — Southern Pacific Rail Corp., et al., Finance Docket No. 32760. Ms. copy available from Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (STB, 1996d).

Surface Transportation Board. 1997a. *Decision No. 71*, issued on April 17, 1997, in Union Pacific Corp., et al. — Control and Merger — Southern Pacific Rail Corp., et al., Finance Docket No. 32760. Ms. copy available from Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (STB, 1997a).

Surface Transportation Board. 1997b. *Decision No. 9*, issued on June 11, 1997 in CSX / Norfolk Southern — Control and Operating Leases / Agreements — Conrail, Finance Docket No. 33388. Ms. copy available from Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (STB, 1997b).



Surface Transportation Board. 1997c. *Applicants' Report on Merger and Condition Implementation - Sub-Document No. 21* in Union Pacific Corp., et al. — Control and Merger — Southern Pacific Rail Corp., et al., Finance Docket No. 32760. July 1, 1997. Ms. copy available from Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (STB, 1997c).

Surface Transportation Board. 1997d. *Preliminary Mitigation Plan, UP/SP Merger - Reno Mitigation Study - Reno, Nevada - September 1997 - Finance Document No. 32760*, Union Pacific Corp., et al. — Control and Merger — Southern Pacific Rail Corp., et al. September 15, 1997. Ms. copy available from Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (STB, 1997d).

Surface Transportation Board. 1997e. *Preliminary Mitigation Plan, UP/SP Merger - Wichita Mitigation Study - Wichita, Kansas - September 1997 - Finance Document No. 32760*, Union Pacific Corp., et al. — Control and Merger — Southern Pacific Rail Corp., et al. September 15, 1997. Ms. copy available from Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (STB, 1997e).

Surface Transportation Board. v.d. "Various Task Force Meeting Handouts: October 23 & 24, 1996 - Kick-off Meetings Summaries; January 15, 1997 - Task Force #1 Meeting Summary; February 12, 1997 - Task Force #2 Meeting Summary; February 12, 1997 Agenda Item No. 3 & May 14, 1997 Agenda Item No. 2, Train Traffic Projections Handout; February 12, 1997, UP/SP Merger Reno Mitigation Study Overview (February 1997), March 12, 1997 - Task Force #3 Meeting Summary; April 23, 1997 - Task Force #4 Meeting Summary; May 14, 1997 - Task Force #5 Meeting Summary; May 14, 1997 Agenda Item No. 3, Noise and Train Speed Survey Results Handouts; June 11, 1997 - Task Force #6 Meeting Summary; June 11, 1997 Agenda Item No. 3, Methodology Handout & Figures 1-10; June 11, 1997 Agenda Item No. 3, Methodology Handout & Figures A-F; July 9, 1997 - Task Force #7 Meeting Summary; July 9, 1997 Agenda Item No. 3, Distribution of Freight Trains Handout; and July 9, 1997 Agenda Item No. 4, Feasibility of Train Speed Increase Handout". Ms. copy available from Surface Transportation Board, Section of Environmental Analysis, Washington, D.C. (STB, v.d.), set forth in Appendix B of this comment document.

Noticeable differences in results have consistently plagued the studies from SEA. This document continues the difficulty of determining the impacts to Reno's resources. Table 1 provides a resource chronology indicate the results and findings of all environmental documents produced for the UP/SP merger as well as the three recently completed independent studies. The first line of the table indicates the resources which were evaluated in each of the documents. Note, no one particular merger related environmental document provides resource evaluation of all the resources of the Reno / Sparks / Truckee Meadows area.

INTRODUCTION/OVERVIEW

Table 1

Resource Evaluation Chronology

Resources Evaluated	UP's Filing 11/30/95 (STB, 1995)	STB's EA 4/12/96 (STB, 1996a)	STB's Post-EA 6/24/96 (STB, 1996b)	STB's Dec. 44 08/12/96 (STB, 1996c)	STB's Task Force Materials (Appendix B)	STB's PMP 9/15/97 (STB, 1997d)	City of Reno's Comments 10/15/97 (MMA, 1997; ASI, 1997; BBA, 1997)
Traffic Delay Safety - Pedestrians Safety - Emergency Vehicle Access Safety - Train/Vehicle Accidents Safety - Hazardous Commodities Train Operations Native American Issues Biological Resources Noise/Vibration Air Quality - Trains Air Quality - Vehicles Property Impacts Land Use	Safety - Train/Vehicle Accidents Safety - Hazardous Commodities Train Operations  Noise/Vibration Air Quality - Trains	Traffic Delay  Safety - Train/Vehicle Accidents Safety - Hazardous Commodities Train Operations  Noise/Vibration Air Quality - Trains Air Quality - Vehicles	Safety - Pedestrians  Safety - Train/Vehicle Accidents  Train Operations  Noise/Vibration Air Quality - Trains Air Quality - Vehicles	Safety - Pedestrians Safety - Emergency Vehicle Access Safety - Train/Vehicle Accidents Safety - Hazardous Commodities Train Operations  Noise/Vibration Air Quality - Trains Air Quality - Vehicles	Traffic Delay  Safety - Train/Vehicle Accidents  Train Operations  Noise/Vibration	Traffic Delay Safety - Pedestrians Safety - Emergency Vehicle Access Safety - Train/Vehicle Accidents  Train Operations  Noise/Vibration Air Quality - Vehicles	Traffic Delay
Traffic Delay		48 minutes/day/crossing (pre-merger) increases to 88 minutes/day/crossing (post-merger).  Maximum queue length per train due to peak hour vehicle traffic would range from 1 to 80 vehicles.  Delay per vehicle would vary from 1.33 to 2.06 minutes.			188 hours/day (16 crossings pre-merger, year 2000 traffic) increases to 356 hours/day (16 crossings post-merger, year 2000 traffic).  Delay per total vehicle 5.3 seconds (pre-merger, year 2000 traffic) increases to 10.4 seconds (post-merger, year 2000 traffic).	189 hours/day (16 crossings pre-merger, year 2000 traffic) increases to 373 hours/day (16 crossings post-merger, year 2000 traffic).  Delay per delayed vehicle 1.98 min. (pre-merger, year 2000 traffic) increases to 2.01 min. (post-merger, year 2000 traffic).	189 hours/day (13 crossings pre-merger, year 1995 traffic) increases to 473 hours/day (13 crossings post-merger, year 2000 traffic).
Safety - Pedestrians			...SEA concludes that the post-merger operations proposed over the Sparks to Roseville rail line segment would pose a safety risk to the City of Reno.	SEA also concluded that the merger...could have potential environmental effects regarding safety...		No data provided.	NDOT found that in 121 out of 163 train events (73.3 percent) pedestrians intrude onto the right-of- way, a total of 1,350 pedestrian intrusions in a 1 week period studied.

Table 1

## Resource Evaluation Chronology

Resources Evaluated	UP's Filing 11/30/95 (STB, 1995)	STB's EA 4/14/96 (STB, 1996a)	STB's Post-EA 6/24/96 (STB, 1996b)	STB's Dec. 44 08/12/96 (STB, 1996c)	STB's Task Force Materials (Appendix B)	STB's PMP 9/15/97 (STB, 1997d)	City of Reno's Comments 10/15/97 (MMA, 1997; ASL, 1997; BBA, 1997)
Safety - Emergency Vehicle Access				SEA also concluded that the merger...could have potential environmental effects regarding safety...		With 12.7 freight trains per day, the total average gate closed time is projected to be 42.9 minutes per day. With 14 freight trains per day, the total average gate closed time is determined to be 82.7 minutes per day, an increase of 39.8 minutes.	The existing potential for blocked emergency response vehicles is 12 times a day under current conditions, then the post- merger 24 times a day is a 100 percent increase in blockage. Each emergency response which is blocked must either be re-assigned or re-routed - emergency vehicles do not wait at crossings during an emergency response.
Safety - Train/Vehicle Accidents	On a particular rail line, the number of accidents/incidents related to train/vehicle collisions is statistically likely to vary...	SEA concludes that the accident exposure in Nevada will range from an increase of 90 percent to a decrease of 32 percent depending on rail segment.	...SEA concludes that the post-merger operation proposed over the Sparks to Reno rail line segment would pose a safety risk to the City of Reno.	SEA also concluded that the merger...could have potential environmental effects regarding safety...	1.26 accidents/year (16 crossings pre-merger, year 2000 traffic) increases to 1.70 accidents/year (16 crossings post-merger, year 2000 traffic).	"...accidents are likely to be more severe with increased train speeds."	Accidents and fatalities may increase from 1 accident every 13 months to 1 accident every 13 months



## INTRODUCTION/OVERVIEW

Table 1

## Resource Evaluation Chronology

Resources Evaluated	UP's Filing 11/30/95 (STB, 1995)	STB's EA 4/12/96 (STB, 1996a)	STB's Post-EA 6/24/96 (STB, 1996b)	STB's Dec. 44 08/12/96 (STB, 1996c)	STB's Task Force Materials (Appendix B)	STB's PMP 9/15/97 (STB, 1997d)	City of Reno's Comments 10/15/97 (MMA, 1997; ASL, 1997; BBA, 1997)
Safety - Hazardous Commodities (Derailments/Spills/Water Quality)		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.  99.98 percent of the shipments arrived at their destination without incident.	(SEA methodology)	SEA also concluded that the merger...could have potential environmental effects regarding safety...including the transportation of hazardous materials...  UP/SP shall participate on a systemwide basis...to develop hazardous material and emergency response plans... (Systemwide Mitigation No. 5).  UP/SP shall adopt UP's training program for community and emergency response personnel... (Systemwide Mitigation No. 7).  UP/SP shall give priority to equipping key trains...with two-way end of train devices... (Corridor Mitigation No. 17).		On-going.	Risk increases from 1 event in 53.1 years to 1 event in 29.4 years (23 trains) or 1 event in 21.0 years (15 trains).
Train Operations	Sparks to Roseville segment: 139.0 miles; 13.6 (pre-merger), 22.6 (post- merger), & 9.0 (increase) trains/day; and 67.7 percent change in gross ton-miles/year.	Sparks to Roseville segment: 139.0 miles; 13.6 (pre-merger), 25.1 (post- merger), & 11.3 (increase) trains/day; and 78.7 percent change in gross ton-miles/year.	Sparks to Roseville segment: 139.0 miles; 13.6 (pre-merger), 25.1 (post- merger), & 11.3 (increase) trains/day; and 78.7 percent change in gross ton-miles/year.	SEA conducted a thorough independent analysis, which included verifying projected rail operations...	1995 and Projected Future Average Daily Train Volumes Through Reno: 13.8 [12.7 freight + 1.1 Amtrak] (pre-merger), 25.1 [24.0 freight + 1.1 Amtrak] (post-merger), & 11.3 (increase) trains/day; and 78.7 percent change in gross ton-miles/year.	1995 and Projected Future Average Daily Train Volumes Through Reno: 13.8 (pre-merger), 25.1 (post-merger), & 11.3 (increase) trains/day  Increase in speed from 20 mph to 30 mph	38 percent of all trains may not be able to increase speed by 10 mph

## CITY OF RENO

Table 1

## Resource Evaluation Chronology

Resources Evaluated	UP's Filing 11/30/95 (STB, 1995)	STB's EA 4/12/96 (STB, 1996a)	STB's Post-EA 6/24/96 (STB, 1996b)	STB's Dec. 44 08/12/96 (STB, 1996c)	STB's Task Force Materials (Appendix B)	STB's PMP 9/15/97 (STB, 1997d)	City of Reno's Comments 10/15/97 (MMA, 1997; ASI, 1997; BBA, 1997)
Native American Issues				SEA conducted a thorough independent analysis, which included...historic and cultural resource surveys (see in Nevada).		On-going.	Native American consultation is incomplete.
Biological Resources				SEA conducted a thorough independent analysis, which included...performing...habitat, surface water and wetlands surveys...(see in Nevada).		USFWS informal consultation re-initiated.	USFWS informal consultation process is incomplete and warrants formal consultation process.
Noise/Vibration	Increase in sensitive receptors exposed to noise levels exceeding $L_{\text{eq}} 65 = 103$ residences	$L_{\text{eq}} 65$ Contour changes from 480 feet from centerline (pre-merger) to 670 feet from centerline (post-merger).  Increase in sensitive receptors exposed to noise levels exceeding $L_{\text{eq}} 65 = 86$ residences	SEA concludes that there would be no adverse noise impacts as a result of the proposed merger.	SEA conducted a thorough independent analysis, which included...estimating noise level impacts...  SEA also concluded that the merger...could have potential environmental effects regarding...noise...	$L_{\text{eq}} 65$ Contour: Urban grade crossing with shielding = 343 feet from centerline (post-merger); Rural grade crossing with little shielding = 390 feet from centerline (post-merger); and No horn = 112 feet from centerline (post-merger)	Post-merger: DNL 65 dB = +2.7 dB  Distance to Post-merger 65 dBA $L_{\text{eq}}$ Contour: 404 to 343 feet  Mitigated: DNL 65 dB = +0.9 dB  Sensitive Receptors: An additional 40 receptors	Post-merger: DNL 65 dB = +2.7 dB  Distance to Post-merger 65 dBA $L_{\text{eq}}$ Contour: highly variable predicted via ENM  Mitigated: DNL 65 dB = +0.9 dB  Sensitive Receptors: An additional 34 homes, 261 hotel rooms, and 1 church  Interior noise levels in typical hotel rooms would increase by 2.7 dB

Table 1

## Resource Evaluation Chronology

Resources Evaluated	UP's Filing 11/30/95 (STB, 1995)	STB's EA 4/12/96 (STB, 1996a)	STB's Post-EA 6/24/96 (STB, 1996b)	STB's Dec. 44 08/12/96 (STB, 1996c)	STB's Task Force Materials (Appendix B)	STB's PMP 9/15/97 (STB, 1997d)	City of Reno's Comments 10/15/97 (NEMA, 1997; ASI, 1997; BBA, 1997)
Air Quality - Trains	Air Emissions from Trains:  AQCR 148 is non-attainment PM, PM <sub>10</sub> , CO, & O <sub>3</sub> .  Sparks to Roseville segment: tons/year increase = HC 33.09 CO 102.87 NO <sub>x</sub> 770.04 SO <sub>x</sub> 55.80 PM <sub>10</sub> 16.69	Air Emissions from Trains:  SEA concludes that adverse impacts could result from increased rail segment activity in this AQCR [148].  Sparks to Roseville segment: tons/year increase = HC 3.1 CO 9.6 NO <sub>x</sub> 71.6 SO <sub>x</sub> 3.2 PM <sub>10</sub> 1.6	Air Emissions from Trains:  Sparks to Roseville segment: tons/year increase = HC 0.37 CO 0.83 NO <sub>x</sub> 6.20 SO <sub>x</sub> 0.43 PM <sub>10</sub> 0.13	We believe that air quality has been thoroughly analyzed, and that the mitigation will be arrived at in the further mitigation studies for Reno...adequately mitigates any potential adverse air impacts.  UP/SP shall convert all railroad locomotives to the standards for visible smoke reduction... (Systemwide Mitigation No. 11).	Note: SEA made no presentation of Air Quality resource evaluation. Baseline conditions partially covered by Washoe County District Health.	Air Emissions from Trains:  tons/year increase = VOC 16.9 CO 14.3 NO <sub>x</sub> 394.6 PM <sub>10</sub> 2.6	Air Emissions from Trains:  tons/year increase = CO 30 NO <sub>x</sub> 390
Air Quality - Vehicles		Air Emissions from Vehicles:  SEA concludes that no adverse air quality impacts would result from increased grade crossing delays...  Per Train Crossing: tons/year increase = VOC 0.0021 HC 0.0013 CO 0.0111 NO <sub>x</sub> 0.0003	Air Emissions from Vehicles:  10 Train Crossings: tons/year increase = HC 1.6 CO 20.0 NO <sub>x</sub> 0.4 SO <sub>x</sub> 0.01 PM <sub>10</sub> 0.01	From Appendix H: Net Emissions (Air Quality): AQCR 148, Northwest Nevada = HC -10.17 CO 0.83 NO <sub>x</sub> -353.66 SO <sub>x</sub> 0.43 PM <sub>10</sub> -4.23		Air Emissions from Vehicles:  VOC 1.8 CO 19.1 NO <sub>x</sub> 0.7 PM <sub>10</sub> 0.01	Air Emissions from Vehicles:  CO 18 NO <sub>x</sub> <1
Property Impacts/Lead Use				SEA conducted a thorough independent analysis, which included...performing lead use...surveys... (same in Washoe County).			Justly compensated property is not impacted.

Source: ASI, 1997; BBA, 1997; MMA, 1997; STB, 1995; STB, 1996a; STB, 1996b; STB, 1996c; STB, 1997d



The City opposes final implementation of the merger of the UP and SP Railroads because the merged operations proposed by UP/SP will have unmitigated significant adverse impacts on the environment and public health and safety, as well as commerce of the City, and neither the application nor UP/SP, nor the Environmental Assessment (EA), nor the Post EA, nor the PMP, proposes mitigation measures 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 or under any "reasonableness" standard because of the increases in significant adverse impacts.

Based on the analysis contained in this comment document, it is clear that the PMP mandated by Decision No. 44 is not adequate because: it does not adhere to the specific directives contained in Decision No. 44; it does not comply with the provisions of NEPA; it does not meet any "reasonableness" standard; and as a result, an Environmental Impact Statement (EIS) for the merger related impacts to the Reno / Sparks / Truckee Meadows area must be prepared.

The PMP is the final step in the process of developing "specifically tailored mitigation plans" to adequately mitigate the adverse impacts of the merger on the Reno / Sparks / Truckee Meadows area. Although the City has never agreed with the concept of deferred mitigation, as evidenced by the City's comprehensive comments on the EA and Post EA, the PMP was supposed to contain specific mitigation measures whose sole purpose were to reduce all merger related impacts to less than significant levels. The PMP falls miserably short of this intended goal, and as such, the Environmental Assessment (EA) prepared April 12, 1996, which heavily relied on deferred mitigation to prepare a Finding of No Significant Impact (FONSI), is not valid. In the event that the Final Mitigation Plan (FMP) does not contain adequate provisions to mitigate each and every significant effect of the merger, the NEPA process must be re-initiated, and a new EA prepared and circulated for public review and comment.

The specific basis for the City's position relating to the PMP is contained in the following sections of this comment document.

## 1.2 ORGANIZATION OF COMMENTS

This comment document has been organized to provide comments on the PMP in a logical manner, generally following the structure of the PMP unless the discussion is more appropriately focused upon the environmental resources themselves. Comments contained in this document are focused on the rail line segment within Washoe County, Nevada including the portion of the line segment traversing the corporate limits of the City. In cases where impact categories are not affected by political boundaries, such as air quality, the comments address a broader impact area as documented in that section.

Comments on the PMP are evaluated in the following sections of this comment document: 2.0 — Procedural Issues; 3.0 — Resource Impact Evaluation; 4.0 — Mitigation Evaluation including Tier 1 Mitigation (speed) and Tier 2 Mitigation (grade separations, depressed railway, I-80 re-route, and other mitigation options); and 5.0 — References.

## INTRODUCTION/OVERVIEW

The appendices include: Appendix A - Task Force Record as August 8, 1997; Appendix B - SEA Task Force Meeting Handouts & City of Reno Mitigation Task Force Meeting Summaries; Appendix C - Comments; Appendix D - "UP/SP Railroad Merger Impact Analysis: Traffic / Delay Analysis"; Appendix E - Current Media; Appendix F - USFWS Correspondence; Appendix G - "Railroad Noise and Vibration Impact Assessment: UP/SP Merger"; Appendix H - "Analysis of Air Emission Increases Resulting From the Union Pacific and Southern Pacific Railroad Merger and Effects on the Management of the Air Resource of the Truckee Meadows Nonattainment Area"; Appendix I - "Comments on Union Pacific's *Downtown Reno & the Railroad*"; Appendix J - Verified Statements; and Appendix K - Transcribed Comments from the October 7, 1997, Reno City Council Meeting.

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

Surface Transportation Board, Decision No. 44, Condition 22

2.0

**PROCEDURAL  
ISSUES**



## 2.0 PROCEDURAL ISSUES

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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 for the merger. 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). The STB's version of NEPA implementing regulations are not consistent with NEPA and the NEPA regulations, in that they substantially narrow the focus for impact analysis, resulting in unevaluated significant environmental factors.

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) it provides sufficient evidence and analysis to determine whether an EIS is required; 2) it supports an agency's compliance with NEPA when no EIS is required; and 3) it facilitates preparation of an EIS when one is required.

SEA's EA and the Post EA, which have been indicated by SEA and the STB as a "complete analysis sufficient to reach a FONSI determination", left sufficient doubt about the public health and safety of the human environment in Reno, as to warrant special conditions under Decision No. 44 requiring a mitigation study which now appears to be an undefined attempt to support a previously reached FONSI conclusion.

## 2.1 PROCEDURAL COMMENTS

The following section of comments are on NEPA, Decision No. 44, Reno's issues and concerns, historic development of Reno, data collection, speculation on private negotiations in a public document, and other procedural matters.

### 2.1.1 NATIONAL ENVIRONMENTAL POLICY ACT

**PMP Text Quote #1:** page 1 - 2, ¶ 1, line 5: *Section 6 provides a geographically focused analysis of the potential environmental impacts on Reno, Washoe County, and the surrounding area of the increased freight train traffic associated with the merger. This section supplements the environmental analysis presented in the Environmental Assessment (EA) and Post Environmental Assessment (Post EA) that were prepared by SEA pursuant to the National Environmental Policy Act (NEPA) for the UP/SP merger. Evaluation criteria and methodology*

*are provided, along with preliminary recommendations regarding potential mitigation measures for the potential environmental impacts.*

**Comment #1.1:** SEA has stated that the Post EA is a complete analysis sufficient to reach a FONSI determination. Thus, a mitigation study appears to be an undefined attempt to support a previously reached FONSI conclusion, rather than a scientific study based upon established NEPA procedures to resolve identified serious environmental impacts in the Reno / Sparks / Truckee Meadows area resulting from the merger.

**PMP Text Quote #2:** pages 2 - 1 to 2 - 2, ¶ 6, line 1: *Because the review and approval of the UP/SP merger is a major Federal action, the proposed merger is subject to environmental review under the National Environmental Policy Act, NEPA, 42 U.S.C. §4321, et. seq. The [Surface Transportation Board] Board has adopted environmental rules consistent with NEPA to guide its environmental review of proposed mergers, 49 CFR 1105 (1996). Those rules generally call for the preparation of an Environmental Assessment (EA) for railroad merger cases, 49 CFR 1105.6(b)(4)(1996). The EA is prepared by the Board's Section of Environmental Analysis (SEA), with assistance of an independent third-party contractor, and considers information supplied by the applicant, comments from interested parties and government agencies, and the results of SEA's independent investigations and verification, 49 CFR 1105.7; 1105.109(b)(d)(1996).*

**Comment #2.1:** As the very nature of an EA is to determine the necessity of an EIS due to the significance of the impacts of the action, the City finds it difficult to reconcile the STB's opposition to the preparation an EIS for the Reno / Sparks / Truckee Meadows area in the face of overwhelming evidence of significant impacts on the human environment. On the other hand, the STB predetermined the need for an EIS in the CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company — Control and Operating Leases / Agreements — Conrail, Inc. and Consolidated Rail Corporation (STB Finance Docket No. 33388) as demonstrated by the STB's statement in the July 7, 1997 Federal Register (FR):

*...[t]o evaluate and consider the potential environmental impacts that may result from the proposed transaction, the Board's Section of Environmental Analysis (SEA) will prepare an environmental impact statement (EIS) [emphasis added] (62 FR 36332).*

The statement itself indicates both SEA's and the STB's current lack of knowledge of environmental impacts that may result from the proposed Conrail transaction. The Reno / Sparks / Truckee Meadows area deserves this same consideration.

**PMP Text Quote #3:** page 2 - 9, ¶ 5, line 1: *The Reno Mitigation Study is being conducted by SEA with the assistance of an independent third-party contractor. The President's Council on Environmental Quality regulations, 40 CFR 1 506.5(c)(1996), allow a Federal agency to*



*select a contractor to prepare an environmental document, provided that: (1) the contractor is selected solely by the lead agency, (2) the contractor has no conflict of interest, (3) the contractor executes a disclosure statement prepared by the lead agency specifying that the contractor has no financial or other interest in the outcome of the project, (4) the responsible federal official furnishes guidance and participates in the preparation of the document, (5) the responsible federal official independently evaluates the document prior to approval, and (6) the responsible federal official is responsible for the scope and content of the document. SEA has applied these standards to its independent contractor in the preparation of this Preliminary Mitigation Plan (PMP).*

page 2 - 10, ¶ 1, line 1: *SEA supplied the City of Reno with appropriate information concerning the third-party contractor and subcontractor. However, information relating to compensation was not provided, because SEA is not involved in matters of compensation for independent third-party contractors.*

**Comment #3.1:** The City made an appropriate and reasonable request for disclosure of the financial compensation being paid to SEA's retained independent contractor, De Leuw Cather, & Company (DCCo). Please refer to the November 22, 1996 letter to Elaine Kaiser, Chief Section of Environmental Analysis from Paul Lamboley, lead counsel for the City, placed in the record by the City on August 8, 1997 as set forth in Appendix A of this comment document. This information is again requested in order to ascertain any conflict of interest which may exist.

**PMP Text Quote #4:** page 6 - 3 to 6 - 4, ¶ 5, line 4: *To evaluate reasonably foreseeable conditions, the SEA study team used future vehicular traffic volumes projected for the Year 2000. Calculations of both pre- and post-merger conditions used these projected Year 2000 traffic levels to assure that the difference between pre- and post-merger potential environmental impacts could be attributed solely to changes in train traffic.*

**Comment #4.1:** SEA would have you believe that some how the pre-merger conditions are the year 2000 vehicular traffic. How can this be pre-merger? It is the City's understanding that pre-merger would have to be some time prior to August 12, 1996, when the STB approved the UP/SP merger. Post-merger would have to some time after September 12, 1996, the merger consummation date. The entire PMP and all of its analyses are missing comparisons between the "pre-merger existing environmental conditions" with 1995 vehicle traffic (ADT) and 12.7 through freight trains per day and the post-merger conditions with year 2000 vehicle traffic (ADT) and 24.0 through freight trains per day.

**PMP Text Quote #5:** page Executive Summary - 2, ¶ 1, line 1: *The National Environmental Policy Act (NEPA) requires that agencies take a "hard look" at the environmental consequences of their decisions, and this directive served as SEA's guide in conducting the Reno Mitigation Study...*



**Comment #5.1:** Determination of the "affected environment" required "description of environment of the area(s) to be affected or created by the alternatives" (40 CFR 1502.15) including a biological assessment of the Truckee River (see Section 3.8 - Biological Resources on page 3 - 25 of this comment document for detailed comments from the City).

**Comment #5.2:** "Environmental consequences" required review of scientific and analytic basis of the elements required by NEPA section 102(2)(c)(I-v) and sections (a)-(k) (§1502.16) not the scientifically inaccurate method to determine the average speed of a train that SEA has chosen (see Speed Calculation Comment #22.1 on page 2 - 22 of this comment document, relative to Data Collection Comment #21.1 on page 2 - 20 of this comment document).

**Comment #5.3:** Review of "alternatives" built on the definition and description of affected environment and environmental consequences (§ 1502.14) which would have equally investigated grade separations and the depressed railway options (see Section 4.2 - Tier 2 Mitigation on page 4 - 14 of this comment document for detailed comments from the City).

**Comment #5.4:** Overall methodology of the Reno Mitigation Study should have been designed to ensure professional integrity (§1502.24) as opposed to the methodology the PMP employs with its substandard speed calculations (see Speed Calculation Comment #22.1 on page 2 - 22 of this comment document, relative to Data Collection Comment #21.1 on page 2 - 20 of this comment document).

**Comment #5.5:** Cost-benefit analysis of alternative choices should have been a material consideration (§ 1502.23) (see Section 3.13 - Economic Issues on page 3 - 35 of this comment document for detailed comment from the City).

**Comment #5.6:** The PMP states that NEPA requires that agencies take a "hard look" at environmental consequences of their decisions and that this directive served as SEA's guide in conducting this mitigation study. The City can only interpret this statement to mean that SEA took a "hard look" at the increased speed mitigation option, and the other mitigation options received a "softer", less discerning "look". This is evidenced by the lack of specific analysis reported on both grade separations and the depressed railway mitigation options. The PMP's approach appears to be that when typical construction project impacts such as dust / noise and potential pre-historic and historic resource clearances are present, these "impacts" are used as an excuse to justify the discontinuance of that "hard look" and "need for further study", such is the case with grade separations and the depressed railway. Ironically, a "no further study required" determination was made by SEA relating to the building of pedestrian overpasses which would have the identical dust / noise and potential pre-historic and historic resource clearances (the identical basis for "needing further study" determinations by SEA for grade separations and the depressed railway).

**Comment #5.7:** SEA staff member and study director Harold McNulty stated at the SEA public hearings held in Reno on October 9, 1997 that SEA has studied the rail line through Reno "more thoroughly" than any study has ever been done on any stretch of any other rail line and that "we've gone far beyond the EIS process". The City, and the numerous citizens who presented testimony at the public hearings, emphatically disagree that this mitigation study has gone "far beyond" the EIS process as evidenced by the facts and scientific evidence presented for consideration in this comment document. A full EIS, following established NEPA procedures, and based upon sound scientific data, must be conducted by SEA rather than this undefined mitigation study which appears to reach conclusions contrary to sound scientific evidence, common sense and logic itself.

### 2.1.2 DECISION NO. 44

**PMP Text Quote #6:** page 2 - 10, ¶ 2, line 1: *SEA and its study team began the mitigation study in October 1996. In an effort to develop a specifically tailored mitigation plan for Reno as directed by the Board, SEA established the following objectives for the study:*

- *Focus on the effects of increased merger-related rail traffic on the existing UP (formerly SP) line to arrive at additional specifically tailored mitigation for communities in and around Reno to ensure that localized environmental issues are effectively addressed.*
- *Identify the number and precise location of highway/rail grade separations and rail/pedestrian grade separations, if warranted [emphasis added].*
- *Consider additional mitigation to supplement the mitigation already imposed to address air quality effects on Reno resulting from the merger.*
- *Examine private and public funding options to share the cost of additional mitigation.*
- *Provide a forum to exchange ideas and concerns.*
- *Explore independent and innovative mitigation options for Reno.*
- *Facilitate the negotiation of an independent, mutually acceptable agreement among the parties.*
- *Provide an opportunity for public input throughout the study process.*

**Comment #6.1:** SEA states that one goal of the mitigation study was to "identify the number and precise location of highway / rail grade separations and rail / pedestrian grade separations, if warranted" [emphasis added]. This emphasized language is factually inaccurate as evidenced by both the clear mandate of the STB's Decision No. 44 and the handouts distributed by SEA in February, 1997 to the Reno Mitigation Task Force. Specifically, Decision No. 44 states:

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



*grade separations and rail/pedestrian grade separations in Reno and Wichita* [emphasis added] (STB, 1997d:Appendix A, page 5 - 6).

Further, Appendix B of this comment document sets forth a handout distributed by SEA to task force members expressly stating that the mitigation study goals include, "identif[ing] the number and precise location of highway/rail grade separations and rail pedestrian grade separations". No "if warranted" disclaimer is included in either Decision No. 44 or the documents distributed by SEA during the task force process. Clearly, the PMP fails to address a mandatory directive of the STB and this oversight must be corrected in the FMP.

**PMP Text Quote #7:** page 2 - 13, ¶ 3, line 2: *The task force inquired about why there were differences in information provided to the Reno Mitigation Task Force and Wichita's parallel Mitigation Committee, and SEA explained that the studies have different issues and somewhat different schedules.*

**Comment #7.1:** SEA notes that the City questioned why there were differences in information being disclosed to Wichita than to Reno throughout the task force process. SEA responds to this inquiry by stating that "the studies have different issues and somewhat different schedules". In fact, both the Reno PMP and the Wichita PMP were issued by SEA on the same day, September 15, 1997. Further, of the 11 mitigation measures required of UP for Wichita, 7 of these measures were identical to those required of UP for Reno (see Table 2 below).

**PMP Text Quote #8:** page 6 - 59, ¶ 3, line 1: *The Board, in its Decision No. 44, directed only a further focused review of the potential environmental impacts of the merger-related increasea train traffic levels. SEA has determined, therefore, that additional economic analysis is not required.*

**Comment #8.1:** Throughout the PMP, clear mandates of the STB's Decision No. 44 are completely ignored by SEA, while other mandates of the STB's Decision No. 44 are steadfastly embraced. The Port of Oakland expansion, benefits of UP's extensive expansions at the Roseville Yard, the UP's own statement that the Central Corridor is their "premier route", and UP's Sierra Nevada tunnel expansion must be fully studied in order to adequately calculate the increased rail traffic the Reno / Sparks / Truckee Meadows area will experience as documented in the UP's July 1, 1997 filing entitled "Applicants' Report on Merger and Condition Implementation" (STB, 1997c).



Table 2		
Comparison of Wichita vs. Reno Mitigation Measures		
Wichita Mitigation	as compared to	Reno Mitigation
1. Improved tracks and a centralized train control system that would allow increased train speeds and a requirement to operate at those higher speeds.		1. UP shall make the necessary operating changes and capital improvements...to enable trains to operate over the rail line segment [through Reno]. UP shall then operate, and require BN/SF to operate, all trains over the described rail line segment at a speed of 30 mph consistent with safe operating practices dictated by conditions present at the time each train traverses the segment.
2. Elimination of crew changes for through trains in Wichita.		4. UP shall discontinue the practice of adding "helper" locomotives in Woodland Ave. area.
3. Installation of a communications system to inform the emergency dispatch center of train locations on UP rail line.		2 and 3. Subject to City agreement, UP shall install color video displays coordinated with the UP signal system circuitry showing location of each train present on the rail line segment.
7. School safety education program conducted twice a year.		6. Enhanced rail safety program. Supplementing existing school educational programs.
8. Rail safety information to employers, employees, and residents adjacent to the UP rail line.		6. Establishing a safety training program for Reno's downtown employees.
9. Train detectors to identify potential problems and reduce risk of derailment.		13 and 14. Installation of a high, wide, shifted load detector and installation of a hot box detector at MP 240.
10. Establishment of a community advisory panel.		15. Establishment of a community advisory panel.
11. Quarterly monitoring reports to be submitted to the City of Wichita and Sedwick County.		17. Quarterly monitoring reports provided to City of Reno and Washoe County.

Source: STB, 1997d; 1997e

**PMP Text Quote #9:** page 7 - 43, ¶ 2, line 1: *The City of Reno has requested that consideration be given to a bypass whereby the UP tracks would be relocated out of the downtown area on a new rail line running south of I-80. However, there is no support in the Board's precedent for requiring a railroad seeking merger authority to construct a new railroad line to bypass a city. Nonetheless, private parties could decide to pursue and fund an I-80 bypass. This would require that the parties seek authority to construct and operate from the Board. At that time, the Board would undertake the appropriate environmental review for a bypass alternative.*

**Comment #9.1:** Throughout the PMP, clear mandates of the STB's Decision No. 44 are completely ignored by SEA, while other mandates of the STB's Decision No. 44 are steadfastly embraced. An EIS is necessary for the Reno / Sparks / Truckee Meadows area to insure that all alternatives, including relocation of the right-of-way, are fully considered. Please refer to the STB's Decision No. 9, issued June 11, 1997 in F.D. No. 38 ordering a systemwide EIS for the recent merger application of CSX / Southern / Conrail.

**PMP Text Quote #10:** page 8 - 2, ¶ 6, line 1: *In determining whether additional mitigation measures are reasonable, SEA considered the following questions for each option:*

- *Is it consistent with the Board's directives in Decision No. 44 and Decision No.71?*
- *Does it apply directly to the potential environmental impacts of the merger-related increase in trains on existing right-of-way in Reno and Washoe County?*
- *Is it effective in achieving a high degree of mitigation for Reno and Washoe County while still protecting public health and safety?*
- *Is the degree of mitigation tailored to the degree of potential environmental impacts from the merger-related increase in train traffic?*
- *Does it unduly interfere with UP's right to conduct its business and provide rail freight service to its customers?*

**Comment #10.1:** These mandated directives were not followed by SEA in setting forth this PMP. For example, no requirement for placement of grade separation underpasses or overpasses for vehicles are set forth as required mitigation under the STB's Decision No. 44 directive.

### **2.1.3 RENO'S ISSUES AND CONCERNS**

**PMP Text Quote #11:** page 2 - 16, ¶ 3, line 4: *City staff members have further stated that the City does not consider requiring UP/SP to construct highway/rail grade separations in Reno to be acceptable mitigation...*

**Comment #11.1:** To the contrary, during the June 11, 1997, Task Force Meeting #6, Agenda Item No. 3 - Presentation of Traffic Data and Vehicle Traffic Delay Projections for a Range of Mitigation Options, once again the City staff reiterated that the City must first know the impacts to the resources prior to determining the necessary and appropriate mitigation. It is difficult and unreasonable to request the City's opinion regarding specific mitigation options when a complete impact analysis has not yet been set forth. Excerpted from the City's meeting summary for the June 11, 1997 - Task Force #6 Meeting (see Appendix B of this comment document for a complete copy of this meeting summary):

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<sup>2</sup>Please note that SEA Study Director Harold McNulty offered stated at the SEA public hearings held in Reno on October 9, 1997 that SEA has studied the rail line through Reno "more thoroughly" than any study has ever been done on any stretch of any other rail line and that "we've gone far beyond the EIS process".

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*Merri Belaustegui-Traficanti asked how can tier one/tier two mitigation classification decisions be seemingly already made without first knowing the level of impact associated with the merger...Mark [Demuth] followed up by asking how we can be talking now about the level of the solution, when we have not completed the impact analysis...*

*Mark Demuth stated that baseline conditions are defined as the environment existing at the moment of the action and that the UP must take the environment as it finds it at the time of the merger and can't go back to pre-merger times in the 1960's. [Michael] Hemmer [UP legal council] replied angrily that "that's not what Decision 44 says".*

**PMP Text Quote #12:** page 1 - 1, ¶ 4, line 3: *In preparing this PMP, SEA reviewed and considered the issues and concerns raised by all interested parties.*

page 2 - 15, ¶ 4, line 1: *Appendix E [of the PMP] contains a list of the major issues raised by the public to date. The list summarizes most written comments and letters, input received at the public meetings in February 1997, and input received at the seven task force meetings held to date. The list is organized by topic and identifies where in the PMP the topic is discussed.*

page 2 - 16, ¶ 1, line 3: *SEA has considered all of the City's written submittals in preparation of the PMP. SEA has responded to the City's comments in written correspondence, in task force meetings, and by provision of information in the PMP.*

**Comment #12.1:** Appendix E of the PMP (ostensibly) lists all of the issues raised (and a number of items are indicated as discussed). To the contrary, they are not. Other issues are merely noted as "comment noted" which appears to the City to mean "acknowledged but no action taken". Table 3 below indicates a number of issues identified from Appendix E of the PMP, which are either not discussed as indicated or indicated "comment noted". The City notes that these items were raised in 38 requests by the City in numerous correspondence placed in the record by the City on August 8, 1997 as set forth in Appendix A of this comment document and have not been addressed, resolved or mitigated t levels below significance.



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Table 3

## Summary of Key Issues not Discussed in PMP as Indicated

Key Issue Area	Topic	Sub-Topic	Specific Comment / Question / or Issue	Discussed in PMP Section
Environmental Impacts	Safety	Emergency Response Delays	What will happen with emergency services and public transportation access for people living downtown?	6.2.1 & 6.2.3
			The Old Reno Casino has fire truck access problems.	7.2.3
	Air Quality		What are the air quality impacts of increased train traffic?	6.2.11 & 7.2.1
	Noise		The rumbling of the trains (especially those traveling at slow speeds) and train horns are both a source of annoyance, especially during evening hours; can train horn noise be mitigated?	6.2.9 & 7.2.6
			Noise from train horns affects residents along the tracks, especially in the Verdi area	6.2.9
	Water Quality		What steps has UP taken regarding the potential for future flooding? What impact will FEMA regulations have on the integrity of railbed in the Truckee River canyons?	Beyond scope of study
	Native American Issues		The City supports complete involvement and consultation with Native Americans during the study; the Reno-Sparks Indian Colony plans to join the City of Reno's lawsuit;	6.2.7
	Biological Resources		SEA should provide information regarding consultation with US Fish and Wildlife Service (USFWS) regarding endangered species	6.2.8
Other Potential Impacts	Problems in Surrounding Areas		None of the mitigation options seems to address blocked access to the 27 residences in the West 4 <sup>th</sup> St. via Del Curto neighborhood	7.2.6
Train Operations	Increased Train Numbers		Although in the past there were more trains coming through Reno and no complaints, it should be noted that Reno was much smaller then, with less pedestrian and vehicle traffic, and freight trains did not carry the toxic materials they carry today.	Comment noted

CITY OF RENO

Preliminary Mitigation Plan Comment Document - UP/SP Railroad Merger

October 15, 1997

Table 3

## Summary of Key Issues not Discussed in PMP as Indicated

Key Issue Area	Topic	Sub-Topic	Specific Comment / Question / or Issue	Discussed in PMP Section
Train Operations (Cont'd).	Projections		What is meant by "Future" projections?	4.4
			What assurances does the City have that train traffic will not increase after 5 years?	4.4.1
			How many other towns have similar problems because of the merger?	Beyond scope of study
Involved Parties	Union Pacific/ City of Reno Relations		According to city staff, "UP has reportedly attempted to meet privately with downtown businesses to 'buy them off'" and the City objects to this.	2.9
			The City requested that UP provide detailed information to the task force regarding compensation and fees paid to third-party contractors and related issues regarding other contracts and limitations imposed by the Board	2.6.1
	Third Party Contractor		The City has stated there may be a potential conflict of interest regarding SEA's independent third-party contractor and/or its subcontractors;	2.6.1
			The City requested that the third-party contractor project director discuss with the task force and provide detailed information concerning potential conflicts of interest of all parties involved in the Board's environmental investigation in connection with the preparation of the EA, the Post-EA, and/or the Reno Mitigation Plan	2.6.1
Mitigation Study	Methodology & Process	NEPA Study Scheduling	The City of Reno submitted the following comments on methodology and study process. • Determination of the "affected environment" requires "description of environment of the area(s) to be affected or created by the alternatives" (§ 1502.15) et al.	Comment noted
		Historical Data/ Preexisting Conditions	The UP submitted a study and letter indicating that development patterns allowed by the City have contributed to the existing land use and train conflicts, long before the merger. The UP letter notes that the City of Reno voted down the funding of a depressed railway in 1980.	3



Table 3

## Summary of Key Issues not Discussed in PMP as Indicated

Key Issue Area	Topic	Sub-Topic	Specific Comment / Question / or Issue	Discussed in PMP Section
Mitigation Study (Cont'd.)	Study Data	Trains	If the study investigates the effective mitigation potential of manipulation of train speed, a similar evaluation of the manipulation of train numbers per day and length of trains should also be performed	in 7.1
		Noise	That is the Board's definition of noise receptors? It seems the Board uses a very narrow definition; noise receptors analysis should include consideration of hotels and other commercial properties adjacent to UP's trackage in Reno	6.2.9
			Night-weighted averages are not relevant in Reno because it is a 24-hour/day city	6.2.9
			The sensitive receptor inventory should be provided for review	6.2.9
	Public Involvement/ Public Review Schedule		The mitigation study and task force schedule should be extended up to 90 days; can we recommend to the Board that the study schedule be extended?	2.7.2
		Task Force	The City stated its view that "The mission of the task force should be to ensure that all adverse impacts associated with the merger are mitigated to less than significant levels, and that mitigation proposals do not in and of themselves create additional adverse impacts.	2.7.2
			The City wrote a letter stating their view that the task force meetings seem to focus on mitigation options and do not include full discussion of possible merger-related environmental impacts in Reno;	2.7.2
Board Jurisdiction			Can the Board control train speed? Length of trains? Numbers of cars?	2.2
			Can the Board impose further caps or limitations on the number of trains as a long-term solution?	2.2
Mitigation	Evaluation Criteria		The City should look ahead 20-40 years when thinking about mitigation options	Comment noted
	Impacts of Mitigation		Consider time and costs necessary to build various mitigation options; some parties noted that five years of construction is "unthinkable"	7 & 8

CITY OF RENO

Preliminary Mitigation Plan  
Preliminary Document - UP/SP Railroad Merger  
April 15, 1997

Table 3

## Summary of Key Issues not Discussed in PMP as Indicated

Key Issue Area	Topic	Sub-Topic	Specific Comment / Question / or Issue	Discussed in PMP Section
Mitigation (Cont'd.)	Mitigation Options	City Preference	In task force meetings, the City stated that underpass/overpass mitigation options are unacceptable and the City expressed reservations about speeding up the trains.	2.8
		Depressed Rail Corridor	Are there examples of successful uses of depressed corridor in other cities?	Beyond study scope
			Can all of the traffic be rerouted to the Feather River route during construction? What factors determine the maximum capacity of the Feather River route, and what is required to increase the capacity if necessary?	Beyond study scope
		Options for Mitigating Noise Impacts	Noise impacts can be mitigated by creating sound buffers	7.2.6
		Scheduling Trains	Decrease number of trains at night	8
			Noted in the study a system should be provided which alerts emergency responder dispatch centers as to when trains are on the tracks	7.26
		Grade separations	Underpasses, such as the one on W. Second St., make people feel "trapped" and "at-risk"	Comment noted
			Underpasses should be built at the following streets one at a time to avoid inconvenience" Keystone, Arlington, Washington, Ralston, and Evans	Comment noted

Source: STB, 1997d: Appendix E

**PMP Text Quote #13:** page 2 - 4 to 2 - 5, ¶ 7, line 1: *SEA also concluded that the merger and related rail line abandonments and constructions could have potential environmental effects regarding safety, air quality, noise, and/or transportation, including the transportation of hazardous materials. In the EA and Post EA, SEA proposed extensive mitigation measures, including the Reno Mitigation Study, that address environmental concerns that were raised, e.g., issues raised by the City of Reno.*

**Comment #13.1:** Almost every concern raised by the citizens of the Reno / Sparks / Truckee Meadows area were not addressed in the Tier 1 (required) mitigation for the UP. Rather, the concerns raised were summarily addressed as Tier 2, (or shared funding) mitigation. Please refer specifically to the City's summary of issues and concerns, with supporting letter requests, placed in the record throughout the task force process and again placed in the record by the City on August 8, 1997 as set forth in Appendix A of this comment document.

**PMP Text Quote #14:** page 2 - 2, ¶ 7, line 1: *The United States Congress provides its policies regarding railroad regulation in the 1995 ICC Termination Act (Pub. L. No. 104-88; December 29, 1995), which states in part:*

*"In regulating the railroad industry, it is the policy of the United States Government...*

*(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Board;...*

*(8) to operate transportation facilities and equipment without detriment to the public health and safety;...*

**Comment #14.1:** As established in this comment document and demonstrated in SEA's PMP, public health and safety concerns have been largely ignored by SEA. For example, SEA concedes (STB, 1997d:7 - 10, 8 - 8) that "accidents are likely to be more severe with increased train speeds. Specifically, Figure 7.2.1-2 [of the PMP] shows that anticipated fatality rates (number of fatalities per accident) increase as train speeds increase."

**PMP Text Quote #15:** page 2 - 12, ¶ 3, line 3: *The task force serves as a local forum to provide input throughout the study, to disseminate appropriate study information to the community, and to help define community issues.*

**Comment #15.1:** If the purpose of the task force was to define community issues — then SEA has failed to accomplish this goal because the majority of the community concerns were not addressed nor analyzed as Tier 1 required mitigation.

**PMP Text Quote #16:** page 2 - 13, ¶ 1, line 1: *The City representatives and several other task force members requested that additional task force meetings be held in the summer, that the*



*entire study schedule be extended, and that the public review period be longer than 30 days. SEA conducted a task force meeting in July, but not in August, given the need to focus on finalizing the PMP so it would be ready for public review and comment in September. SEA plans to hold both a task force meeting and two public meetings on the PMP in October.*

**Comment #16.1:** On June 11, 1997, 14 task force members placed a letter in the record expressly requesting that the study calendar be extended in order to allow SEA the sufficient time needed to fully study each of the issues and concerns raised by the task force (see Appendix A of this comment document). SEA failed to honor this request and in fact never proposed such an extension of time before the STB. Furthermore, two task force meetings were originally scheduled each month through September 1997. SEA only held one meeting monthly failing to utilize the community resources available to meet twice each month, and abruptly cancelled both the August 1997 and September 1997 meetings without input from the task force members.

#### **2.1.4 HISTORIC DEVELOPMENT OF RENO**

**PMP Text Quote #17:** page 2 - 18, ¶ 2, line 1: *Reno has experienced an upswing in growth in the century since the railroad's inception.*

**Comment #17.1:** The Reno / Sparks / Truckee Meadows area has not experienced the periods of "explosive" growth (usually associated with the boom-bust cycle) typical of many communities in Nevada. When, for example, Reno began its battle to cross the tracks downtown in the 1880s, Reno's population was about 1,300; it had grown only to a little over 20,000 when the battle ended in the 1940s. Like the rest of the country, the growth of Reno's economy and population accelerated in the post-war period. By 1950, the population stood at 32,497; in 1960 it was 51,470; and, in 1970 the population was 72,863. In other words, *Reno remained a small town*. More important, perhaps, is the pattern of growth. Reno, like most other towns in the age of the automobile, grew out not up; therefore, the downtown suffered a decline as retail and service uses followed the population to subdivisions on the periphery. This growth pattern, which continues to the present, acts to counterbalance the increase in downtown traffic associated with growth in the community as a whole (see Appendix I of this comment document). Further, the railroads themselves, travelling through the Reno / Sparks / Truckee Meadows area have experienced an "upswing" in growth since the late 1800s.

**PMP Text Quote #18:** page 3 - 1, ¶ 2, 3, 4, 5, & 6, line 1: *Located in Washoe County, the City of Reno has historically been the regional center for goods, services, education, and cultural and recreational activities serving the smaller communities in northern Nevada and northeastern California.*

*The town was originally developed more than a hundred years ago by the transcontinental North American Railroad, which chose the site for its strategic location and natural suitability*

for commerce. In 1868, the Central Pacific Railroad purchased a tract of land and established the street grid and town platting that still exists in contemporary downtown Reno.

Initially, Reno grew as a classic railroad town. Local commerce and the City core developed from east to west along Commercial Row, adjacent to the rail corridor. Residential areas were situated beyond the tracks to the north, and Virginia Street was the main north-south artery through town. The central business core gradually shifted to the south, away from the tracks to Virginia Street between the train station and the Truckee River.

Reno remained primarily a railroad town until the early 1930s when the legalization of gambling and a growing number of casinos shifted the economic emphasis from rail-based commerce to tourism. The growth of the legalized gaming industry continued to expand south of the railroad tracks until after World War II.

In 1947, the City Council adopted the "Red Line Ordinance," which restricted casino gambling to a commercial district along Virginia Street. This restriction prevented the development of casinos elsewhere in the City. Although the boundaries of the Red Line area expanded during the 1950s and 1960s, the designated gambling district remained south of the tracks.

page 3 - 2, ¶ 1, line 1: In 1970, the Reno City Council removed the original Red Line Ordinance, thereby permitting gaming establishments outside of the designated downtown district. The removal of this ordinance triggered the rapid growth of new casinos and hotels during the 1970s and 1980s as well as the migration of development north of the railroad tracks. This northward growth movement was also encouraged by the construction of I-80 between Seventh and Eighth streets and the availability of affordable land north of the tracks. Table 3-1 shows the hotels/casinos north of the rail right-of-way that were approved for development since 1970. This northward expansion meant that the railroad tracks were again in the center of the downtown area. Figure 3-1 is an aerial view of the downtown Reno area.

**Comment #18.1:** By the early years of this century, downtown Reno was firmly established where it is centered today, around Virginia Street and the Truckee River. From the 1970s onward, the growth of downtown destination resorts has taken place north of the railroad. This growth has been impressive -- nearly 6,000 rooms in destination resorts and the National Bowling Stadium. It took place north of the tracks because land was less expensive, and because that is where the I-80 interstate freeway, primary vehicular tourist access, was located in the 1960s. With the exception of the marked growth of the Saint Mary's Medical "Campus" adjacent to I-80, there has been no other significant commercial or office development in the downtown to the north of the tracks. Certainly, this must result in a reduction in the total number of vehicular and pedestrian crossings of the railroad.

**PMP Text Quote #19:** page 3 - 6 to 3 - 9, Section 3.3 - Key Planning Policies: *The SEA study team reviewed the City of Reno's and the Redevelopment Agency's planning documents to*



## PROCEDURAL ISSUES

determine how their policies relate to the railroad. This section summarizes these policies. Reviewed documents include:

- City of Reno, Amendment to the Redevelopment Plan for the Downtown Redevelopment Area Reno, Nevada 1990, December 14, 1990.
- City of Reno, City of Reno Master Plan Part One: Growth and Development, November 1, 1996.
- City of Reno, City of Reno Master Plan Part Two: Community Design Handbook, November 1, 1996.
- City of Reno, Plan Report Downtown Redevelopment Area Reno, Nevada 1990, November 27, 1990.
- City of Reno, Reno, Nevada Downtown Development Plan, March 4, 1983.
- City of Reno, Revised Project Report Railroad Merger Mitigation Alternatives, July 10, 1996.
- City of Reno Redevelopment Agency, Center City Housing Strategy for the City of Reno, November 7, 1995.
- City of Reno Redevelopment Agency, Reno Downtown Traffic/Parking Study, December 1995.
- City of Reno Redevelopment Agency, The Blueprint: A Revitalization Strategy for Downtown Reno, December 8, 1992.

Several documents prepared prior to the merger address physical conditions adjacent to the existing railroad track through downtown Reno. For example, The Blueprint: A Revitalization Study for Downtown Reno states that "...minimize[ing] the effects of the railroad on the downtown..." is a major issue regarding redevelopment of the entertainment core area. The study proposes improvements along the railroad corridor such as street lighting and landscaping (trees and honeysuckle along chain-link fences) along the railroad right-of-way. The Amendment to the Redevelopment Plan for the Downtown Redevelopment Area Reno, Nevada 1990 has similar proposals:

- Encourage attractive landscaping adjacent to the tracks whenever possible.
- Promote the reduction of the dust adjacent to the tracks by encouraging dust-free surfaces.
- Promote a mechanism to maintain a clean track side.
- Encourage the improvement of the visual quality of fencing and maintenance of fencing for safety.

The City's redevelopment plans also identify railroad-related impacts on noise and public health and safety as a concern. The Amendment to the Redevelopment Plan has policies stating the following: "encourage the railroad to reduce and/or abate noise caused by the crossing signs and train 'whistle'" and "encourage the abatement of noise caused by trains." The City of Reno Master Plan Part Two: Community Design Handbook policy number UC-12 states: "To protect the health and safety of its visitors, any potential adverse effects of the railroad line must be identified and mitigated."



Several policies suggest that the City of Reno be proactive in working with the railroad in planning and problem solving. This is evident in the Amendment to the Redevelopment Plan's policy to "encourage working relationship with the Southern Pacific Railway Company to improve conditions at and adjacent to the tracks." The City of Reno Master Plan Part Two also contains policies supporting involvement with the railroad:

- CD-46: Work with the railroad in planning new lines and spurs. Discourage new railroad lines and spurs through residential areas.
- UC-17: Work with the railroad company to coordinate schedules to minimize rail traffic through Reno during peak hours.

Other policies address reuse or refurbishment of railroad buildings. The City of Reno Master Plan Part Two policy number UC-16 states "Identify and encourage the refurbishment and reuse of existing buildings along the railroad tracks and public acquisition of railroad right-of-way along the river for public purposes." Policy number UC-14 is more specific: "Encourage and assist in the refurbishment of the building now used by Amtrak to make it an attractive facility for visitors and an asset to the downtown area." The Amendment to the Redevelopment Plan outlines these policies:

- Identify existing railroad buildings that could be reused by the public or private sector and work to promote the purchase of these from the railway companies.
- Promote the investigation, and support of the refurbishment of the railway station on Commercial Row to make it an attractive facility to visitors.

The Reno Downtown Traffic/Parking Study identifies the railroad as a major traffic constraint in the downtown area. The study states that Amtrak trains arriving and departing cause traffic interruption. The study suggests relocating the Amtrak station and forming a multimodal transportation hub that also provides bus service.

The study indicates that freight trains have a larger impact to downtown traffic. Lowering the tracks below grade through the downtown area is an option that continues to be considered by the City. The idea of underpasses at Arlington and/or Evans Avenue has been discussed, to a limited extent, as an alternative to lowering the tracks. The Amendment to the Redevelopment Plan also contains policies addressing the impacts of trains on vehicular and pedestrian traffic:

- Promote the investigation of tunneling under the tracks to provide for enhanced vehicular and pedestrian traffic circulation.
- Encourage shorter trains coming into the area so as not to disturb and disrupt vehicular street traffic.

Other policies suggest passenger trains as part of the solution to traffic. The Amendment to the Redevelopment Plan states: "Encourage the establishment of 'shuttle' trains from Reno to Sparks," while the City of Reno Master Plan Part Two policy number UC-13 suggests: "Encourage and promote Amtrak passenger service to downtown Reno."

**Comment #19.1:** The railroad runs through town — it has for over 130 years. This is a simple fact that the City has learned to live with. When conflict has come, it has been a result railroad interests being at variance with those of the citizens of the City. For example, as the UP sponsored *Downtown Reno & The Railroad: A Railroad: A Railroad Runs Through It* (Starrs, n.d.) points out, the railroad "...hoping to profit from land sales and generate business for its trains...platted the downtown street pattern that is still in use today, using a design that minimized wagon crossings of the railroad grade". Minimizing wagon crossings means that important north-south streets like Virginia, Center, Lake, and Arlington stopped dead at tracks, yards, and other railroad facilities. From the 1880s, when the population was about 1,300, through the 1930s, when the City had grown to about 20,000, the City fought to open up its circulation pattern. This response, which made good planning and common sense in a town of Reno's size, the age of the horse and wagon, and later of the trolley, was made necessary by the symmetrical plan the railroad had used when it platted the town.

Clearly, such battles are time-consuming and costly; because of this, the immunity of the railroad to City regulations in its operations and the uses of its right-of-way, and the great difficulty historically experienced by local governments in their dealings with the railroad, the City has generally been forced to coexist by planning around the railroad interests whenever the health and safety of its citizens is not directly threatened.

**PMP Text Quote #20:** page 6 - 11, ¶ 6, line 1: *As noted in Section 3, the City has developed around the rail line over the years and is bisected by the east-west tracks. There are several at-grade crossings, with only two highway/rail grade-separated crossings near downtown Reno — an underpass on the west side of the downtown area at 2nd Street and Dickerson Road, and an underpass and a new overpass on the east side of downtown at Wells Avenue. These highway/rail grade separations are two miles apart.*

**Comment #20.1:** As the City noted in its comments<sup>3</sup> on the Starrs' *Downtown Reno & The Railroad: A Railroad: A Railroad Runs Through It* (n.d.) sponsored by UP, the railroad used a symmetrical plan, which put the tracks through the center of town, when it planned Reno. Some towns created by the railroad, for example Las Vegas and Sparks, were laid-out on only one side of the tracks. Reno, in contrast was laid out on both sides of the tracks. In all three cases, actual downtown development followed the original plan. Thus, the original form of the town relative to the tracks, a factor controlled not by the town but by the railroad, determined the potential for downtown growth as well as for conflicts between the communities and the railroad. The City's comments also noted the active

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<sup>3</sup>Please refer to a document entitled the "Comments on Union Pacific's *Downtown Reno & the Railroad*" by Stewart M. Peters, Ph.D., Principal Planner for the City, for a complete discussion of the historical development of downtown Reno (see Appendix I of this comment document).

participation in the development and sale for development of downtown right-of-way no longer useful for railroad operations.

### **2.1.5 DATA COLLECTION**

**PMP Text Quote #21:** page 5 - 4, ¶ 5, line 1: *Data verification involved a joint effort among representatives of the City of Reno, UP, and the SEA study team and included a comparison of survey results with videotapes of grade crossings that were filmed independently by the City of Reno. UP furnished actual train length data that were added to the database. Appendix G [of the PMP] includes a full printout of the train survey database.*

*During the train survey, the SEA study team counted vehicular traffic on the five surveyed streets. The survey included mechanical counts of street traffic volumes by 15-minute periods. The SEA study team corrected some minor gaps and entered these data into a database (Appendix H [of the PMP]). The following sections include summary graphs from the survey databases. Traffic data were verified by review of the videotapes, including a review of sample situations on several streets to define a relationship between approaching traffic volumes and average dissipation rates of vehicles delayed by trains.*

**Comment #21.1:** As set forth in a report from Mark A. Demuth of *The Environmental Team* to Merri Belaustegui-Trafficanti, Deputy City Attorney, the following validity and reliability information was noted during the data verification activities (DVAs) which began on Friday February 28, 1997, at DCCo's office in San Francisco by Dave Mansen and David Tait from DCCo, D. Patrick Jumper from UP, and Mark A. Demuth from *The Environmental Team* representing the City:

*The initial DVAs included verifying the correlation between the observed train events and the actual consists provided by UP, as well as noting gate down times which appeared by inspection to be unwarrantedly high or low. These suspect times were verified by viewing and timing the gates from the tapes; corrections were made as noted.*

*Specific DVAs for each crossing follow:*

**CENTER** - *Observed train car and locomotive counts were verified and cross checked with UP data and corrected at the same time the Center Street events were verified for gate down times and vehicle queue counts. Of specific note, train arrives at Center Street intersection approximately 25 to 30 seconds after gate activation and the crossing gates rise after the train is 50 feet clear of the intersection (approximately 10 seconds later).*



**ARLINGTON** - The initial DVAs concluded that the observed train events were unreliable for both gate down times and vehicle queue counts for the AM observer at Arlington. Events 1 - 38 were re-done by Jumper, Mansen, Tait, and Demuth from the City of Reno's tapes. Events 39 - 152 were re-done by a De Leurw employee after being familiarized with the methodology. Events 153 - 176 were completed by Tait and Demuth. Of specific note, motion detector switches in Arlington account for frequently an additional 10 - 45 seconds of premature gate down times on WB moves.

**SIERRA** - The DVAs indicated that the vehicle queue calculations were inaccurately calculated. After viewing approximately 35 events it was determined that a computational error had been made on all Sierra vehicle queue calculations, it was mutually determined that the calculated vehicle queues for Sierra should be reduced based upon the 4th street intersection being included in potential stacking area. Secondly all vehicle queue calculations were re-done based upon an observed spacing or packing of vehicles on Sierra from the originally calculated 20-feet per car to 25-feet per car.

**VIRGINIA** - The DVAs concluded that the gate down times and vehicle queue calculations and counts were within acceptable levels of confidence.

**KEYSTONE** - The DVAs concluded that the gate down times and vehicle queue calculations were within acceptable levels of confidence.

The final activity of the data validation was to create event records for missing events which could be created from the tapes. Data forms were completed and the records added noting the observation was from video tape.

**PMP Text Quote #22:** page 4 - 2, ¶ 5, line 1: Freight trains generally pass through downtown Reno at 20 mph, which is the established train speed limit for this segment of track.

page 6 - 3, Table 6.2.1-1, Note [\*]: Arlington Street measured 43 seconds average 2/3-10/97; UP reset the mechanism following the survey, with the resulting average estimated to be 32 seconds.

page 6 - 3, ¶ 2, line 1: Model Calibration: Using a data set of approximately 40 videotaped train observations each for Keystone and Virginia streets and approximately 20 videotaped train observations each for Arlington, Cenier, and Sierra streets, the SEA study team calibrated the computer mathematical model used to analyze traffic delay. Keystone and Virginia streets were sampled much more heavily than the other streets, because those two streets experienced

greater delay during the survey week. Appendix I [of the PMP] provides the details of the calibration procedures.

For each crossing, the team collected data on the amount of time during which the gate was closed immediately before and after trains passed, i.e., the amount of time the crossing gate is down when the train is not in the crossing. This amount of time is constant for each individual crossing. The SEA study team found that the average gate down time during which the train was not in the crossing was 32.4 seconds, and this value was used when better information was not available for a given street. (During the survey week, the timing on the Arlington gate was set too high, with values averaging approximately 43 seconds. According to Union Pacific (UP), this gate was reset during the week following the survey.)

page 7 - 4, ¶ 6, line 1: Vehicular Traffic Delay: The vehicular traffic delay model described in Appendix I [of the PMP] was expanded to allow for an analysis of the effects of increases or decreases in train speeds. An important relationship utilized is that between train speed and gate down time, as follows:

$$[\text{Gate down time}] = [\text{Train length}] / [\text{Train speed}] + [\text{Gate time constant}]$$

where:

[Gate time constant] = average time the crossing gate is down before and after the train is in the crossing.

Application of these equations allows for analysis of changes in vehicular traffic delay associated with changes in train speed. Appendix I [of the PMP] includes a more detailed compilation of the basic delay equations.

For this analysis, train speed was calculated using observed gate down time and train length from the train survey... Variations in the gate time data resulted in a few trains with calculated speeds higher than the UP established limit of 20 mph, and these are considered to be anomalies in the survey data. Overall, the calculated average speeds appear to be consistent with the established UP limit, with a calculated average speed during the survey of 18.7 mph and a median speed of 19.0 mph.

To evaluate increased train speeds as a potential mitigation option, the SEA study team first calculated the speed of each freight train that passed through downtown Reno during the train survey in February 1997... SEA used the observed crossing gate down times and actual length of each train (provided by UP) to calculate the speed of each train during the survey week. The calculated average train speed during the February survey week was 18.7 miles per hour (mph), which is near the current UP-established train speed limit of 20 mph.

**Comment #22.1:** The City is disheartened that SEA would choose to use such a scientifically inaccurate method to determine the average speed of a train. The above passage indicates that the speed of each train event as defined in Section

6.2.1 of the PMP as "[a] train event is the passage of a train through a crossing" (STB, 1997d:6 - 4) and is calculated in miles per hours as:

$$[\text{Gate down time}] = [\text{Train length}] / [\text{Train speed}] + [\text{Gate time constant}]$$

where:

[Gate time constant] = average time the crossing gate is down before and after the train is in the crossing

or as restated:

$$[\text{Train speed mph}] = [\text{Train length miles}] / [\text{Gate down time (hours)}] - [\text{Gate time constant}]$$

where:

[Gate time constant] = 0.009 hours for signal activation and deactivation

These equations would be accurate only if the object is moving at a steady speed with no acceleration or deceleration and if all gate time constants were actually "a constant". As indicated in Data Collection Comment #21.1 on page 2 - 20 of this comment document, the video tapes of UP trains during the subject data collection period showed widely varying gate activation and deactivation times. SEA also indicates in Table 6.2.1-1 (STB, 1997d:6 - 3) that average gate time were used as constants regardless that they vary from 31 seconds to 43 seconds. In spite of these methodological errors, the City attempted to recreate the 18.7 mph average and 19.0 median speeds indicated by SEA.

Initially the City was unable to obtain the same results. The City accounted for these initial results through a number of database inaccuracies:

1. Initially all events or records in the database totaled 901 [176 trains, noting there is no Event #5, therefore there are only 176 trains numbered 1-4 and 6-177].
2. Eighteen (18) train events were deleted as they were actually gate events where no actual train crossed yet the signals were activated. Three (3) hi-rail events were deleted as they were not considered in counts of freight trains.
3. Event #118 for Virginia Street was changed from freight to Amtrak.
4. Direction of Events #15 and #74 for Center Street were changed to eastbound. This provided a revised total of all events or records totaling 880 events [176 trains].
5. All non-freight events were then deleted leaving 700 events or records [140 trains].



6. Twenty-five (25) freight events (events #19, #65, #70, #71, AND #130 at each of 5 crossings) with no length were deleted leaving 675 events [135 trains].
7. All overlapping train events (either freight & freight [40 events or 18 trains] or freight & non-freight [13 events or 4 trains] including events #11 & #12 (3 each); #52 & #53 (1 each); #80 & non-freight (4 total); #85 & #86 (1 each), #102 & #103 (4 each); #106 & #107 (3 each); #119 & #120 (1 each); #123 & #124 (1 each); #135 & non-freight (4 total); #137, non-freight, & #139 (5 total); #151 & #152 (3 each); and #153 & #154 (3 each) for a total of 53 events) were deleted from the database after careful consideration determining that without the exact length of the overlap in trains it was mathematically impossible to determine the speed of the trains from the given data, leaving 622 events [113 trains].

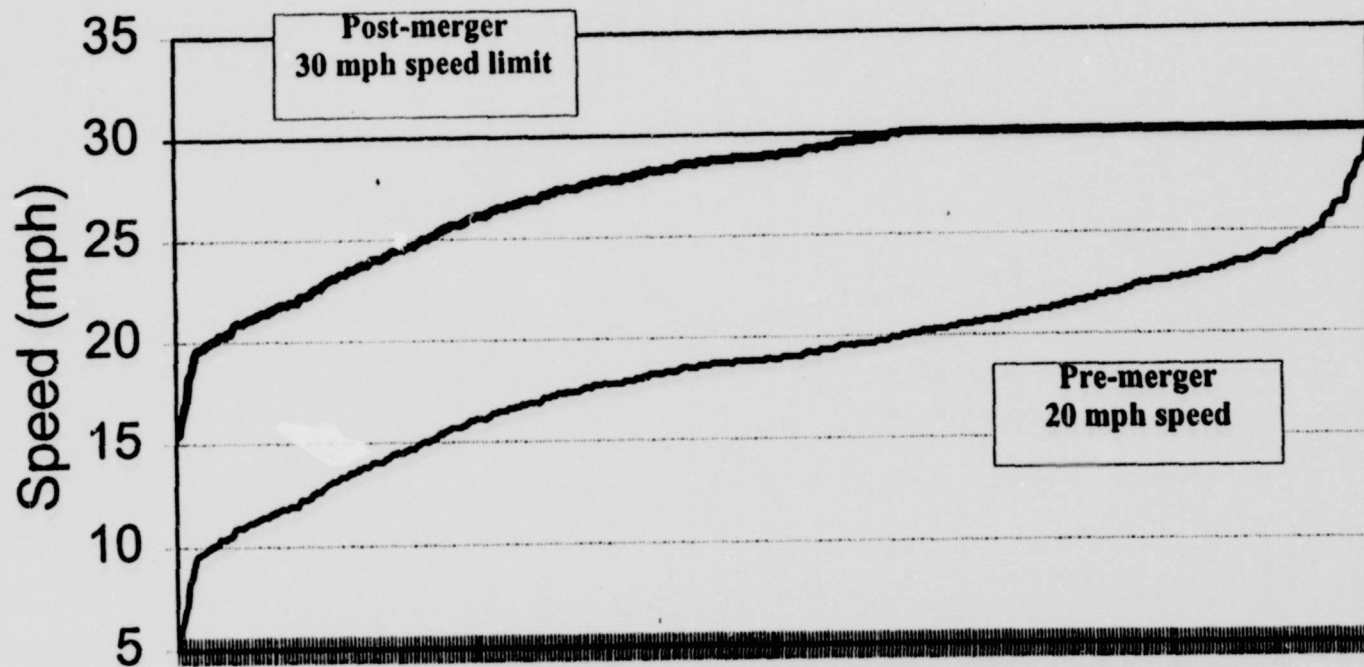
Using the above equations and revised database as described above, the City was able to reproduce a  $18.6 \pm 0.1$  mph calculated average speed and a median speed of  $18.9 \pm 0.1$  mph. As initially suspected by the City, these included 237 events where trains have calculated speed in excess of the SP timetable / speed limit of 20 mph (minimum 5.4 mph and maximum 49.9 mph), therefore only 385 events [115 trains] may have correctly calculated speeds based upon SEA's methodology of determining the speed of the trains.

As noted in the PMP (1997:7-5): "Variations in the gate time data resulted in a few trains with calculated speeds higher than the UP established limit of 20 mph, and these are considered to be anomalies in the survey data." The City would note that 38 percent of all calculated speeds are higher than the UP established limit of 20 mph (see Figure 1). This was confirmed by Mr. Gui Sheerin of DCCo at the October 8, 1997, Task Force meeting when he stated his own database indicated 27 percent of the speeds were above 21 mph.

The City is critically concerned that though SEA has stated that "...NEPA...served as SEA's guide in conducting the Reno Mitigation Study..." (STB, 1997d:ES - 2) it would appear that this **most basic of scientific data required for the reliable and valid determination of impacts and subsequent mitigation is seriously flawed, lacking** "...the professional integrity including scientific integrity, of the discussions and analyses..." required under CEQ regulations (40 CFR 1502.24). How can the City and the citizens of Reno trust an agency's "hard look" when the data presented is questionable at best.

**PMP Text Quote #23:** page 7 - 5, ¶ 4, line 1: *SEA then evaluated the effects of increasing the speed of each train in downtown Reno by 10 mph. For example, a train that was calculated as traveling at eight mph was assumed to travel at 18 mph, a different train traveling at 20 mph was assumed to travel at 30 mph, and so on.*

**Figure 1**  
STB Calculated Train Speeds - Feb 1997



All freight events (n=622)

— Pre-merger speed of train (mph)      — Post-merger max speed of train (mph)

page 7 - 7, Table 7.2.1-1, Note [1]: *Data are calculated assuming an increase of 10 mph for each train over the actual train speeds monitored by SEA during Phase I of the study.*

**Comment #23.1:** The above two passages appear to indicate that the inflated calculated speeds (see Speed Calculation Comment #22.1 on page 2 - 22 of this comment document, relative to Data Collection Comment #21.1 on page 2 - 20 of this comment document) were then increased by 10 mph for each event. There is no explanation if train events already exceeding 20 mph were capped at 30 mph or, for the purposes of SEA's analysis, allowed to increase above 30 mph. Again, this data can not be used for any subsequent speed increase analyses when the inflated calculated speed error is now compounded by the inflated 10 mph speed increase. The City has requested the FRA expressly respond to this phenomenon. SEA must also provide a detailed explanation in the FMP.

**PMP Text Quote #24:** page 5 - 9, ¶ 4, line 1: *The survey team used a radar gun to determine speeds of 17 trains at the short-term noise measurement locations. Table 5.3.2-1 lists the recorded train speeds at the short-term locations.*

**Comment #24.1:** It should be noted that only four train event speeds were determined by radar gun corresponding to data the SEA study team collected in February. Events #4 & #31 on Virginia Street: at 17 mph & 20 mph respectively on radar gun and Events #37 & #38 on Vine Street: at 18 mph & 22 mph respectively on radar gun. As indicated in Table 4 below, there appears to be no correlation between the speeds recorded by radar gun and the calculated speeds by the SEA study team (see Speed Calculation Comment #22.1 on page 2 - 22 of this comment document, relative to Data Collection Comment #21.1 on page 2 - 20 of this comment document).

Table 4				
Train Speed Measurements				
Location	Date	Time	Speed (mph) radar gun	Speed (mph) calculated
Virginia Street	2/3/97	10:46	17	18.8
Virginia Street	2/4/97	10:45	20	NA*
Washington	2/4/97	14:07	18	18.2
Washington	2/4/97	15:03	22	18.7

\*This train event is an Amtrack train and was not used in the SEA calculated speed/delay model.  
Source: STB, 1997d: Table 5.3.2-1, Appendix G



Regardless of the questionable reliability of the data, a sample of four events is not statistically representative of the 622 train events used by SEA to determine the average calculated speed (four measurements represent less than 0.1 percent of the 622 train events used by SEA to determine the average calculated speed) and therefore can not be used to validate the above calculations.

#### **2.1.6 SPECULATION ON PRIVATE NEGOTIATIONS IN A PUBLIC DOCUMENT**

**PMP Text Quote #25:** page 2 - 16, ¶ 2 & 3, line 1: *Initially, in actions taken on March 12, 1996 prior to the merger approval, the Reno City Council expressed support for the railroad to be rerouted to the I-80 corridor. Later in the study process, the City focused on a proposal to construct a depressed railway. At its February 18, 1997 meeting, the Reno City Council directed the City Manager to negotiate with UP representatives emphasizing the downtown depressed railway as the City's primary objective and to pursue all forms of funding sources. The City Council further directed that the City's litigation with the Board be continued and that the I-80 Corridor not be ruled out. On June 17, 1997, the City passed Resolution 5368 declaring the depressed railway project as a priority for the City of Reno. (Appendix F [of the PMP] provides recent Reno City Council actions regarding UP/SP merger mitigation options.) From further studies done on the depressed railway, it has been estimated to cost in excess of \$180 million. UP has offered to contribute \$35 million to partially fund a depressed railway. However, the City has asked that UP pay \$100 million. At the time of issuance of this PMP, this funding issue was not resolved...*

*Notwithstanding the parties' disagreements on how to fund a depressed railway, which SEA has announced would be a Tier 2 mitigation measure (only binding if there is a voluntary agreement to share cost), in the spring of 1997, Reno City officials and staff indicated that the City views a depressed railway as the most viable outcome.*

page 2 - 22, ¶ 4 & 5, line 1: *Throughout the mitigation study process, SEA has encouraged a private resolution. UP and the City of Reno were in private negotiations to explore the feasibility and funding of the depressed railway from February through June 1997. UP offered \$35 million to partially fund the depressed railway. The City of Reno then requested that UP increase its funding to \$100 million and UP declined.*

*The City of Reno withdrew from negotiations in June 1997, because additional funding was not offered by UP as requested by the City. At that time, UP stated it was still willing to continue to negotiate with the City at any time. In July 1997, UP notified the City that it planned to pursue discussions with downtown business interests, and UP invited the City via a letter to participate in those discussions. At the time of the issuance of this PMP, the City and UP have not reached any formal mitigation agreements that were submitted to SEA for review.*

page 2 - 13, ¶ 4, line 1: *At the start of the study in October 1996, SEA study team members held a series of introductory meetings with City, County, and State agencies; elected officials; and community business leaders.*

**Comment #25.1:** SEA's reference to perceived details of private negotiations, and speculation as to the status of such negotiations, are inappropriate and have no place in a federally mandated environmental mitigation study. SEA does not set forth their authority for discussing the perceived details of private negotiations, nor does SEA explain why such information is useful or relevant to the STB mandated environmental (vs. economic) mitigation study. Further, SEA can only, at best, speculate as to the status of private negotiations between the City and the UP because it is not a participant in those negotiations. Any reference to details of private negotiations between UP and the City must be deleted in the FMP.

**PMP Text Quote #26:** page 2 - 13, ¶ 4, line 1: *At the start of the study in October 1996, SEA study team members held a series of introductory meetings with City, County, and State agencies; elected officials; and community business leaders. During these meetings, SEA distributed an information packet containing background information about the study and details of the study's purpose.*

**Comment #26.1:** When SEA initiated a series of meetings with separate, private business interests and citizens in Reno, Nevada on October 22, 23 and 24, 1996, SEA expressly requested that the City representatives be excluded from the meetings. However, 16 out of the 17 groups with scheduled meetings with SEA invited representatives of the City to attend the private meetings (see summaries of these meeting as set forth in Appendix B of this comment document). During 16 of the meetings that the City representatives attended, SEA repeatedly expressed their opinion as to the benefits of individual, private negotiations with the UP. For example, Ms. Elaine Kaiser extensively repeated the details of the private negotiations between the Town of Truckee, California and UP wherein the UP agreed to purchase obsolete wood burning stoves in an effort to help resolve air quality issues resulting from increased train traffic through the Town of Truckee, California. Again, speculation on the merits of private negotiations are inappropriate in a federally mandated environmental mitigation study. SEA does not set forth their authority to discuss private negotiations, nor does SEA explain why such information is useful or relevant to an STB mandated environmental mitigation study.

*The STB missed the mark by a mile. What they are requiring of the railroad is even less than the railroad has offered to do ... Where the city has asked for constructive solutions, this report provides mere crumbs.*

United States Senator Richard Bryan

*I have this nagging thought in the back of my head the authors of the report use the computer simulations to justify predetermined outcomes, not raise the confidence of the outcomes. In essence, I have the feeling the use of computer models was an attempt to gain credibility.*

Lawrence J. Torango, Ret. Citizen, Comment to Surface Transportation Board, October 1, 1997

## RESOURCE IMPACT EVALUATION



### 3.0 RESOURCE IMPACT EVALUATION

#### 3.1 TRAFFIC DELAY

The City has been provided a copy of a recently completed traffic / delay analysis completed by Meyer, Mohaddes Associates, Inc. of Seal Beach, California entitled *Union Pacific/Southern Pacific (UP/SP) Railroad Merger Impact Analysis* (MMA, 1997). The following comments were taken in part from that report, which appears in its entirety as Appendix D of this comment document.

**PMP Text Quote #27:** page 7 - 7, ¶ 3, line 5: *Gate closed time is primarily determined by the numbers of trains, train speed, and length.*

**Comment #27.1:** SEA concedes gate closed time is determined by number of trains, train speed, and/or length.

**PMP Text Quote #28:** page 6 - 3 to 6 - 4, ¶ 5, line 4: *To evaluate reasonably foreseeable conditions, the SEA study team used future vehicular traffic volumes projected for the Year 2000. Calculations of both pre- and post-merger conditions used these projected Year 2000 traffic levels to assure that the difference between pre- and post-merger potential environmental impacts could be attributed solely to changes in train traffic.*

page J - 1, Appendix J of the PMP - Pre-merger Average Daily Vehicular Delay with 1995 Traffic: *As a sensitivity test, pre-merger average daily vehicular traffic delay was computed with 1995 traffic volumes instead of 2000 traffic volumes. The results were then compared with pre- and post-merger vehicular delay based on 2000 traffic volumes. Figures 1 through 3 illustrate the results. Instead of 189 hours of total delay with 2000 traffic (Figure 7.1), Figure 1 shows that the pre-merger projected delay with 12.7 trains and 1995 traffic would be 166 hours. Figure 2 corresponding depicts a total daily vehicular delay with 2000 traffic and a post-merger volume of 24 trains per day to be 373 hours, an increase of 207 hours attributable to the increase in trains and the increase in traffic between 1995 and 2000. From Figure 7.2, the increase in vehicular delay from the increase in trains only would be 184 hours (from 189 to 373 hours).*

*With a 10-mph train speed increase as mitigation, Figure 3 shows that the total daily vehicular delay for a post-merger volume of 24 freight trains per day and 2000 traffic would be 154 hours, 12 hours less than the pre-merger delay of 166 hours with 1995 traffic. Thus, speeding the trains up by 10 mph reduces the post-merger vehicular delay to below pre-merger levels regardless of whether the pre-merger traffic is assumed to correspond to 1995 or 2000.*

**Comment #28.1:** The above passages are a few of the many examples of SEA's use and mis-use of the terms "pre-merger conditions" and "post-merger condition". It should be noted that the difference between SEA's pre-merger traffic delay based upon the year 1995 and the year 2000 represents a 14 percent inflation of the actual pre-merger traffic. The City offers the following information which is part of the

record (see Appendix A of this comment document) from the Reno Mitigation Task Force meeting held June 11, 1997:

*Though we do not have complete methodologies or assumptions from De Leuw, Cather & Company, based upon our initial analysis of the data presented by Gui Sheerin at the June 11, 1997 Task Force meeting [see handouts in Appendix B of this comment document], we have documented the following discrepancies in their methodology:*

- *pre-merger actually represent the cumulative affects of the environment with the no action alternative (no merger) [year 2000 vehicle traffic (ADT) and 12.7 through freight trains per day].*
- *post-merger represent the proposed action as defined by UP (the fully implemented merger) [year 2000 vehicle traffic (ADT) and 24.0 through freight trains per day].*
- *All analyses are missing items labeled pre-merger existing environment conditions in 1995 [year 1995 vehicle traffic (ADT) and 12.7 through freight trains per day].*

Please refer to the June 20, 1997 letter to Elaine Kaiser, Chief Section of Environmental Analysis from Charles McNeely, City Manager for the City, placed in the record by the City on August 8, 1997 as set forth in Appendix A of this comment document.

**PMP Text Quote #29:** page 6 - 4, ¶ 3, line 10: *Table 6.2.1-2 summarizes the vehicular traffic values used in the model.*

**Comment #29.1:** SEA has assumed year 2000 traffic as the baseline condition (pre-merger) and therefore no analysis has been done for conditions prior to year 2000 (year 1995). The City understands that "[f]or purposes of comparison, the SEA study team has provided an evaluation of potential traffic delay impacts using 1995 vehicular traffic with pre-merger train levels and Year 2000 vehicular traffic with post-merger train levels. This analysis is contained in Appendix J of the PMP" (STB, 1997d:6 - 4). Unfortunately, SEA does not provide the actual traffic counts, only summary delay information, which is then not used. The difference is significant (14 percent). As the City does not have access to the traffic counts used by SEA to determine these delays, replication of the SEA study team's work is not possible.

The SEA study team's model calibration has been based on the February 1997 survey and field observations. Particularly, the gate down time is a function of the train speeds at various occasions which might have been greater than 20 mph (see Speed Calculation Comment #22.1 on page 2 - 22 of this comment document, relative to Data Collection Comment #21.1 on page 2 - 20 of this comment

document). MMA's analyses are based on a 20 mph train speed and an average train length of 6,500 feet.

The SEA study team has assumed a uniform vehicular arrival during the day and ignored the heavy traffic volumes during the AM and PM peak hours. Furthermore, the distribution of train arrivals during the day is not clear. These two factors combined will have a significant impact on total calculated delay.

Table 5 below, is a comparison between traffic volume for year 2000 as recasted by the SEA study team in the PMP and forecast completed by MMA. The differences, although not large, are significant and need to be identified and discussed.

Table 5			
Comparison Between Traffic Volume for year 2000			
Rail Crossing Location	PMP Traffic Volume Year 2000	MMA Traffic Volume Year 2000	Difference
Keystone	28,017	24,300	3,717
Vine	3,946	4,600	-654
Washington	1,891	2,100	-209
Ralston	3,654	4,200	-546
Arlington	9,254	16,700	-7,446
West	4,783	3,500	1,283
Sierra	20,982	21,700	-718
Virginia	13,551	15,400	-849
Center	14,351	12,800	1,551
Lake	8,069	8,300	-231
Evans	---	13,380	-13,380
Morrill	515	300	215
Sutro	12,051	12,900	-849
TOTAL	121,064	140,180	-19,116

Source: MMA, 1997; STB, 1997d: Table 6.2.1-2



**PMP Text Quote #30:** page 6 - 6, ¶ 1, line 1: *Public, at-grade rail crossings are located at 16 streets including: Woodland, Stagg, Del Curto, Keystone, Vine, Washington, Ralston, Arlington, West, Sierra, Virginia, Center, Lake, Morrill, Sutro, and Sage. Figure 6.2.1-1 illustrates the estimated vehicular delay for each of these streets for pre-merger conditions of 12.7 daily freight trains in the Year 2000. Figure 6.2.1-2 illustrates projected post-merger delay for 24.0 trains per day in the Year 2000. As shown, the total daily pre-merger vehicle delay is estimated at 189 hours for these 16 crossings, while the total post-merger vehicle delay is projected to be 373 hours – an increase of 184 hours.*

**Comment #30.1:** The PMP has analyzed 16 crossings in the downtown area. Those crossings included: Woodland, Stagg, Del Curto, Keystone, Vine, Washington, Ralston, Arlington, West, Sierra, Virginia, Center, Lake, Morrill, Sutro, and Sage. The proposed at-grade crossing at Evans which will be constructed before year 2000 has not been included. Vehicles using this roadway will also be subjected to vehicular delay as a result of train crossing. Traffic volumes on Woodland, Stag, Del Curto and Sage are low and projected to be low at year 2000.

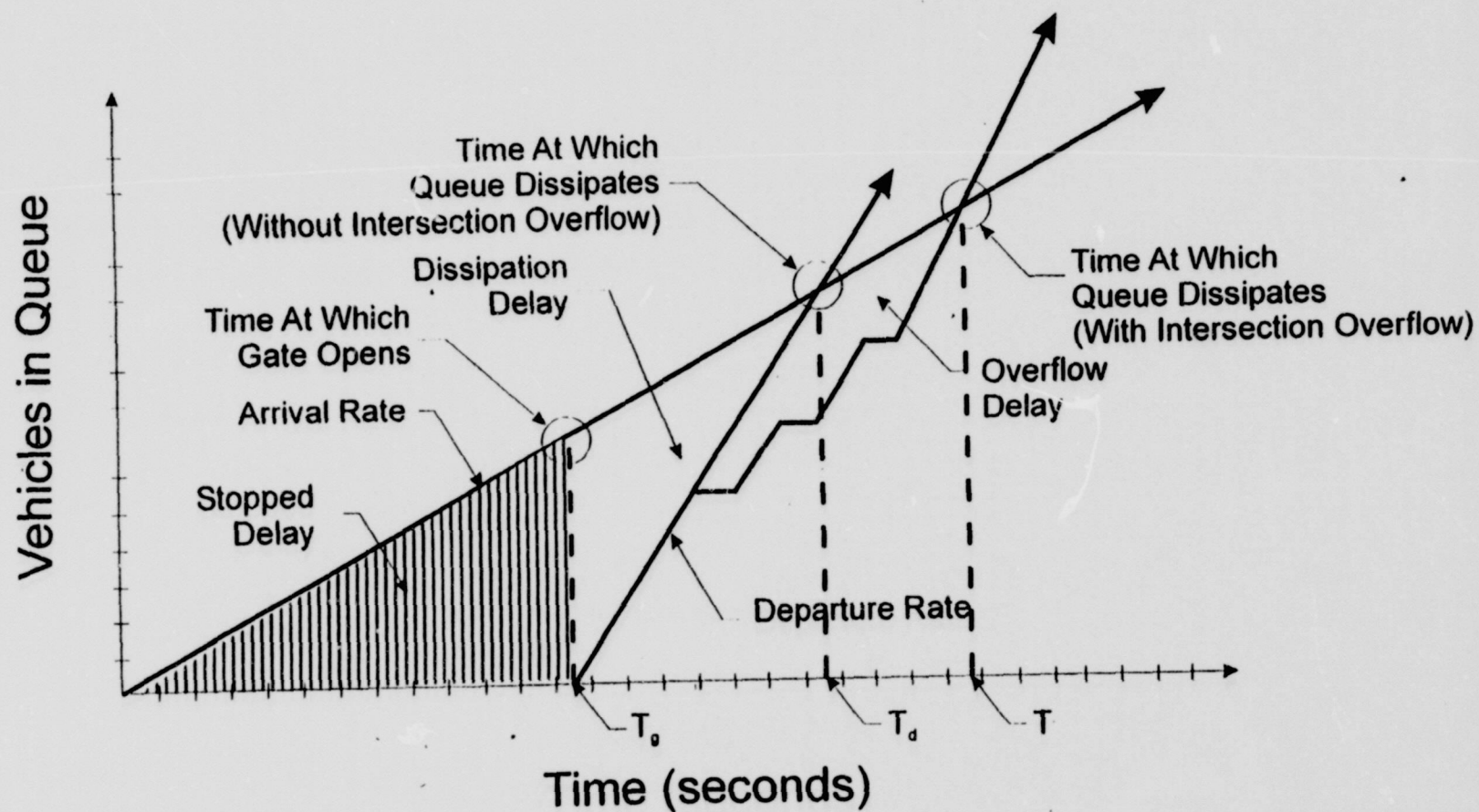
The methodology used, in general, is not quite clear. However, it seems that the delay methodology calculates only the following two components of vehicular delay:

- Delay during the blockage of grade crossing by train (down time of the gate) and
- Delay during the dissipation time.

However, there is a third component of the delay that the report has not included in its delay calculation methodology. This component is the delay as a result of overflow of the stopped vehicles into adjacent signalized intersections (see Figure 2, for a graphical representation of delay components). This added delay will be developed while vehicles are waiting for the queue to clear the intersection. MMA's analysis indicated that the overflow would occur for the following intersections:

- 2nd Street / Virginia Street;
- 2nd Street / Center Street;
- Commercial Row / Sutro Street;
- 4th Street / Sierra Street; and
- 4th Street / Virginia Street.

MMA's analysis showed that the sum of total delay for Virginia, Center, Sutro and Sierra crossings, as a result of this overflow component increased by approximately 30 percent for 1995 (12.7 trains) and 40 percent and 49 percent for 2000 (12.7 trains) and 2000 (24 trains), respectively.

**Figure 2**

A comparison of delay measures between the PMP findings and MMA's analysis is shown below in Table 6.

Table 6						
Comparison of Delay Measures						
Delay Measures	1995 Traffic		2000 Traffic			
	12.7 Trains		PMP		MMA	
	PMP	MMA	12.7 Trains	24.0 Trains	12.7 Trains	24.0 Trains
Total daily number of vehicles crossing tracks at-grade:						
• PMP has assumed 16 locations	113,700		124,400			
• MMA has assumed 13 locations		115,200			140,200	
Total daily hours of delay	166	188	189	373	250	473
Total number of vehicles delayed by trains (cars in queue)		4,542	5,740	11,130	5,574	10,534

Source: MMA, 1997; STB, 1997d: Table 7.2.1-1

As shown by SEA, the total daily pre-merger vehicle delay (year 1995 not year 2000) is estimated at 166 hours, while the total post-merger vehicle delay is projected to be 373 hours — an increase of 207 hours of delay. MMA indicates a higher increase between pre-merger and post-merger of 307 hours of delay with the inclusion of the overflow component.

It should be noted that the PMP also reports the misleading calculation of average delay per vehicles [across all vehicles], resulting in an absurdly low delay in all cases (see Table 7 below). This has been easily explained by the City, as in the case where one car arrives exactly as the gates begin to come down and the other car arrives just before the gates begin to go up. The first car waits for 5 minutes and the second car waits for 1 minute, yet the "average delay per vehicle" is 3 minutes. Clearly the citizens of Reno realize this is not a true picture of the delay in Reno. Only total daily hours of delay are meaningful.

TL. PMP has ignored the analysis of levels of service under various scenarios. Level of service for roadways that cross the railroad track is an indication of the operating condition of the facility at pre-merger and post-merger conditions. This index could be later used in establishing a threshold for implementation of the mitigation measures, such as grade separation improvements.



<p><b>Table 7</b></p> <p><b>Simplified Delay Statistics for 16 Grade Crossings in Reno</b></p>			
	Pre-merger	Unmitigated Post-merger	Increased Speed 30 mph Post-merger
Gate down time	3.38	3.45	2.28
Delay per vehicle	1.98	2.01	1.27

Source: STB, 1997d: 7 - 7, Table 7.2.1-1

### 3.2 SAFETY - PEDESTRIANS

**PMP Text Quote #31:** page 6 - 9, ¶ 4, line 3: *As the number of trains increases, so does the exposure of pedestrians to trains. Pedestrian exposure to trains also varies based on the concentration of pedestrians at each crossing. Table 6.2.2-1 lists the numbers of pedestrians crossing the tracks immediately after freight trains pass on the five primary downtown streets surveyed during the week of February 3, 1997.*

page 6 - 11, ¶ 7, line 2: *Automobile and pedestrian traffic is heavy year-round, and during the high summer tourist season, the crowds are reported to increase considerably.*

**Comment #31.1:** It is unclear from this general explanation of pedestrian counts in February 1997 how SEA complied with Decision No. 44, Condition 22c "It shall include a final mitigation plan based on a further study of the railway, highway, and pedestrian traffic flows and associated environmental effects on the City of Reno" [emphasis added] (STB, 1997d:Appendix A, p. 16). An explanation how this data was interpolated into pedestrian counts for an entire year in Reno is needed in the FMP.

**PMP Text Quote #32:** page 2 - 17, ¶ 5, line 7: *State transportation officials have also noted a number of violations of pedestrian crossing gates.*

page 6 - 9, ¶ 3, line 1: *A number of pedestrian behavior patterns may result in accidents between pedestrians and trains...The SEA study team reviewed available literature and regulations (e.g., from FRA), but did not find methods for quantitatively measuring pedestrian behavior at rail crossings in statistically valid ways.*

**Comment #32.1:** As a scheduled agenda item at the Reno Mitigation Task Force Meeting #5 held May 14, 1997, Anita Boucher, State of Nevada Railroad Safety Coordinator (Safety Engineering Division, Nevada Department of Transportation [NDOT]) conducted a presentation to the entire task force on pedestrian behavior at at-grade crossings to emphasize the necessity of train horns in downtown Reno, she stated "if there is a problem at a crossing, the engineer must blow his horn,

regardless [of any whistle ban which may be in place]". NDOT studied the City's Virginia Street crossing video tapes for a period of one week of events in February 1997. Ms. Boucher found that in 121 times out of 165 train events, a train horn would have to be blown (73.3 percent of the time) due to intrusions onto the right-of-way, a total of 1,350 pedestrian intrusions in the week studied. The City would offer that these results clearly indicate more than "a number of violations of pedestrian crossing gates" or as Ms. Boucher notes in her data:

- pedestrians lift gate arms;
- pedestrians stand on opposing tracks;
- pedestrian walk down the middle of the roadway;
- pedestrians in roadway on wrong side of gate arm;
- pedestrians walk around gate arm after it is down;
- pedestrian lift gate arms;
- pedestrians run to get across tracks;
- pedestrians run in front of train (2nd closest call); and
- pedestrians walk under gate arm (closest call).

**Comment #32.2:** At the same Reno Mitigation Task Force Meeting #5 held May 14, 1997, Anita Boucher, State of Nevada Railroad Safety Coordinator (Safety Engineering Division, Nevada Department of Transportation [NDOT]) while making her presentation to the entire task force, noted a total of 144 vehicular intrusions in the week studied, including "a gate arm resting on roof of car". There is no discussion of this data in the PMP nor is there any quantification of these numbers versus pre-merger. The City would like to thank Ms. Boucher and her staff for their work on this study, as it is the only known survey of pedestrian behavior in downtown Reno which should and must be fully evaluated by SEA as part of their "hard look".

### 3.3 SAFETY - EMERGENCY VEHICLE ACCESS

**PMP Text Quote #33:** page 6 - 10, section 6.2.3, Measure: *Average daily gate down time per crossing on major crossings.*

page 6 - 11, ¶ 3, line 1: *The calculation of crossing blockage time uses the same techniques and information as was used to calculate traffic delay (see Section 6.2.1). Mitigation measures that are implemented that result in reduced gate down times would reduce the likelihood of emergency vehicle blockages.*

**Comment #33.1:** SEA uses the measure of impact of an average daily gate down time per crossing on major crossings. The City does not consider this appropriate. If the existing potential for blocked emergency response vehicles is 12 times a day under current conditions, then the post-merger 24 times a day is a 100 percent increase in blockage. The fact that the current 12 blockages total 42.9 minutes per day compared to the mitigated 24 blockages totaling 54.8 minutes or 27 percent

increase is not comparable, as each emergency response which is blocked must be either re-assigned or re-routed - emergency vehicles do not wait at crossings during an emergency response.

**PMP Text Quote #34:** page 6 - 11, ¶ 2, line 1: *The SEA study team determined that the gate down time analysis does not completely or accurately reflect actual emergency vehicle delays in Reno for several reasons. First, emergency facilities exist on both sides of the UP tracks, so some emergency runs do not cross the tracks. Second, emergency runs occur at random times, and every rail crossing blockage does not necessarily delay emergency vehicles that must cross the tracks. Third, emergency vehicle drivers are likely to be aggressive in seeking unblocked rail crossings, avoiding or passing traffic congestion (e.g., using oncoming traffic lanes), and not being hampered by traffic restrictions such as one-way streets and traffic signals. Given the possible effects on health and safety related to even one blockage of an emergency vehicle, however, SEA is concerned with potential impairment of emergency vehicle access resulting from merger-related train traffic increases.*

*The calculation of crossing blockage time uses the same techniques and information as was used to calculate traffic delay...Mitigation measures that are implemented that result in reduced gate down times would reduce the likelihood of emergency vehicle blockages.*

**Comment #34.1:** SEA uses a measure of impact of average daily gate down time per crossing on major crossings. The City does not consider this appropriate. If the existing potential for blocked emergency response vehicles is 12 times a day under current conditions, then the post-merger 24 times a day is a 100 percent increase in blockage. The fact that the current 12 blockages total 42.9 minutes per day compared to the mitigated 24 blockages totaling 54.8 minutes or 27 percent increase is not a comparable, as each emergency response which is blocked must be either re-assigned or re-routed - **emergency vehicles do not and will not wait at crossings during responses or transports.**

**Comment #34.2:** SEA concludes the gate down time analysis does not accurately reflect actual emergency delays based upon several reasons. The City believes that because the analysis does not accurately reflect actual emergency delays, the impacts are even greater and must be analyzed and additional mitigation offered.

SEA concludes in the PMP that due to emergency facilities being located on both sides of the tracks and some emergency runs not even crossing the tracks, the impact is less than the delay time. The information on the facilities is partially accurate, the PMP fails to indicate that five of the fire station districts are bisected by the railroad tracks, as well all downtown fires require assistance from fire stations located on both sides of the tracks. For example, on September 30, 1997, a 3-alarm fire broke out at the Eldorado casino / hotel which is located immediately north of the railroad tracks (see the Reno Gazette-Journal newspaper articles about the fire contained in Appendix E of this comment document). Six fire stations (three of the stations are located on the south side of the tracks) were required to



respond. In addition, the Reno Fire Department (RFD) had to contact the UP to prohibit any trains from entering the downtown area for the remainder of the evening because fire trucks were parked within the UP right-of-way and fire hoses were draped across the tracks because of a fire hydrant located on the south side of the tracks. The RFD could not have contained the blaze without the assistance from all six fire stations. If the Eldorado casino / hotel fire started while a train was blocking traffic, equipment and fire fighters from three of the fire stations located on the south side of the tracks would of experienced 3 to 5 minute response delays which would have caused possibly a loss of life and additional property damage at the Eldorado casino / hotel.

Second, SEA concludes the gate down time analysis does not accurately reflect actual emergency delays because emergency runs are at random times and every rail crossing blockage does not necessarily delay emergency vehicles. According to a survey conducted in February of 1997 by the City, emergency delays occurred 70 times in 28 days<sup>4</sup>. Table 8 and Figure 3 below indicates the number of delays experienced by each emergency service provider during February 1997:

Table 8	
Summary of Emergency Calls Delayed	
Emergency Service Provider	Number of Calls
Reno Police Department	47
REMSA	14
Reno Fire Department	9

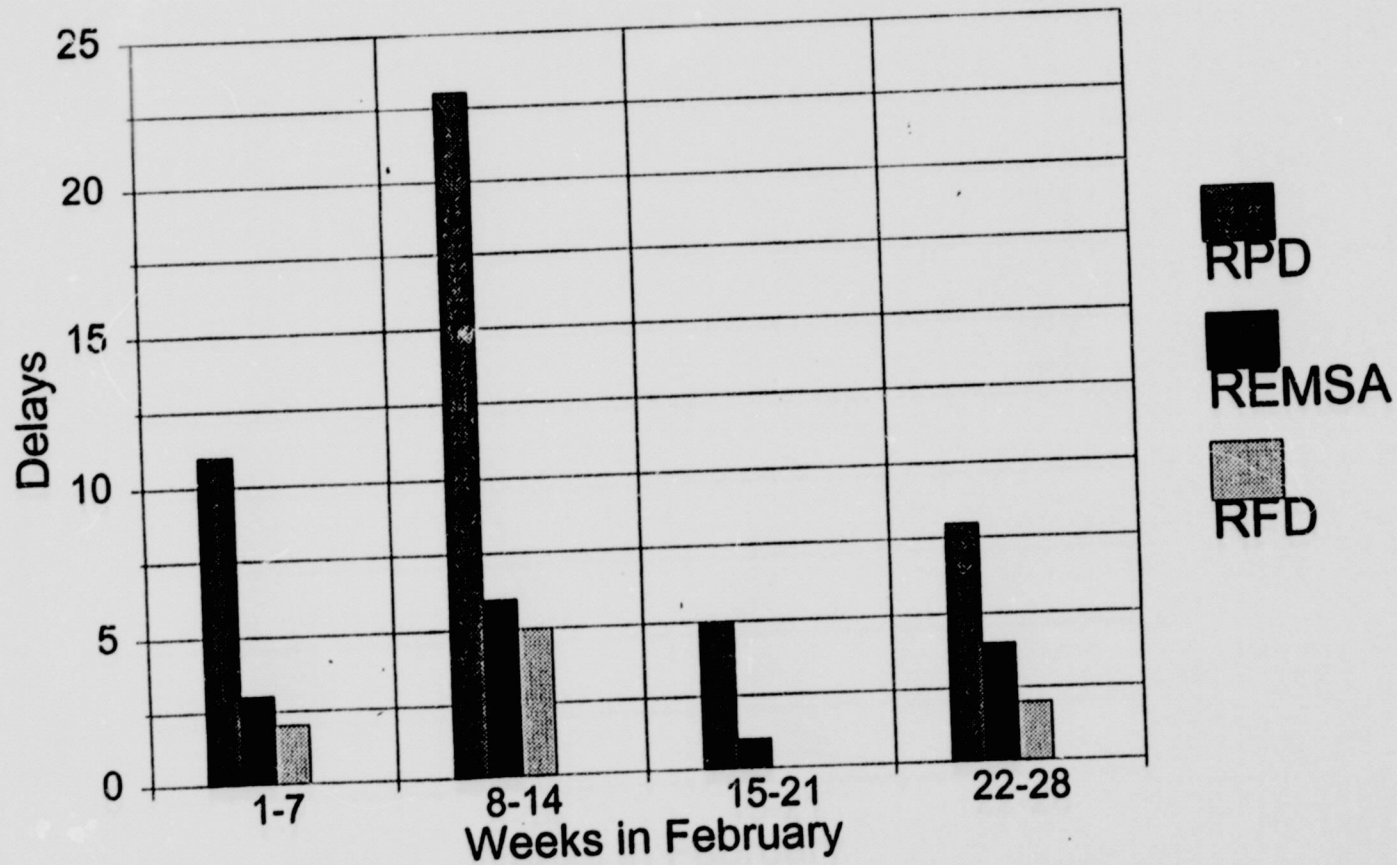
Source: City of Reno, 1997

The third reason that SEA concludes the gate down time analysis does not accurately reflect actual emergency delays is that emergency vehicle drivers are likely to be "aggressive" in seeking unblocked rail crossings and not being hampered by traffic (and train) restrictions. This does not acknowledge that most fire equipment cannot maneuver out of traffic at a blocked rail crossing. SEA must acknowledge this fact and recommend mitigation measures to mitigate these impacts.

<sup>4</sup>In a memo dated January 7, 1997, from Charles McNeely, City Manager, City of Reno to Reno Police Department (RPD), Reno Fire Department (RD), REMSA, and Regional Transportation Commission as well as others agency, the City asked each agency to maintain records of delays of day-to-day delivery of services during the month of February. The RPD and RFD data was collected by the emergency dispatchers when a call was re-assigned due to a blockage at a crossing which was judged to delay the call.



**Figure 3**  
**Emergency Vehicle Delays - Feb 1997**







### 3.4 SAFETY - TRAIN/VEHICLE ACCIDENTS

**PMP Text Quote #35:** page 6 - 21, ¶ 1, line 2: *FRA currently is conducting an in-depth safety review of the UP/SP, including the rail line through Reno and Washoe County, to assess any merger-related safety issues.*

**Comment #35.1:** SEA states that the FRA is conducting a safety review which includes the rail line through both the Reno / Sparks / Truckee Meadows area and the larger Washoe County area. The City is unaware of the scope and extent of this safety review because SEA addresses this critical issue with only one line of text in the PMP without any explanation. SEA does not mention or address any of the serious safety issues and problems that caused the safety review in the first place. This is another example of how SEA and its environmental consultants are bias towards the UP and do not provide an adequate analysis of this issue. The City has directly requested the FRA to include the Reno / Sparks / Truckee Meadows area in its in-depth study of UP operations. To date, the City has not received a response.

### 3.5 SAFETY - HAZARDOUS COMMODITIES

**PMP Text Quote #36:** page 6 - 24, ¶ 5, line 1: *The SEA study team independently estimated the likelihood of a hazardous materials release (pre- and post-merger) associated with a derailment on the portion of the UP rail line (formerly SP line) from Truckee, California east through Reno to Fernley, Nevada. SEA chose to analyze this segment given that a portion of the rail line in this segment is near the Truckee River. The length of the Truckee River from Lake Tahoe to Pyramid Lake, is approximately 115 miles. The UP mainline is generally within 200 feet of the river for approximately 25 miles of the river's length, or about 22 percent.*

page 6 - 24 & 6 - 27, ¶ 6, line 4: *(Appendix N [of the PMP] describes the methodology used to develop these statistics.) As part of this analysis, the SEA study team reviewed other reports prepared on this subject, including:*

- Arthur D. Little, Inc., "Assessment of Risks and Risk Control Options Associated with Liquefied Natural Gas Trucking Operations from Distrigas Terminal, Everett, MA.," June 1979.
- Arthur D. Little, Inc. For U.S. DOT, Safety of High Speed Guided Ground Transportation Systems, Volume 1, Appendix A "U.S. Serious Railroad Accident Data," March 1993.
- Carr, James R., "Development of an Integrated Computer Platform for the Evaluation of Contamination Mitigation Scenarios along the Truckee River-Risk of Transporting Hazardous Substances Adjacent to the Truckee River," November 22, 1996.
- FRA Guide For Preparing Accidents/Incidents Reports, DOT/FRA/FFS-22, January 22, 1993.
- Geffen, C.A., and Franklin, A.L., "An Assessment of the Risk of Transporting Propane by Truck and Train," Department of Energy Environmental Control Symposium, Reston, VA., March 1980.

**PMP Text Quote #37:** page 6 - 28, ¶ 1, line 1: *The SEA study team also estimated the likelihood of hazardous materials spills into the Truckee River resulting from incidents on the mainline. Factors used to make these calculations included the hazardous materials release estimates in Table 6.5-1, the distance between the rail line and the Truckee River over this rail segment, the amount of the rail line that passes over the river on a bridge, assumptions regarding the distance that a derailed train car could travel, the types of hazardous materials being transported, the associated likelihood that these materials would flow into the river, and the probable severity of the release. Appendix N [of the PMP] describes the methodology used to develop the likelihood of River contamination from hazardous materials on a UP freight train.*

Table 6.2.5-2 shows the expected probability of contamination of the Truckee River for the rail line segment. As shown, contamination is expected to occur every 112.2 years for pre-merger conditions, and every 77.3 years for post-merger trains and hazardous materials levels.

Thus, while the likelihood of a spill or river contamination is increased for post-merger conditions, the probabilities are still remote. Notwithstanding the low probabilities, SEA has reviewed possible mitigation measures for hazardous materials spills.

**Comment #37.1:** The City would question the scientific independence of the SEA study team performing the above referenced "likelihood" study as DCCo admittedly has worked for UP and other railroads prior to this "third party independent study". The City, on the other hand, has no financial relationship with the author of the above referenced unpublished study *Development of an Integrated Computer Platform for the Evaluation of Contaminant Mitigation Scenarios along the Truckee River: Risk of Transporting Hazardous Substances Adjacent to the Truckee River* by University of Nevada, Reno, Geological Engineering Professor and statistician James R. Carr, Ph.D., P.E. (commissioned by and independently completed for Sierra Pacific Power Company) estimated that a rail accident that spilled hazardous substances into the Truckee River could happen once every 53.1 years<sup>5</sup> (Carr, 1996:26). The study was based the 1996 rail traffic of 14 trains per day; however, based on the UP's proposed 25 trains per day or the City estimate of

<sup>5</sup>The report noted that the likelihood of a toxic spill was once every 80.8 years along the Truckee River above the California-Nevada border and once every 154.75 years below the border. With respect to interpreting the probability of occurrence, the author noted that "There are people who have lived on the Mississippi River for 30 years who have been through five 100-year floods." The most likely substances in a spill, listed in decreasing order included: (1) sulfuric acid; (2) phosphoric acid, diesel fuel, ammonium nitrate; (3) anhydrous ammonia; (4) sodium hydroxide; and (5) butyl ether. Other likely substances of equal but lesser likelihood included butane, calcium carbide, carbon disulfide, methyl alcohol, methyl ether, naphtha, potassium hydroxide and propane. In a related incident, on July 14, 1991, seven cars of a slow Southern Pacific Railroad train derailed near Dunsmuir, California, dumping 19,000 gallons of a fungicide and herbicide (Vapam or metam sodium) into the Upper Sacramento River. The river carried the chemicals into Lake Shasta, located nearly 40 miles downstream. According to the California Department of Fish and Game, that spill virtually killed all aquatic animals and thousands of plants along the river's 37-mile course. More than 1 million fish were killed, including 275,000 wild trout. Also killed along the river were as many as 250,000 willows and 300,000 cottonwoods, which would not regrow for 14-16 years.



approximately 35 trains per, thereby increasing the statistical certainty of contaminating the Truckee River every 29.4 years and 21.0 years respectively (Carr, 1996:19, 29, 30) (see Table 9 below for a complete summary of Carr's [1996] findings). Risks of accidents increased with steeper grades, stronger curves, and higher trains speeds. All these factors are most prevalent in the upper Truckee River canyon between Truckee, California, and Verdi, Nevada, where the probability of a spill is therefore greatest (Carr, 1996:18, 19, 21).

Initially when Carr's report was released, UP embraced the report claiming the railroad industry's superior safety in transporting hazardous materials, as evidenced by the July 28, 1996, *Reno Gazette-Journal* article entitled *Rail study: River spill odds fairly low*. "There is no accepted method that we are aware of to accurately predict any future event, certainly including the possibility of toxic spill into the Truckee River," said Mike Furtney, Southern Pacific spokesman. "But having said that, we are impressed by the positive nature of UNR's statistics." (July 28, 1996:C1).

### 3.6 TRAIN OPERATIONS

**PMP Text Quote #38:** page 6 - 23 to 6 - 24, ¶ 2, line 1: *Railroad Accident Prevention Equipment: In addition to reviewing current Federal hazardous materials controls and regulations and current UP practices, the SEA study team reviewed UP's specialized equipment along the rail line in the Reno and Washoe County area for detection of potential train-related defects. Railroads use a number of devices to enhance operational safety, including track-side detectors that are designed to identify various types of potential trouble. The detectors are automated, and when unsafe conditions are sensed, the detector equipment alerts either the train engineer or the dispatcher, and the engineer stops the train. Common types of detectors include:*

- *Hot box detectors – These detect hot locomotive and car wheel bearings. An overheated wheel bearing can melt the wheel-bearing assembly causing a derailment.*
- *Dragging equipment detectors – These detect equipment or other objects hanging from the bottom of a locomotive or car...It can damage rail, ties, switches, and become lodged between a wheel and the rail causing a derailment...*

Table 9		
Summary of Findings from <i>Risk of Transporting Hazardous Substances Adjacent to the Truckee River</i> (Carr, 1996)		
TYPE OF RISK/ No. of Trains per Day	Truckee River upstream of CA/NV border from MP 106-228	Truckee River downstream of CA/NV border form MP 229-257
	Truckee River entirety from MP 106-257	
Maximum Absolute Risk (minimum) = rail cars carrying hazardous substances (for N freight trains per day) have a statistical certainty of an accident/event every		
N = 14 freight trains/day (Carr, 1996:19-20)	2.6 years <sup>d</sup> or 944 days	3.5 years <sup>d</sup> or 1,300 days
	1.5 years <sup>e</sup>	
N = 25 freight trains/day (Carr, 1996:29-30; Tables A-1 & A-2)	1.4 years <sup>d</sup> or 523 days	2.0 years <sup>d</sup> or 723 days
	304 days <sup>e</sup>	
N = 35 freight trains/day (Carr, 1996:19, 30; Table A.2)	374 days	1.4 years <sup>e</sup> or 516 days
	217 days <sup>e</sup>	

<sup>6</sup> 1 event in 944 days + 365 days/year = 1 event in 2.6 yrs.  
1 event in 1,300 days + 365 days/year = 1 event in 3.5 yrs.

<sup>7</sup> The probability (actual risk) to the Truckee River upstream of CA/NV border OR probability (risk actual) to the Truckee River downstream of CA/NV border EQUALS the total probability (total risk) to the entire Truckee river LESS the probability (actual risk) of the outcomes common to both events. In this case the two events are mutually exclusive and equal zero.

$$P(A \cup B) = P(A) + P(B) - P(A \cap B) = P(A) + P(B) - 0 = P(A) + P(B)$$

$$P(\text{entire Truckee River}) = P(\text{upstream}) + P(\text{downstream}) = 1/(944 \text{ days}) + 1/(1,300 \text{ days}) = 1/547 \text{ days or 1 event in } 547 \text{ days} + 365 \text{ days/year} = 1 \text{ event in } 1.5 \text{ yrs.}$$

$$1/(523 \text{ days}) + 1/(723 \text{ days}) = 1/304 \text{ days or 1 event in } 304 \text{ days}$$

$$1/(374 \text{ days}) + 1/(516 \text{ days}) = 1/217 \text{ days or 1 event in } 217 \text{ days}$$

$$1/(80.8 \text{ yrs.}) + 1/(154.75 \text{ yrs.}) = 1/53.1 \text{ yrs. or 1 event in } 53.1 \text{ yrs.}$$

$$1/(44.7 \text{ yrs.}) + 1/(86.1 \text{ yrs.}) = 1/29.4 \text{ yrs. or 1 event in } 29.4 \text{ yrs.}$$

$$1/(32.0 \text{ yrs.}) + 1/(61.4 \text{ yrs.}) = 1/21.0 \text{ yrs. or 1 event in } 21.0 \text{ yrs.}$$

$$[1/(80.8 \text{ yrs.}) + 1/(45.2 \text{ yrs.})] + [1/(154.75 \text{ yrs.}) + 1/(93.0 \text{ yrs.}) + 1/(383.5 \text{ yrs.})] = 1/18.4 \text{ yrs. or 1 event in } 18.4 \text{ yrs.}$$

$$[1/(44.7 \text{ yrs.}) + 1/(45.2 \text{ yrs.})] + [1/(86.1 \text{ yrs.}) + 1/(93.0 \text{ yrs.}) + 1/(383.5 \text{ yrs.})] = 1/14.4 \text{ yrs. or 1 event in } 14.4 \text{ yrs.}$$

$$[1/(32.0 \text{ yrs.}) + 1/(45.2 \text{ yrs.})] + [1/(61.4 \text{ yrs.}) + 1/(93.0 \text{ yrs.}) + 1/(383.5 \text{ yrs.})] = 1/11.0 \text{ yrs. or 1 event in } 12.0 \text{ yrs.}$$

<sup>8</sup> 1 + P(.0019118) = 1 event in 523 days + 365 days/year = 1 event in 1.4 yrs.  
1 + P(.0013833) = 1 event in 723 days + 365 days/year = 1 event in 2.0 yrs.  
1 + P(.0019367) = 1 event in 516 days + 365 days/year = 1 event in 1.4 yrs.

Table 9		
Summary of Findings from <i>Risk of Transporting Hazardous Substances Adjacent to the Truckee River</i> (Carr, 1996)		
TYPE OF RISK/ No. of Trains per Day	Truckee River upstream of CA/NV border from MP 106-228	Truckee River downstream of CA/NV border form MP 229-257
	Truckee River entirety from MP 106-257	
Actual Values of Risk or Relative Risk (maximum) = rail cars carrying hazardous substances (for N freight trains per day) (base upon the probability of breach could be 3.2% (CA) and 2.3% (NV) of the accidents/events) have a statistical certainty of contaminating the Truckee River (including location and severity) every		
N = 14 freight trains/day (Carr, 1996:26)	80.8 years or 29,500 days	154.75 years or 56,522 days
	53.1 years <sup>a</sup>	
N = 25 freight trains/day (Carr, 1996:29-30; Tables A-1 & A-2)	44.7 years <sup>a</sup> or 16,344 days	86.1 years <sup>a</sup> or 31,435 days
	29.4 years <sup>a</sup>	
N = 35 freight trains/day (Carr, 1996:19, 30; Table A.2)	32.0 years <sup>a</sup> or 11,688 days	61.4 years <sup>a</sup> or 22,435 days
	21.0 years <sup>a</sup>	
Actual Values of Risk or Relative Risk (maximum) = trucks carrying hazardous substances by highway (base upon the probability of breach could be 1.4% of the accidents/events) have a statistical certainty of contaminating the Truckee River (including location and severity) every		
Interstate 80 (I-80) (Carr, 1996:28)	45.2 years or 16,492 days	93.0 years or 33,982.7 days
U.S. Hwy 395 (US-395) (Carr, 1996:28)		383.5 years or 140,058.8 days

<sup>a</sup> 1 event in 532 days + 0.032 = 1 event in 16,344 days + 365 days/year = 1 event in 44.7 yrs.  
 1 event in 723 days + 0.023 = 1 event in 31,435 days + 365 days/year = 1 event in 86.1 yrs.  
 1 event in 374 days + 0.032 = 1 event in 11,688 days + 365 days/year = 1 event in 32.0 yrs.  
 1 event in 516 days + 0.023 = 1 event in 22,435 days + 365 days/year = 1 event in 61.4 yrs.



Table 9		
Summary of Findings from <i>Risk of Transporting Hazardous Substances Adjacent to the Truckee River</i> (Carr, 1996)		
TYPE OF RISK/ No. of Trains per Day	Truckee River upstream of CA/NV border from MP 106-228	Truckee River downstream of CA/NV border from MP 229-257
	Truckee River entirety from MP 106-257	
Total Risk (cumulative) = rail cars carrying hazardous substances (for N freight trains per day) (based upon the probability [actual risk] of rail [P(A)]) OR trucks carrying hazardous substances on I-80 (based upon the probability [actual risk] of I-80 [P(B)]) OR trucks carrying hazardous substances on US-395 (based upon the probability [actual risk] of US-395 [P(C)]) have a statistical certainty of contaminating the Truckee River (including location and severity) every		
N = 14 freight trains/day (Carr, 1996:39)	29.0 years <sup>10</sup>	50.5 years <sup>10</sup>
	18.4 years <sup>10</sup>	
N = 25 freight trains/day	22.5 years <sup>10</sup>	40.0 years <sup>10</sup>
	14.4 years <sup>10</sup>	
N = 35 freight trains/day	18.7 years <sup>10</sup>	33.7 years <sup>10</sup>
	12.0 years <sup>10</sup>	

Source: Adapted from Carr, 1996

<sup>10</sup> The probability (actual risk) to the Truckee River upstream of CA/NV border from rail OR probability (actual risk) to the Truckee River upstream of CA/NV border from trucks on I-80 EQUALS the total probability (total risk) to the entire Truckee river LESS the probability (actual risk) of outcomes common to both. In this case the two events are mutually exclusive and equal zero.

$$P(A \cup B) = P(A) + P(B) - P(A \cap B) = P(A) + P(B) - 0 = P(A) + P(B)$$

$$P(\text{entire Truckee River}) = P(\text{upstream}) + P(I-80) = 1/(80.8 \text{ yrs.}) + 1/(45.2 \text{ yrs.}) = 1/29.0 \text{ yrs. or 1 event in 29.0 yrs.}$$

$$1/(44.7 \text{ yrs.}) + 1/(45.2 \text{ yrs.}) = 1/22.5 \text{ yrs. or 1 event in 22.5 yrs.}$$

$$1/(32.0 \text{ yrs.}) + 1/(45.2 \text{ yrs.}) = 1/18.7 \text{ yrs. or 1 event in 18.7 yrs.}$$

The probability (actual risk) to the Truckee River upstream of CA/NV border from rail OR probability (actual risk) to the Truckee River upstream of CA/NV border from trucks on I-80 OR probability (actual risk) to the Truckee River upstream of CA/NV border from trucks on US-395 EQUALS the total probability (total risk) to the entire Truckee river LESS the probability (actual risk) of outcomes common to any events. In this case the three events are mutually exclusive and equal zero.

$$P(\text{entire Truckee River}) = P(\text{downstream}) + P(I-80) + P(US-395) = 1/(154.75 \text{ yrs.}) + 1/(93.0 \text{ yrs.}) + 1/(383.5 \text{ yrs.}) = 1/50.5 \text{ yrs. or 1 event in 50.5 yrs.}$$

$$1/(86.1 \text{ yrs.}) + 1/(93.0 \text{ yrs.}) + 1/(383.5 \text{ yrs.}) = 1/40.0 \text{ yrs. or 1 event in 40.0 yrs.}$$

$$1/(61.4 \text{ yrs.}) + 1/(93.0 \text{ yrs.}) + 1/(383.5 \text{ yrs.}) = 1/33.7 \text{ yrs. or 1 event in 33.7 yrs.}$$

- *High, wide, shifted load detectors — these detect loads or other items that protrude from the top and side of a train. This situation is dangerous because protruding loads can strike trains on adjacent tracks, tunnel walls, bridges, bridge supports, etc.*

*Based on a review of UP's track diagrams, the UP/SP mainline tracks through Washoe County have multiple detectors. For both the eastbound and westbound tracks west of Reno, dragging equipment detectors exist at Mile Posts (MP) 206 (Truckee, CA.), 212.5, 220, 224 (about 19 miles west of Reno), 235 and 240 (about three miles west of Reno). For the single track east of Reno, dragging equipment detectors exist at MP 251.6 and 270.5. Intervals between dragging equipment detectors on either side of the Sparks Yard therefore range from five to ten miles.*

*Hot box detectors exist at MP 270.5 and 251.6 for the single-track rail line east of the Sparks Yard. For the double-track rail line west of Reno, hot box detectors exist on the eastbound track at MP 206 (Truckee, CA.), MP 224 (about 19 miles west of Reno), and MP 240 (about three miles west of Reno). For the westbound track, hot box detectors exist at MP 206 (Truckee), and MP 223.9. Thus, hot box detectors exist for eastbound trains at intervals of less than 20 miles. Except for the 27.7-mile interval between MP 251.6 and 223.9, hot box intervals for westbound trains are also less than 20 miles.*

*High, wide, shifted load detectors exist on both tracks at MP 231.8 and on the single track at MP 260.5. Given that all trains stop at the Sparks Yard to change crews, the proximity of the stopped trains to yard personnel, supervision, and mechanical forces increases the probability of discovering train defects.*

**Comment #38.1:** The PMP documents the location of the existing railroad accident prevention equipment, including hot box detectors, high wide shift load detectors and dragging equipment detectors. The discussion of "existing" railroad accident prevention equipment is not appropriate in Section 6 (Evaluation of Potential Environmental Impacts) of the PMP and provides no meaningful analysis of potential environmental impacts. The City requests that the applicability of this information be substantiated, or the referenced statement removed from the FMP.

**PMP Text Quote #39:** page 4 - 8, ¶ 3, line 1: *As a part of the review process for the EA and Post EA, SEA's study team interviewed UP officials regarding the methodology and databases that were used to develop the train projections. To further verify the data, SEA's study team performed reasonableness checks on rail line segments to confirm continuous traffic flows. During the course of the pre-merger proceedings, traffic density figures were supplemented twice in verified statements from UP to reflect changes resulting from the BN/SF settlement agreement and the Chemical Manufacturers' Association settlement agreement. The new figures were also tested for reasonableness by the SEA study team. Based on this independent review, SEA has accepted the UP projections.*

**Comment #39.1:** It is unclear from an overly simplified explanation of the UP's train traffic projection how SEA complied with Decision No. 44, Condition 22c:

"It shall include a final mitigation plan based on a further study of the railway, highway, and pedestrian traffic flows and associated environmental effects on the City of Reno" [emphasis added] (STB, 1997d:Appendix A, p. 16).

**PMP Text Quote #40:** page 4 - 9, ¶ 2, line 1: *The City of Reno requested that variations in the number of projected trains in the future be identified. Given that future numbers are more speculative, the most reasonable way to identify possible variations in average daily train counts appeared to be a review of train count variations in the recent past. SEA therefore requested from UP actual counts of the number of freight trains passing through Reno on a daily basis for a sample period in the year 1996. UP provided such data for the months of January through February and April through September 1996. Other months for that year were not available.*

*Based on an analysis of these eight months of data, freight trains passing through Reno illustrated the following characteristics:*

- *Average number of freight trains = 10.8 per day.*
- *Median number of freight trains = 11 per day.*
- *Minimum number of freight trains = 2 per day.*
- *Maximum number of freight trains = 17 per day.*
- *Standard deviation [S.D.] of daily freight trains = 2.09.*

**Comment #40.1:** The PMP attempts to provide information on daily freight train data through the City, based on 1996 UP operational data. Four months, or 30 percent of the baseline data has not been provided by UP, making the information suspect and statistically invalid. The four months of missing train data could easily skew the information on the number of trains per day, making the documented data meaningless. The City requests that the missing daily train data be provided by UP and incorporated into the FMP, or a disclaimer inserted indicating that the data is incomplete and that UP is unable to accurately keep track of its own train counts.

**PMP Text Quote #41:** page 4 - 8, ¶ 2, line 1: *Based on the model results, the number of UP/SP freight trains passing through Reno is not expected to increase immediately. Rather the increase is expected to be gradual between 1995 and the projection Year 2000. Projected increases would depend on changes to the Roseville Rail Yard (in California) and increased tunnel clearances in the mountains west of Reno.*

**Comment #41.1:** Current information pertaining to construction activities associated with the Roseville rail yard (California) and Sierra Nevada tunnel expansion is not documented in the PMP. Without this information, the "gradual rate of increase" statement is unreasonable and made without any basis. The City requests that this information be provided in the FMP.

**PMP Text Quote #42:** page 5 - 7, ¶ 2, line 7: *The average freight train length for the survey week was 4,600 feet.*



**Comment #42.1:** Section 5.3.1 (Methodology) of the PMP attempts to summarize the methodology employed to conduct the train and traffic survey, with the summary on Page 5 - 7, paragraph 5 indicating an average train length of 4,600 feet. The survey data actually indicates a mean length in feet of 4,600 with a S.D. of  $\pm 1,283$  feet and a  $\pm 1$  S.D. range of 3,317 feet to 5,883 feet, a minimum of 420 feet, and a maximum of 6,698. This range of lengths should be included and analyzed in the PMP. Figure 4 indicates the differences in distribution of the UP's projected average as indicated on the PMP's Table 4.4.1-1 and the actual distribution of the survey data trains.

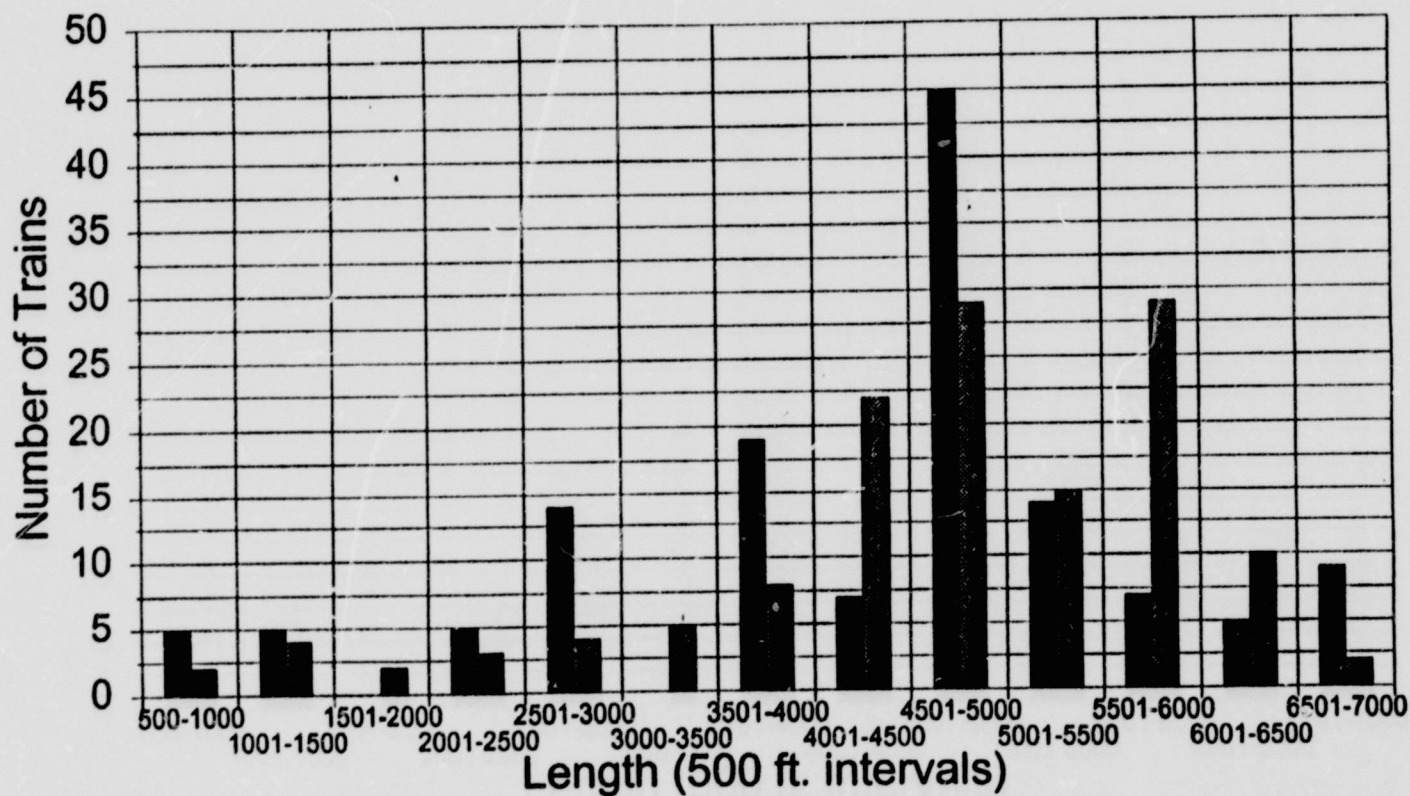
**PMP Text Quote #43:** page 4 - 9, ¶ 1, line 1: *In light of these factors, major expansion at the Port of Oakland plans appears to be beyond the reasonably foreseeable Year 2000 train projection horizon. UP train-traffic projections accounted for merger-related growth and the BN/SF intermodal traffic share at Oakland. UP did not modify its train traffic projections in anticipation of the proposed new Oakland intermodal facilities, which are clearly not merger-related. Last year, international container traffic at the Port of Oakland actually declined by 13 percent.*

**Comment #43.1:** The Port of Oakland (the "Port"), California is proposing to develop a major new intermodal transportation center on bayfront land formerly owned by the U.S. Navy, Navy Supply Center. Summit/Lynch Consulting Engineers formed a team in July 1994 and started work on the *Oakland Joint Intermodal Terminal (JIT) Operational Analysis Report* which was issued in January 1995. Team members included Frederic R. Harris, Inc. and F. E. Jordan Assoc., Inc. The report was cooperatively produced by the Port, UP, SP, and shipping lines and their agents. This UP supported document indicates that provides "projects of intermodal volumes to the year 2002 and beyond [2020]" (Summit, 1995:10).

This internationally significant project will have a major effect on the future freight train traffic traveling through Reno. This facility, known as the Joint Intermodal Facility (JIT) will combine existing UP and SP intermodal operations in a modern 200 acre state-of-the-art intermodal facility including several maritime berths which will accommodate deep draft container ships, and a multi-facility rail yard with capabilities to process 42 double stack trains over 8 miles of loading tracks with a 1.6 million annual container capacity, when it is completed in 2005 (*Journal of Commerce*, April 30, 1997. *Waterfront Facelift Gives the Port a New Look*. p. 1). In fact, a memorandum of understanding was executed in April 1994 between the Port and both the UP and SP railroads to facilitate construction of the \$80 million joint intermodal terminal (*San Francisco Chronicle*, April 6, 1994. *Oakland Port Project*. p. C2).

# Figure 4

## Freight Train Lengths - Feb 1997



Number from UP in JVS   
  Number from Monitoring

Completion of the Port expansion will more than triple the Port's capacity to handle maritime cargo. The Port is aggressively pursuing the construction of these facilities to maintain its position as one of the major west coast port facilities, along with Los Angeles/Long Beach and Seattle, to accommodate the exponential growth in Pacific rim shipping traffic.

To further document the significance of the Port's expansion project, the State of California Employment Development Department, Labor Market Information Division has projected that 5,000 new transportation jobs, primarily attributable to the Port expansion plans, will be added to Alameda County by the year 2001 (EDD, 1994). The majority of these jobs will be in container repair and leasing, trucking, warehousing, freight forwarding and container crane operations.

The JIT project is to be constructed in three phases, with phase I, which is currently ongoing, to include dredging of the bay from 38 feet to 42 feet deep to accommodate deep draft container ships. A majority of this dredging has been completed, with the entire project scheduled to be completed in 2005 (42 feet to 50 feet). It is clear that the project is on fast track, in order to maximize the Port's competitive edge against other west coast facilities (Len Cardoza, personal communication, March 5, 1997).

Chief Executive Officer Dick Davidson has stated that the UP-SP merger was the "only way UP can fill gaps in our system between Texas and California, Los Angeles and Oakland - or improve the efficiency between the California ports and the Mississippi River gateways" (official UP World Wide Web Site - Union Pacific 1996 Annual Report - The Merger of Union Pacific & Southern Pacific).

Reno requests that the Port expansion project be given a fully evaluated "hard look" by SEA, and factored into the model that calculated system-wide rail traffic distribution, to establish a realistic future rail traffic project for daily through trains in Reno.

**PMP Text Quote #44:** page 4 - 7, ¶ 2, line 1: *In assessing rail traffic projections, the Board generally looks at projections of three years in railroad mergers. Here, UP provided five-year projections, stating that this represents UP's projections for its reasonably foreseeable future for a combined UP/SP system.*

**Comment #44.1:** The STB does not provide the basis of the statement they generally look at projections of 3 years in railroad mergers. A 3-year or 5-year projection period is completely inadequate to provide a basis for meaningful impact assessment based on a merger projected to breathe life into a failing SP system for years to come. The City requests that 10-year and 20-year projection periods be analyzed in the FMP, which is representative of sound business practice of any major corporation in the U.S. today.



**PMP Text Quote #45:** page 4 - 6, ¶ 2, line 1: *The City of Reno has stated that the projected number should be 38 trains per day. This number uses 22 (rather than 13.8) trains per day as the baseline and projects train levels to the Year 2015 (rather than 2000).*

**Comment #45.1:** The City continues to believe a realistic number of through freight trains per day, which should have been used for the analysis on the PMP and the EA is thirty eight (38), based on current levels of operations reported by Barton Aschman et al., 1996; Nolte et al., 1996, and is apportioned as follows:

- 22.0 historical freight trains per day assumed to be an accurate baseline condition;
- 6.0 Feather River Route Freight Trains per day;
- 6.0 Burlington Northern/Santa Fe (BN/SF) settlement agreement trains per day;
- 2.0 Amtrak Trains per day (especially if Amtrak begins to carry freight); and
- 2.0 Local movement trains per day.

This represents an increase of 24.2 trains per day (175 percent increase in the number of trains over existing train traffic).

### 3.7 NATIVE AMERICAN ISSUES

#### 3.7.1 NATIVE AMERICAN CONSULTATION

**PMP Text Quote #46:** page 6 - 31, ¶ 3, line 1: *During preparation of this PMP, SEA conducted site visits in the Reno area, including meeting with Paula Berkley, representing the Reno-Sparks Indian Colony in October 1996. In December 1996, SEA established the advisory Reno Mitigation task force, which included Paula Berkley as a representative of Native Americans. Ms. Berkley attended most task force meetings. Arlan D. Melendez, Chair of the Reno-Sparks Colony was Ms. Berkley's alternate on the task force. Both Mr. Melendez and Ms. Berkley, received all materials distributed to task force members.*

*In May 1997, SEA sent letters to the chairs of the Native American councils (Reno-Sparks Indian Colony, Pyramid Lake Paiute, and Washo Tribal) in the Reno area offering an opportunity to consult regarding Native American issues (see Appendix O [of the PMP]). In addition, SEA added to its study team a subcontractor, Mary Rusco, from the Reno area to address Native American issues.*

**Comment #46.1:** SEA indicates that they have consulted with all potentially affected Native American representatives as part of preparation of the PMP. Required consultation was never conducted during the EA and Post EA NEPA process, and as evidenced in the PMP, has not been completed during the preparation of the PMP. All attempts to conduct Native American consultation were initiated following completion of the EA NEPA process which is a violation of NEPA. It is the City's understanding that only one meeting was held with Reno-Sparks Indian Colony and no direct meetings or contacts have been completed with the Washoe or Paiute Nations. The City requests that SEA officially start the

Native American consultation process and complete the process like all other Federal, state, and local agencies are required to do.

**PMP Text Quote #47:** page 6 - 33, ¶ 4, line 1: *During consultations, Native American representatives raised a number of environmental and other issues. On July 10, 1997, Arlan D. Melendez (Chairman, Reno-Sparks Indian Colony Tribal Council) Paula Berkeley (Consultant to local Native American interests), Pat Smith (Attorney representing local Native American interests), and Merri Belaustegui-Trafficanti (Deputy City Attorney for the City of Reno) met with Dave Mansen and Mary Rusco of the SEA study team.*

**Comment #47.1:** The referenced July 10, 1997 consultation with the Reno-Sparks Indian Colony, was not "formal" consultation, and was conducted many months after the completion of the NEPA process which is a violation of NEPA.

### 3.7.2 CULTURAL RESOURCES

**PMP Text Quote #48:** page 6 - 33, ¶ 2, line 1: *A mitigation measure that would involve construction along the railroad right-of-way through Washoe County (e.g., highway/rail grade separation(s) or a depressed railway) can be expected to have potential adverse impacts on significant cultural properties. As noted above, both Washo and Northern Paiute people made use of the Truckee River. They lived on terraces above the river, where they trapped, hunted, and fished and made use of edible and medicinal plants.*

**Comment #48.1:** SEA states grade separations or a depressed railway have adverse impacts on historic and cultural resources and if these options are used, more consultation is required with Native Americans. This statement is entirely without basis. Only upon survey of cultural resources and completion of the Section 106 consultation provision of the National Historic Preservation Act (NHPA)<sup>11</sup>, would a determination of significance be completed and resources determined eligible to the National Register of Historic Places (NRHP)<sup>12</sup>. If disturbance was unavoidable, the resource could require mitigation upon

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<sup>11</sup>NHPA established the President's Advisory Council on Historic Preservation and the National Register of Historic Places (80 Stat. 915). Under these provisions, Indian Tribes are guaranteed a role in the Section 106 consultation provisions, which require the review of federal undertakings on non-Indian lands.

<sup>12</sup>The significance of a cultural resource is an assessment of the importance of a cultural resource to the citizens of the United States and indicates that a site has attributes that qualify it for inclusion on the NRHP. In order to be considered eligible for inclusion in the NRHP a cultural resource must retain integrity and satisfy at least one of the four significance criteria as defined in 36 CFR part 60.4. The resource must contain one of these qualities:

36 CFR 60.4a that are associated with events significant to broad patterns of history; or

36 CFR 60.4b that are associated with the lives of persons significant in the past; or

36 CFR 60.4c that embody distinctive characteristics of a type, period or method of construction; represent the work of a master; possess high artistic values; or represent a distinguishable entity whose components lack individual distinction; or

36 CFR 60.4d that have yielded or may yield information important to history or prehistory.



completion of the 106 consultation process. The likelihood of encountering cultural materials associated with construction, can not be determined at this time, and should not be used as a factor to discount the feasibility of this or any mitigation option.

### 3.8 BIOLOGICAL RESOURCES

**PMP Text Quote #49:** page 6 - 27, ¶ 2, line 2: *As shown in the table, the likelihood of a hazardous materials release between Truckee, California and Fernley, Nevada is once every 39.8 years for pre-merger conditions. The estimated number of years between hazardous materials spill events for post-merger trains (with the increased number of hazardous materials cars) is once every 27.4 years, a reduction of 12.4 years. The table also provides these estimates for the California and Nevada portions of this rail line segment.*

page 8 - 14, ¶ 6, line 1: *Based on SEA's independent estimate, the likelihood of a hazardous materials release between Truckee, California and Fernley, Nevada is once every 39.8 years for pre-merger conditions. The estimated number of years between hazardous materials spill events for post-merger trains (with the increased number of hazardous materials cars) is once every 27.4 years, a reduction of 12.4 years.*

page 6 - 38, ¶ 4, line 1: *Based on the history of spill events along the Truckee River (see Section 6.2.5) and the infrequency of derailments, SEA has concluded that it is unlikely that the above-referenced endangered and threatened species will be affected by the merger-related increase in train traffic given the low likelihood that an accidental upstream spill from a UP freight train will occur (see Section 6.2.5). In addition, UP plans to improve tracks and rail beds, improvements which should further reduce the risk of rail spills along the Truckee River. UP has also developed an emergency response plan to respond to spill events, in cooperation with local emergency service agencies.*

page 6 - 39, ¶ 1, line 1: *In conclusion, it appears that the merger-related train traffic increases through Reno and Washoe County would have a negligible impact on the cui-ui and Lahontan cutthroat trout for the following reasons:*

- *Appropriate mitigation measures imposed in Decision No. 44.*
- *Pyramid Lake, the major habitat for cui-ui, is 15 miles from the UP (formerly SP) tracks.*
- *There is no history of major derailment spills along the Truckee River, which feeds into Pyramid Lake.*
- *UP has an emergency response program in place, and in the event that a spill occurs, UP can respond quickly with appropriate remediation measures.*
- *The Washoe County Environmental Health Department and other local agencies have emergency response plans and staff to respond to emergencies.*
- *UP is improving the tracks along the Truckee River, which will further reduce the potential for a spill event. (These planned improvements will not occur in proximity to either species' habitats and would not affect the fish or their habitats.)*



*On June 17, 1997, SEA transmitted letters discussing these initial conclusions to USFWS staff in the Sacramento Field office, the Nevada State office, and the Region I office. SEA's proposed additional mitigation measures for the protection of the Truckee River and the endangered and threatened species are provided in Section 8. With the issuance of the PMP and its preliminary recommendations, SEA will continue consultation with the USFWS on both the initial conclusions and the PMP with its proposed additional mitigation measures.*

**Comment #49.1:** SEA concludes that the likelihood of a hazardous materials release between Truckee, California and Fernley, Nevada is once every 39.8 years (pre-merger) and once every 27.4 years (post-merger), a increase in likelihood of 12.7 years not a reduction. In other words what might have only happened once every 40 years before is now likely to happen once every 30 years — **an increase in risk.**

The City does not subscribe to these conclusions and refers to the numerous accidents, derailments, and collisions that are documented in the newspaper articles contained in Appendix E of this comment document. The most recent train derailment located in close proximity to, and in a similar ecological environment to the Truckee River involves the Upper Sacramento River near Dunsmuir, California which involved a SP train transporting Vapam or metam sodium which resulted in the sterilization of nearly 42 miles of stream environment.

**Comment #49.2:** It would appear that the public who has indicated this is a priority environmental concern for the community will have no opportunity to evaluate that consultation process prior to the end of the comment period. This is unacceptable to the citizens of Reno and the City. The adequacy of the proposed "mitigation" can not be evaluated without the complete consultation process of the USFWS.

**Comment #49.3:** Throughout the Reno Mitigation Study process, the City requested that SEA put the issue of endangered species inhabiting the Truckee River (the endangered cui-ui and the threatened Lahontan cutthroat trout [LCT]) on the Reno Mitigation Task Force agenda so that this critical issue could be publicly studied and reasonable mitigation solutions could be discussed. SEA failed to honor this request.

Nonetheless, on June 17, 1997 (prior to SEA's abrupt cancellation of the August and September Task Force meetings) SEA sent a letter request to the Nevada office of the U.S. Fish and Wildlife Service (USFWS) seeking their concurrence in SEA's conclusion that "The UP/SP railroad merger-related train traffic increases through Reno and Washoe County would have a negligible impact on the cui-ui or the Lahontan cutthroat trout..." SEA did not invite the public, including the Native Americans, to participate in this process. Please refer to the June 17, 1997 letter from Elaine Kaiser, Chief Section of Environmental Analysis to the USFWS, as

well as all other correspondence related to this matter placed in the record by the City, as set forth in Appendix F of this comment document.

The USFWS agreed with SEA via its July 9, 1997 informal consultation process (File No. 1-5-97-1-281). This informal consultation finding was not forwarded by SEA to the City until August 18, 1997. In their informal consultation, the USFWS concluded:

*Based upon the information provided in [SEA's] letter, UP/SP Progress reports..., and the discussions with Harold McNulty [sic] of the Section Environmental Analysis the [Fish and Wildlife] Service concurs that the increased traffic from the UP/SP merger is not likely to adversely affect the cui-ui and LCT as long as the train safety improvements are continued and the emergency response plan is implemented in needed. Therefore, formal consultation pursuant to section 7 of the [Endangered Species] Act is not required.*

A review of SEA's request to the USFWS reveals that certain misleading information was given to the USFWS to consider. This misleading information was in the form of an incomplete summary of a study conducted by James Carr, Ph.D., P.E. of the University of Nevada, Reno. SEA reported that based upon Dr. Carr's findings, the probability (risk) of a contamination event in the Truckee River was once in every 154.15 [sic] years. This finding was **not** based on the increased train traffic (post merger 24 trains per day per UP), but rather it was based upon existing baseline train traffic (14.7 trains per day) and only the Nevada portion of the Truckee River. In a September 2, 1997 letter to the City, Dr. Carr verified that the summary information from his report provided by SEA to the USFWS was in fact misleading (see Appendix F of this comment document for a complete copy of Dr. Carr's letter).

The City met with the USFWS - Nevada office on August 26, 1997 to discuss these concerns. The City provided the USFWS with the full text of Dr. Carr's report (not previously provided by SEA) and asked the USFWS to request that SEA authorize a formal consultation under Section 7 of the Endangered Species Act (ESA). On August 29, 1997 the Reno-Sparks Indian Colony forwarded a similar request to the USFWS.

On September 8, 1997, the City Attorney's Office was copied with a letter from USFWS to SEA reiterating that the City had provided information to them which had not previously been provided by SEA. Further, the USFWS pointed out the discrepancies in the statistics provided by SEA. The USFWS concluded "[b]ased on our receipt of Dr. Carr's report, our conversation with your staff, and the impending report that you will provide to explain your assessment of the likelihood of a hazardous spill occurring, we recommend an exchange of information detailing your interpretation of this additional information and how



that interpretation coincides with earlier information present and our "not likely to adversely affect" determination.

On October 7, 1997, the City Attorney's Office was copied with a letter to USFWS from SEA requesting re-initiation of the informal consultation process based upon information not previously provided to USFWS.

The City also informed U.S. Secretary of Transportation Rodney Slater, Senators Reid and Bryan and Representatives Gibbons and Ensign of these serious environmental concerns. Senators Reid and Bryan have sent letters to the STB and to CEQ expressly requesting their oversight on these important environmental issues in the Truckee Meadows. All correspondence referenced in this comment appears in Appendix F of this comment document.

### 3.9 NOISE/VIBRATION

The City has been provided a copy of a recently completed railroad noise / vibration assessment completed by Brown-Buntin Associates, Inc. of Fair Oaks, California entitled *Railroad Noise / Vibration Assessment: UP/SP Merger* (BBA, 1997). The following comments were taken in part from that report, which appears in its entirety as Appendix G of this comment document.

**PMP Text Quote #50:** page 2 - 19, ¶ 1, line 1: *Local officials have asked the Board to review its standards for what are considered "noise receptors" (schools, hospitals, retirement homes), suggesting that commercial property and hotels be included. It was also suggested by the City that the night-weighted noise averages for calculating potential noise impacts may not apply in this study, because Reno operates as a 24-hour town. The noise descriptor used in the analysis is Ldn, which is the time-average of the noise levels obtained over a 24-hour period, with a 10-decibel penalty added to the nighttime levels (10:00 p.m. to 7:00 a.m.). This adjustment is intended to account for the increased sensitivity to nighttime noise events.*

page 6 - 40, ¶ 4, line 1: *Board regulations require identification of sensitive receptors within areas that would experience increases in noise under these criteria. The following examples of sensitive receptors are provided in the Board's regulations: "schools, libraries, hospitals, residences, retirement communities, and nursing homes" (49 CFR 1105.7(e)(6)(ii)(1996)).*

page 6 - 42 to 6 - 43, ¶ 8, line 1: *Three dBA Increase Criterion: Based on an increase in the number of trains from pre- to post-merger levels, the potential increase in train noise is projected to be 2.7 dBA Ldn. Consequently, no exceedance of the Board's criterion of a three dBA or greater noise increase is projected for Reno and Washoe County.*

**Comment #50.1:** SEA notes definition of sensitive noise receptors but no hotels are listed as requested by the City (Appendix E of the PMP says this was addressed, but it is not). SEA offers no explanation why hotels are not included and in fact never raise the issue except in Appendix E of the PMP.



**PMP Text Quote #51:** page 6 - 41, ¶ 2, line 1 (see also Figure 7.2.6-1 page 7-50): *Single-event Sound Exposure Level (SEL) data for each train noise event were used to determine how train noise decreases (i.e., the drop-off rate) with distance for each location identified in Table 6.2.2-1. SEL is a noise descriptor that normalizes all of the sound energy of a noise event to second duration and provides a meaningful way to compare noise levels of two different noise events of different durations. SEL is useful for calculating the drop-off rate, because it accounts for propagation of sound from the train to the measurement position for the entire train noise event, not just for the loudest portion of the noise event. In addition, SEL, in conjunction with the number of daytime and nighttime train noise events, can be used to calculate directly the Ldn.*

**Comment #51.1:** The distances to the noise contours shown by SEA (see Figure 7.2.6-1 page 7 - 50 of the PMP) are significantly less than those reported in the BBA report (BBA, 1997). The noise levels and attenuation rate results which were previously published by Acentech (see Appendix B of this comment document, May 14, 1997 - Task Force #5 Meeting Summary and May 14, 1997 Agenda Item No. 3, Noise and Train Speed Survey Results Handouts), have been reevaluated and it has shown while the reported SEL values were of similar magnitude, the distances to the contours were dramatically less, especially for the post-merger condition. These distances are calculated in a simple manner, using the SEL value, the number of operations (weighted for day / night split) and an assumed attenuation (drop-off) rate. Referring to the two sites where shielding is not a significant factor, a rural crossing and a rural wayside (without horn use), and assuming that the reference SEL values used by SEA are similar to those reported by Acentech and BBA, and that they both use SEA day /-night split, the only significant difference between the calculation methods will be the attenuation rate.

The BBA report assumed a noise attenuation factor of 15 times the logarithm of the relative change in distance, which is consistent with the methods and theoretical approach used by Wilson, Ihrig & Associates, Inc. (WIA) in the EA, as well as by others (SEA, 1996a; BBA, 1997). Acentech reported attenuation factors at the rural crossing ranging from 2 to 40.9. The higher values were all ascribed to "shielding", and presumably were discounted. At the rural wayside, Acentech reported attenuation factors ranging from 5.4 to 11.6. If attenuation factors less than 15 were used by Acentech, the contour distances would have been greater than those which BBA calculated. Instead, the distances are less, so a higher attenuation factor must have been used. No data has been found in the PMP describing the assumed attenuation factor or the rationale for its selection.

**Comment #51.2:** SEA noise contours (see Figure 7.2.6-1 page 7 - 50 of the PMP) also fail to account specifically for the presence or lack of shielding. It appears that the contours in the downtown area are generalized, representing primarily areas where tall buildings block line of sight to train noise. Field observations and aerial photos reveal, however, that this is not a universal condition, nor is it the dominant condition outside of a small area. The City believes that the approach which BBA

employed, where the Environmental Noise Model (ENM)<sup>13</sup> was used to calculate shielding due to tall buildings, based on aerial photos, is more definitive.

**PMP Text Quote #52:** page 6 - 41, ¶ 3, line 1: *The rates of noise decrease with distance were calculated for the locations identified in Table 6.2.9-1 for every measured train noise event and were used to determine the distance from the tracks to the 65 dBA Ldn contour. These distances were calculated to determine the average distance to the 65 dBA contour for an urban grade crossing, rural grade crossing, and no-horn condition. The results of this analysis are shown in Table 6.2.9-2.*

**Comment #52.1:** Both the PMP and Acentech' report (see Appendix B of this comment document, May 14, 1997 - Task Force #5 Meeting Summary and May 14, 1997 Agenda Item No. 3, Noise and Train Speed Survey Results Handouts) are silent on the assumed day / night split. SEA must provide this information along with the rationale for the factors.

**PMP Text Quote #53:** page 6 - 43, ¶ 3, line 1: *Table 6.2.9-3 shows the number of existing sensitive receptor properties (parcels) that potentially fall between or are intersected by the pre- and post-merger 65 dBA L<sub>dn</sub> noise contours. As shown in the table, the increase in the number of sensitive receptors from pre- to post-merger train levels is 40, which includes 27 hotels/casinos and 13 other properties. The parcel locations are shown on maps in Appendix Q [of the PMP].*

*Using actual noise measurements and noise models, the SEA study team has taken a "harder look" at the potential noise impacts in Reno. The Board has the authority to determine the significance or insignificance of these potential environmental impacts, and SEA recommends that the Board find these potential noise impacts to be insignificant, which is consistent with the EA, Post EA, and Decision No. 44. As noted in the Board's Decision No. 44, the intensity of the train horns is not expected to increase, only the frequency. Moreover, this is not a new type of noise that will be experienced, and the effects are on properties that developed over the years next to the rail line. Most importantly, safety, which is of paramount importance, requires the blowing of the train horns as noted in the Board's Decision No. 44, and as recognized in the recently passed Federal Swift Act.*

**Comment #53.1:** These statements and the corresponding table appear to be in conflict. The PMP text acknowledges that motel and hotels are sensitive receptors in the increase from pre-merger and post-merger contours, yet the table specifically lists "Number of Affected Noise-Sensitive Receptors" as compared to "Number of Affected Casinos and Hotels" indicating that "Casinos and Hotels" are not "Noise-Sensitive Receptors".

<sup>13</sup>The ENM has been developed by RTA Technology Pty Ltd, and incorporates accepted methods of modeling outdoor noise exposures, accounting for ground and air absorption of sound, as well as shielding by building or barriers.

**Comment #53.2:** While acknowledging hotels and motels as sensitive receptors in one paragraph, SEA "recommends that the Board find these potential noise impacts to be insignificant, which is consistent with the EA, Post EA, and Decision No. 44." As summarized in BBA's report and indicated in Table 10 below, the proposed merger is expected to result in addition of approximately 34 residences, 261 hotel rooms, and one church to the area within the DNL 65 dB railroad noise contour. SEA must consider and evaluate this data as a significant adverse noise impact.

Table 10						
Comparison of Noise Sensitive Receptors						
Receptors	Existing <sup>14</sup> (1997)		Post-merger		Difference	
	12.7 Trains		24.0 Trains		11.3 Trains	
	PMP	BBA	PMP	BBA	PMP	BBA
Residences	31	84	44	118	13	34
Apartment Units		185		185		0
Churches				1		1
Hotels	34 <sup>15</sup>	18	61 <sup>15</sup>	27	27 <sup>15</sup>	9
Hotel		875		1,136		261
TOTAL	65	1,144	105	1,440	40	296

Source: BBA, 1997: Table IV; STB, 1997d: Table 6.2.9-3

### 3.10 AIR QUALITY - TRAINS

The City has been provided a copy of a recently completed air emissions analysis completed by Air Sciences Inc. of Lakewood, Colorado entitled *Analysis of Air Emission Increases Resulting From the Union Pacific and Southern Pacific Railroad Merger and Effects on the Management of the Air Resource of the Truckee Meadows Nonattainment Area* (ASL, 1997). The following comments were taken in part from that report, which appears in its entirety as Appendix H of this comment document.

<sup>14</sup>Both the PMP and BBA's report indicate existing (1997) measurement data as no data was available for the pre-merger (ca. 1995) period.

<sup>15</sup>The PMP in Table 6.2.9-3 indicates "number of affected casinos and hotels" with no indication of the number of rooms.



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**PMP Text Quote #54:** page 6 - 51, ¶ 4, line 1: *Contribution of Locomotives to the Emission Inventory in Washoe County: As part of the emissions inventory preparation and updating process, the Washoe County District Health Department has estimated emissions resulting from current railroad operations within the County. These values help place into context the relative impact of the increased train levels associated with the merger on locomotive emissions. Inventory numbers are shown in Table 6.2.11-3. They do not include emissions from idling on-road vehicles, but do include emissions from locomotives operating on the Pyramid Lake/Feather River route north of Reno. They also include switching operations as well as line-haul operations, which are not associated with the merger. For three pollutants, the contribution to the total inventory is insignificant. The percentage of railroad NO<sub>x</sub>, as compared to the County inventory, is small but not negligible.*

**Comment #54.1:** Current diesel emissions of NO<sub>x</sub> in Washoe County are 929 tons per year. In the PMP this quantity is incorrectly compared to a total of 27,261 tons per year. The correct number (subtracting out the Storey County "Buffer Zone Sources" of 13,351 tons per year, as shown in WCAQMD-b, Table 1-2) is 13,910 tons per year (also see WCAQMD, 1996a: "Maintenance Plan", Table 3, Total NO<sub>x</sub>). The county-wide locomotive emissions are 6.7 percent of the county total. This is a significant contribution to the county inventory.

**Comment #54.2:** The PMP states that the Sparks switchyard operations are not associated with the merger. In fact, if the increase in freight trains through the Reno / Sparks / Truckee Meadows area increases the switchyard activity levels, then the increase in switchyard activities and associated air emissions are an effect of the merger, just as the increase in emissions due to vehicle delays is an effect of the merger. The Sparks rail yard impacts from increased traffic must be given a "hard look" in the FMP.

**PMP Text Quote #55:** page 6 - 53, ¶ 1, line 1: *In addition, the analysis excludes freight trains on other rail lines in Washoe County, specifically the Pyramid Lake/Feather River UP/SP line north of Reno. This line is within Washoe County and activity on this line is expected to decrease as a result of the UP/SP merger. However, emissions related to this line do not have an appreciable effect on peak levels of ozone and other pollutants in Washoe County, due to its distance from Reno.*

**Comment #55.1:** The PMP notes that the freight traffic on the existing UP Feather River route, passing through northern Washoe County will decrease, but the emissions from these trains will not affect the location where ozone violations were measured, in the Reno / Sparks / Truckee Meadows area.

SEA's statement provides the proper logic for focusing attention regarding the NO<sub>x</sub> emissions increases caused by the merger on the Truckee Meadows basin rather than the entire county. This statement makes the conclusion in page 6 - 55, paragraph 3 of the PMP irrelevant. That conclusion states that since county-wide NO<sub>x</sub> emissions increases are about 1.5 percent of the inventory, "...the SEA study

team believes that the NO<sub>x</sub> increase resulting from the increased levels of through train traffic due to the merger is unlikely, by itself, to result in a change from attainment to nonattainment..."

In fact, the NO<sub>x</sub> emissions increase in the Truckee Meadows relative to the total inventory is provided in Air Sciences Inc. (ASI), recently released report in Table 3.10 (ASI, 1997) summarized in Table 11 below.

Table 11				
Net NO <sub>x</sub> Emissions Increase (tons per year)				
Trains / Day	1995	2000	2007	2015
12.7	0	—	—	—
24.0	—	390	390	68
36.0	—	805	805	320

Source: ASI, 1997: Table 3.10

These tables demonstrate that at 24 trains per day through Truckee Meadows there is an expected 5 percent increase in Truckee Meadows NO<sub>x</sub> inventory and with a 36 trains per day there is an expected 10 percent increase in the inventory. These are significant emissions increases in the basin where the ozone violations were measured.

**PMP Text Quote #56:** page 6 - 56, Table 6.2.11-5: *Locomotive NO<sub>x</sub> emissions pre-merger = 443.4 tons per year. Locomotive NO<sub>x</sub> emissions post-merger = 838.0 tons per year.*

**Comment #56.1:** The table title indicates these are Washoe County emissions. However, they appear as Truckee Meadows emissions. The pre-merger locomotive NO<sub>x</sub> emissions of 443.4 tons per year in this table appear to be representative of the Truckee Meadows locomotive emissions (see WCAQMD, 1996b:Table 4-19, Southern Pacific Transportation Freight Train emissions of 449 tons per year). Furthermore, the county-wide NO<sub>x</sub> emissions have already been listed in the PMP, Table 6.2.11-3 as 929 tons per year. The post-merger emissions of 838 tons per year are similar to those in ASI's Table 3.9 at 829 tons NO<sub>x</sub> per year for Truckee Meadows (ASI, 1997).

**PMP Text Quote #57:** page 6 - 57, Table 6.2.11-6: *Locomotive CO emissions pre-merger = 16.1 tons per year. Locomotive CO emissions post-merger = 30.4 tons per year.*



**Comment #57.1:** The pre-merger Truckee Meadows locomotive CO emissions (16.1 tons per year) are low by a factor of at least 3. For a comparison (see Table 4-19 of WCAQMD, 1996b) where Truckee Meadows CO emissions from freight trains are 57 tons per year. Alternatively, note from the PMP table 6.2.11-4 that the ratio of CO to NO<sub>x</sub> emissions per unit of fuel consumed is 0.13. This same ratio must hold for the annual emissions of the two pollutants, as both are based on the same amount of fuel burned. Thirteen percent (13 percent) of 443.4 tons per year of NO<sub>x</sub> is equal to 56 tons per year of CO. With this error corrected, the Table 6.2.11-6 CO total resulting from the merger will be larger by about 40 tons per year (a total of 77 tons per year).

**PMP Text Quote #58:** page 6 - 58, ¶ 1, line 1: *General Conformity: SEA has concluded that the proposed merger is not subject to EPA's air quality regulations entitled "Determining Conformity of General Federal Actions to State of Federal Implementation Plans" (General Conformity). The proposed merger does not meet the definitions set forth in the General Conformity regulations at 40 CFR 51.852, because as a regulatory agency the Board does not maintain program control over railroad emissions as part of its continuing responsibilities.*

**Comment #58.1:** Contrary to the PMP, the STB is subject to general conformity as discussed in ASI's recently released report (ASI, 1997:Sect. 5). The STB's ability to limit freight train traffic through Truckee Meadows during the mitigation study period (see STB, 1996c:222) is evidence of the STB's program control over railroad emissions.

### 3.11 AIR QUALITY - VEHICLES

**PMP Text Quote #59:** page 6 - 58, ¶ 1, line 1: *Vehicle air emissions were calculated for queuing vehicles at the grade crossings reviewed in Section 6.2.1 for traffic delay. At each crossing, the average daily total hours of delay for vehicles was multiplied by an emission factor in grams of pollutant per hour. These scenario-specific emission factors were generated by using the EPA's mobile source emissions models, MOBILE5a and PART5.*

**Comment #59.1:** The City has reviewed SEA methodology for estimating emission from vehicles and concurs with the methodology. Unfortunately, since the emissions calculations are dependent upon the average daily total hours of delay, total daily delay hours, and the number of vehicles delayed, the City would dispute the results of the vehicle emissions studied based upon substandard delay data as discussed in the City's Traffic Delay Resource Evaluation comments beginning at Comment #27.1 on page 3 - 1 of this document.

The City would submit the following CO emissions increases in the Truckee Meadows relative to the total inventory as provided in Air Sciences Inc. (ASI), recently released report in Table 3.8 (ASI, 1997) summarized in Table 12 below.

Table 12				
Net CO Emissions Increase (tons per year)				
Trains / Day	1995	2000	2007	2015
12.7	0	—	—	—
24.0	—	68	66	72
36.0	—	144	138	147

Source: ASI, 1997: Table 3.8

### 3.12 PROPERTY IMPACTS/LAND USE

**PMP Text Quote #60:** page 4 - 2, ¶ 7, line 1: *The number of trains passing through Reno has varied over the years. For example, an SP dispatcher's train sheet for Reno/Sparks Line, June 5, 1947, shows 40 daily freight and passenger trains. From that period to the 1980s, traffic declined to about 24 daily trains. During this period, UP acquired the Western Pacific Railroad, providing the UP with its own route between Ogden-Salt Lake City and California. Thus, SP lost a major source of interchange traffic at Ogden. This, in connection with the declining financial position of SP, led to a further decline in traffic levels. By 1994, the average daily through freight train count in Reno was 12.7 freight trains. Because of traffic reroutes, traffic in 1996 declined further to an average of approximately 11.0 trains a day. Section 4.4 presents projected freight train levels in the future under the merger.*

**Comment #60.1:** SEA notes the financial decline of the SP Railroad in the 1980s, even though it completely ignores the SP's aggressive marketing and profitable sale of excess right-of-way to the private sector for development purposes. Please refer to a document entitled the "Comments on Union Pacific's *Downtown Reno & the Railroad*" by Stewart M. Peters, Ph.D., Principal Planner for the City, for a complete discussion of the historical development of downtown Reno (see Appendix I of this comment document). Please also refer to the May 14, 1997 letter to Elaine Kaiser, Chief Section of Environmental Analysis from Merri Belaustegui-Traficanti, Deputy City Attorney, providing detailed right-of-way development information including a parcel map in Response to SEA's November 4, 1996 letter, placed in the record by the City on August 8, 1997 as set forth in Appendix A of this comment document.

### 3.13 ECONOMIC ISSUES

SEA failed to conduct an economic analysis outlining decreased performances of the entire downtown area which will occur even after implementation of the mitigation measures identified in the PMP. Some of these impacts will occur due to restricted access and impaired utilization which will financially affect the downtown casinos and businesses. SEA does not

## RESOURCE IMPACT EVALUATION

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address the fact that downtown casinos and businesses represent a major source of funding for cultural activities, parks, schools, police and fire protection, and other services offered by the City and if casinos and businesses located downtown are financially affected, so are the financial resources that help to fund those services. The City requests that SEA address the implications if all of the mitigation measures are not complied with due to the fact that many of the measures are self regulating. The City requests that the FMP address these economic issues.



*A farce ... If this report stands unaltered ... Reno will be shafted. It is that basic ... citizens have only 28 days to comment on this travesty in hopes of changing it. They need to do so in large numbers and with the utmost urgency ... Otherwise we will be left at the mercy of a federal agency that doesn't give a damn about Reno and a railroad whose actions say it doesn't give a damn about safety.*

*Editorial, The Reno Gazette Journal, September 17, 1997*

*Reducing grade crossing blockage would reduce possible adverse impacts to emergency vehicle access. The SEA study team determined that, with increased train speed, emergency vehicles would be delayed at crossings for a shorter length of time if they were stopped by a train.*

*Section of Environmental Analysis, Reno Preliminary Mitigation Plan*

## MITIGATION EVALUATION

## 4.0 MITIGATION EVALUATION

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The PMP provides some discussion of the mitigation and secondary impacts of the primary mitigation measure recommended by SEA to the STB. Underpasses and overpasses are provided a cursory discussion ("soft look") emphasizing the property acquisition costs as the main impact of the mitigation and actually when justly compensated, land used in a project is typically not considered an impact. The depressed railway receives only the most basic of evaluations (another "soft look") and multiple criticisms for its cost<sup>16</sup>, then it is summarily dismissed. Table 13 below provides a comparison of each mitigation option and the degree to which the mitigation measure would reduce potential environmental impacts (decreased) and introduce potential environmental impacts (increased) from post-merger increase in freight train traffic.

**PMP Text Quote #61:** page 2 - 4, ¶ 5, line 1: *As pertinent here, SEA had conducted site visits to the Reno and Sparks area, during which concerns such as noise levels, grade crossing activity, and safety were evaluated. Thus, SEA recommended numerous general and regional mitigation measures addressing safety, hazardous materials transport, air quality, and noise that pertain to Reno and other areas potentially affected by increased rail traffic as a result of the merger.*

**Comment #61.1:** SEA says they recommend "numerous general and regional mitigation measures" addressing safety, hazardous materials, air quality and noise that pertains to Reno. The City requests specific mitigation measures to mitigate specific merger related impacts in Reno.

**PMP Text Quote #62:** page 2 - 5, ¶ 4, line 1: *The Board rejected the argument of various parties that a full EIS should have been prepared, noting that the environmental mitigation measures imposed in this case are far-reaching and comprehensive.*

page 8 - 22, ¶ 2, line 3: *The Tier 2 measures that SEA has identified are expected to offer more far-reaching, long-term benefits by reducing conflicts and impacts resulting from existing land uses and pre-merger train traffic.*

**Comment #62.1:** SEA notes that no EIS is needed for the Reno / Sparks / Truckee Meadows area because mitigation measures imposed are "far reaching and comprehensive". Yet the entire PMP reiterates that only Tier 2 mitigation is "far-reaching" (which is not mandatory nor recommended for Board approval), as indicated above by merely 2 of the nearly 15 references to Tier 2 mitigation's "far-reaching and comprehensive" benefits. Either the EIS is not needed because mitigation is "far-reaching" or its is needed because this PMP does not provide those "far-reaching and comprehensive" mitigation measures.

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<sup>16</sup>Please note that SEA has indicated "economic" factors (ostensibly cost) are not part of the mitigation study as mandated under Decision No. 44.

Table 13

**Mitigation Measures which would Reduce Environmental Impacts (↓ decreased) and Introduce Potential Environmental Impacts (↑ increased) from Post-merger Increase in Freight Train Traffic**

Resources Impacts ↓ decreased or Impacts ↑ increased	Post-merger			
	Unmitigated	Increased Speed 30 mph	Grade Separation(s)	Depressed Railway
Traffic Delay	↑ delay	↑ delay	↓ delay	↓ delay
Safety - Pedestrians	↑ frequency	↑ frequency	↓ frequency	↓ frequency
Safety - Emergency Vehicle Access	↑ blockages	↑ blockages <sup>17</sup>	↓ blockages	↓ blockages
Safety - Train/Vehicle Accidents	↑ frequency	↑ frequency ↑ severity	↓ frequency	↓ frequency
Safety - Derailment/Spills	↑ frequency	↑ frequency ↑ severity	↓ frequency	↓ frequency
Biological Resources	↑ risk	↑ risk	↓ risk	↓ risk
Noise/vibration	↑ noise ↑ vibration	↑ noise ↑ vibration	↓ noise	↓ noise
Air Quality - Trains	↑ NO <sub>x</sub> (+395 tons)	↑ NO <sub>x</sub> (+388 tons)	↓ NO <sub>x</sub>	↓ NO <sub>x</sub> (+394 tons)
Air Quality - Vehicles	↑ CO (+33.5 tons)	↑ CO (+10.8 tons)	↓ CO	↓ CO (-1.5 tons)
Property/Land Use	NA	NA	none if compensated	none if compensated

Source: Adapted from STB, 1997d

<sup>17</sup>SEA uses a measure of impact of average daily gate down time per crossing on major crossings. Please see Section 3.1 of this comment document. The City of Reno does not consider this measure appropriate, when dealing with public health and safety.



#### 4.1 TIER 1 MITIGATION - SPEED

**PMP Text Quote #63:** page 7 - 10, ¶ 3, line 4: *However, FRA data provided to the SEA study team show that accidents are likely to be more severe with increased train speeds. Specifically, Figure 7.2.1-2 shows that anticipated fatality rates (number of fatalities per accident) increase as train speeds increase.*

**Comment #63.1:** SEA knowingly acknowledges that severe, increasingly fatal accidents are more likely to occur with increased speed and still has recommended a mitigation measure that increases the speed of trains through the downtown area of the City from 20 mph to 30 mph. The City is outraged by the fact that SEA has recommended a mitigation measure that will have implications to the health, safety, and welfare of Reno's citizens and tourists.

**PMP Text Quote #64:** page 7 - 1, ¶ 1, line 1: *This section describes physical facilities, train operational changes, and other options that have been evaluated as potential mitigation measures for the increase in through freight train traffic in Reno and the surrounding area.*

**Comment #64.1:** Of the options SEA reviewed, increased speed is the only "train operational change" listed. There is nothing mentioned about shortening train lengths by 50 percent or reducing the number of trains by 50 percent even though Appendix E of the PMP incorrectly states this is discussed in PMP Section "in 7-1".

**PMP Text Quote #65:** page 7 - 4, ¶ 1, line 1: *The current UP maximum authorized speed for trains in the downtown Reno area is 20 miles per hour (mph). It appears that this maximum speed could be increased under applicable FRA regulations. SEA requested information from UP regarding the feasibility and practicality of increasing train speeds through Reno, along with the associated costs. UP's response is contained in Appendix R [of the PMP].*

According to UP, it is feasible to increase general train speeds to 30 mph between the east end of the Sparks Rail Yard (Mile Post (MP) 247.1) to just west of Keystone Street (MP 242) on the west side of downtown Reno, if various capital improvements and operating requirements were implemented. These include:

- Replacement, between Woodland Avenue and Vista (which is east of Sparks Yard) of the current automatic block signal (ABS) system with centralized traffic control (CTC).
- Replacement of various turnouts (switches) in the Sparks Yard from size No. 10 to a larger size (No. 14) that would be power operated.
- Addition of a universal power-operated No. 20 crossover west of Reno.
- Tie replacement and track surfacing, as needed.
- Installation of power-operated or electric lock switches for all main line tracks in the CTC territory.

According to UP, these changes would enable trains to achieve a timetable speed of 30 mph on a consistent basis through Reno.

page 7 - 12, ¶ 5, line 1: *In the case of Reno, the existing track has been maintained to standards exceeding that required for 20 mph operations, i.e., the tracks are a Class 3 under FRA regulations. Under FRA regulations, if UP increases train speed up to 30 mph, it must continue to meet Class 3 safety standards. FRA Class 3 track permits freight train speeds up to 40 mph, so at 30 mph, the track would be well within its maximum safe limit under FRA regulations. As operating speeds would be relatively low, incident severity in the 30 mph area would be less than that expected for the 40-60 mph mainline operation. The incremental increase in the incident rate that would result from 20 to 30 mph is statistically very low.*

page 8 - 6, ¶ 1, line 1: *UP has informed SEA that, not only is it feasible to increase the speed of each train by 10 mph (which is the basis for the above analysis), UP can consistently maintain train speeds of all trains through downtown Reno at 30 mph with appropriate capital investments. However, to be conservative, SEA assumed for its analysis only that each train would travel at a speed 10 mph greater than observed during the survey week, rather than assume that all trains would travel at 30 mph.*

**Comment #65.1:** The PMP has introduced "increased train speeds" as the principal mitigation measure. Speed has always been treated as an operational characteristic of the vehicles as well as trains and it is not an appropriate measure of mitigation. Speed by nature is not a constant parameter. It could change due to several factors which are not controllable. Factors such as acceleration, deceleration, horsepower, grade, trailing tonnage, stopping distance, weather, and emergency situations such as right-of-way trespass<sup>18</sup> could affect the speed (Hunter, 1997) (see a memorandum from Gary V. Hunter to Steve Varela in Appendix F of this comment document). It is, therefore, a stochastic factor. The City's field observations, as well as the PMP itself indicates great variation in speed (from 5 mph to over 30 mph) during the video taping and SEA field survey.

Assuming a 30 mph speed as a "required" mitigation measure is therefore not a realistic solution. There is no guarantee that speed will be "...consistently maintain[ed]...[for] all trains through downtown Reno at 30 mph" (STB, 1997d:8 - 6). The City believes that a probabilistic model needs to be developed to identify the speed distribution over time (under various environmental conditions) and establish the randomness of this parameter.

Increasing speed, if it happens, may improve the total delay, but the occurrence of that is not by any means under control. Increased train speed may also have other traffic-related impacts at at-grade crossings that are near signalized intersection and signal preemption are in effect. The PMP needs to consider a comprehensive and detailed analysis of preemption conditions at those locations and include the impact

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<sup>18</sup>The right-of-way though fenced is not secured and does allow for trespasser in a poorly illuminated environment where trains pass through a building that forms a tunnel limiting visibility with a mixture of neon lights or no light at all contributing to very poor visibility.



of increased speed on preemption strategies. With increased speed, more time may need to be given to motorists to clear the track environment prior to train arrival.

**PMP Text Quote #66:** page 8 - 6, ¶ 1, line 1: *UP has informed SEA that, not only is it feasible to increase the speed of each train by 10 mph (which is the basis for the above analysis), UP can consistently maintain train speeds of all trains through downtown Reno at 30 mph with appropriate capital investments. However, to be conservative, SEA assumed for its analysis only that each train would travel at a speed 10 mph greater than observed during the survey week, rather than assume that all trains would travel at 30 mph.*

**Comment #66.1:** It has certainly been the Reno City Council's, the City Manager's, the staff's, and the citizen's (who spoke out at the October 9, 1997 STB public meetings) position that increasing the speed of trains would exacerbate an existing problem (i.e., create additional impacts) and then by definition<sup>19</sup> would not mitigate impacts of the merger. As with all potential mitigation that would increase one impact to potentially off-set another the City would not consider the proposal mitigation.

#### 4.1.1 TRAFFIC DELAY

**PMP Text Quote #67:** page 6 - 15, ¶ 3, line 1: *Because gate closed time is primarily determined by train frequency, speed, and length, the downtown crossings between Keystone and Sage (where the train speed limit is 20 mph) generally experience similar amounts of gate closed time per day.*

page 7 - 1, ¶ 1, line 1: *This section describes physical facilities, train operational changes, and other options that have been evaluated as potential mitigation measures for the increase in through freight train traffic in Reno and the surrounding area [emphasis added].*

page ES - 1, ¶ 4, line 1: *The Board has broad authority to impose conditions in railroad merger cases, but its power is not limitless. Any conditions imposed by the Board must be reasonable and must address issues directly related to the merger.*

page 2 - 3, ¶ 8, line 1: *The Board has broad authority to impose conditions in railroad merger cases under 49 U.S.C. § 1324(c). However, the Board's power to impose conditions is not limitless. To survive judicial review, the record must support the imposition of the condition at issue. Moreover, there must be a sufficient nexus between the condition imposed and the proposed merger, and the conditions must be reasonable.*

<sup>19</sup> Mitigation includes: (a) Avoiding the impact altogether by not taking a certain action or parts of an action; (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation; (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; [and or] (e) Compensating for the impact by replacing or providing substitute resources or environments [emphasis added] (40 CFR 1500.20).



**Comment #67.1:** As is clearly demonstrated by the above passages, SEA understands the relationship between train frequency, speed, and length, and increased traffic delay time in Reno. The only question left to ask is: If the STB can order UP to operate at a particular speed, Why won't they order UP to operate less or shorter trains also? (Please refer to the Comments to SEA from Mark A. Demuth, May 14, 1997 and to the July 2, 1997 letter to Elaine Kaiser, Chief Section of Environmental Analysis from Charles McNeely, City Manager, placed in the record by the City on August 8, 1997 as set forth in Appendix A of this comment document). It is easily understood by the City that manipulating any one of the above variables (50 percent less trains [frequency], 50 percent faster trains [speed], or 50 percent shorter trains) can accomplish essentially the same outcome, 50 percent less delay time. SEA must take a "hard look" at these operational change as well as speed.

**PMP Text Quote #68:** page 6 - 9, ¶ 1, line 4: *There are two types of potential mitigation measures to decrease the amount of time that trains delay motorists waiting at grade crossings — those that eliminate at-grade crossings entirely and those that reduce the amount of time the trains block the crossings* [emphasis added].

page 6 - 9, ¶ 1, line 4: *Increasing train speeds would allow trains to pass through Reno faster and would therefore reduce the amount of time that motorists must wait at crossings while trains block at-grade crossings.*

**Comment #68.1:** As with Comment #67.1 above, SEA notes "those that reduce the amount of time the trains block the crossings" and just two paragraphs later the discussion only addresses speed. The City can offer a suggestion: "those" which were forgotten in SEA analysis are frequency (50 percent less trains) and length (50 percent shorter trains) which can accomplish basically the same outcome, 50 percent less delay time.

#### 4.1.2 SAFETY - PEDESTRIANS

**PMP Text Quote #69:** page 7 - 46, ¶ 1, line 1: *Under an agreement with UP, Fitzgerald's Hotel has proposed to construct, with financial help from UP, a pedestrian overpass west of Virginia Street. This overpass would pass directly from the second floor of Fitzgerald's Hotel over the tracks to 3rd Street, where it would connect to street level. Thus, the proposed pedestrian overpass would connect to street level only on the north side of the tracks. If Fitzgerald's Hotel agreed, the overpass could also be connected to street level on the south side of the tracks with the addition of stairs, escalators, and elevators.*

**Comment #69.1:** This is the most undefined of all the Tier 1 proposed mitigation. SEA says if UP can get the Fitzgeralds property to agree to modify the jointly funded overpass to feed pedestrians to the street, then that will suffice (at a cost of \$800,000) for Virginia Street. If not, another \$2.5 million pedestrian underpass or overpass is required on Virginia. UP must also build a pedestrian underpass or

overpass costing \$2.4 million on Sierra Street. Initial reaction from Fitzgerald's management indicate no interest in any type of joint "public access", and for that matter any additional use of their property between Virginia and Sierra for any additional pedestrian overpass.

**PMP Text Quote #70:** page 7 - 45, ¶ 2, line 1: *SEA considers safety training programs, particularly in the schools, an effective way to help drivers or prospective drivers understand the dangers associated with trains and warning signals. The current "Operation Lifesaver" program is an example of the training that can occur in the community and the schools. Moreover, UP could provide a safety training program for Reno's downtown employees.*

**Comment #70.1:** SEA suggests a "reasonable" mitigation measure to educate the drivers and prospective drivers in the Reno / Sparks / Truckee Meadows area by recommending enhanced rail safety program which would educate the area's youth (through drivers training programs) and the employees who work in downtown Reno. However, this program would **not** reach out to the hundreds of thousands of tourists who visit downtown Reno (Reno is a major tourist destination) throughout the year. This mitigation measure would not serve to mitigate safety impacts associated with tourists visiting the downtown area and crossing the numerous at-grade intersections that traverse downtown Reno.

**PMP Text Quote #71:** Appendix A, page 16, Condition 22c, ¶2, bullet 6: *With respect to vehicular and pedestrian safety, mitigation measures that identify the number and location of highway/rail grade separations and rail/pedestrian grade separations in downtown Reno.*

**Comment #71.1:** On the contrary, SEA has suggested a mitigation (increased speed) which would actually increase accidents and fatalities.

#### **4.1.3 SAFETY - EMERGENCY VEHICLE ACCESS**

**PMP Text Quote #72:** page 7 - 47, ¶ 6, line 2: *The installation of displays and video monitors, depicting the approach or presence of a train in the rail network in Reno could be connected to a Reno emergency central dispatch facility. Such a facility, staffed by trained personnel, would then be in a position to advise emergency response vehicle drivers of the presence or imminent presence of an obstructed train crossing, and to suggest alternate routes, alternative destinations (i.e., health care facilities), or alternative resources for dispatch. Such a mitigation measure is expected to have a beneficial effect on response time for emergency vehicles. Training of personnel, communications connections, and equipment upgrades would be required to implement this mitigation measure.*

**Comment #72.1:** According to the PMP, UP is required to install, with the concurrence of the City, displays and video monitors in Reno's future central emergency dispatch facility at a cost of \$300,000 which depicts the approach or presence of a train. However, this mitigation does not include any provisions to maintain, educate, train, or staff the video monitors. The City does not have the



financial resources to maintain, educate, train, and staff this equipment. In addition, the City does not and will not accept the additional liability of managing the risks associated with monitoring the increase in trains which is a safety mitigation "requirement" to be completed by UP. This is solely the responsibility of the UP and must be addressed by SEA.

**PMP Text Quote #73:** page 8 - 4, ¶ 2, line 4: *...SEA has concluded that increasing train speed is an effective option for mitigating potential environmental impacts related to traffic delay and crossing blockages. However, additional measures are required to address other potential environmental impacts.*

**Comment #73.1:** SEA concedes that increasing the speed of trains still leaves the problem of increased numbers of trains going through town which will continue to delay tourists, residents, and emergency vehicles. If the UP doubles the number of trains a day through Reno, then the number of times emergency vehicles would be blocked increases proportionally.

**PMP Text Quote #74:** page 8 - 8, ¶ 5, line 3: *Mitigation would be costly as it would involve construction of a new road along and possibly through parklands and/or a bridge over the Truckee River. SEA believes that, given the low vehicular traffic levels, no mitigation is warranted, particularly with the possible adverse impacts to parklands and the Truckee River. Therefore, SEA does not recommend that mitigation measures for Del Curto be imposed.*

**Comment #74.1:** SEA is stating that they are not proposing any mitigation at Del Curto because of issues involving costs and impacts to parkland and/or the Truckee River which must not be factors when mitigating the additional impacts created by the merger. There are other streets constructed through parklands in Reno including roads through Idlewild Park located across the Truckee River from the neighborhood off of Del Curto. In addition, there are several bridges recently constructed over the Truckee River that were constructed without impacts to the River, the most recent example involving the bridge on White Fir Street off of Woodland Avenue. Therefore, the argument involving costs and impacts to parklands and/or the Truckee River are inaccurate or unacceptable. Costs<sup>20</sup> is not an issue. Feasibility is. SEA must evaluate either a secondary access road or a bridge and upgrading the existing at-grade crossing at Del Curto.

**PMP Text Quote #75:** page 6 - 12, ¶ 1, line 5: *A road that runs parallel to and south of the tracks connects Woodland Avenue with Mayberry Drive, which passes under the railroad. This road between Woodland and Mayberry has recently been widened and paved, and the gate that formerly prohibited its use has been opened. This recent improvement serves to help mitigate emergency access impacts for the Woodland area.*

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<sup>20</sup>Please note that SEA has indicated "economic" factors (ostensibly cost) are not part of the mitigation study as mandated under Decision No. 44.



page 8 - 8, ¶ 4, line 1: *Another problem in the Woodland area was UP/SP's prior practice of adding "helper" locomotives to trains to provide additional power for the train to travel over Donner Pass.*

**Comment #75.1:** The fact that UP has chosen to change its operations does eliminate the excessive delays previously anticipated during this train maneuver. SEA concludes that because the City has recently widened and paved the access road that parallels the tracks, there is no need for UP to mitigate the impacts that have been identified in the Woodland Avenue area, which involve providing a secondary emergency access. The road that runs parallel to and south of the tracks connecting Woodland Avenue with Mayberry Drive has recently been paved but is not a public access road, nor has it been constructed to City standards. Only the Fire Department personnel control access and access which is not guaranteed on a permanent basis. SEA must require UP to obtain a permanent access and make necessary improvements to mitigate the freight trains blocking school buses in the morning and residents throughout the day. This impact needs to be addressed in the FMP and mitigation offered to alleviate the impacts.

#### **4.1.4 SAFETY - TRAIN/VEHICLE ACCIDENTS**

**PMP Text Quote #76:** page 7 - 45, ¶ 3, line 1: *Costs of the Mitigation Measure(s): The estimated cost for four-quadrant gates at the seven identified streets is \$1.21 million. Median barriers for the seven streets would cost an estimated \$700,000. Gate violation enforcement cameras at seven crossings is estimated to cost \$1.4 million.*

**Comment #76.1:** The estimated cost for four-quadrant gates at the seven identified streets is \$1.21 million which is the only required mitigation. The median barriers for the seven identified streets is \$0.7 million and gate violation enforcement cameras at the seven identified crossings is \$1.4 million which are not required mitigation. The PMP needs to consider a comprehensive and detailed analysis of preemption conditions at Virginia and Sutro Streets of the seven locations and include the impact of increased speed and four-quadrant gates on preemption strategies. With increased speed, more time may need to be given to motorists to clear the track environment prior to train arrival.

**PMP Text Quote #77:** page 6 - 9, ¶ 4, line 3: *As the number of trains increases, so does the exposure of pedestrians to trains.*

**Comment #77.1:** To mitigate this safety impact, the UP must be responsible for the installation of at-grade safety features at all at-grade crossings in the downtown area or eliminate the need for pedestrians to cross the tracks at-grade by constructing the depressed railway option.

#### **4.1.5 SAFETY - HAZARDOUS COMMODITIES**

**PMP Text Quote #78:** page 6 - 30, ¶ 1, line 5: *Additional detection and protection would be offered by the installation of high, wide, shifted load detectors at MP 240. In addition, improved, ongoing communications could be promoted with the establishment of a Community Advisory Panel, consisting of representatives of the community, including Native Americans, who are willing to work with UP management on a regular basis to review safety, environment, and health issues associated with rail operations, particularly as they relate to the transport of hazardous materials.*

**Comment #78.1:** SEA notes adding a hot box and a high, wide load detector at MP 240 would provide some mitigation. The City would note that MP 240 is 11 miles downstream of the California / Nevada border, 3 miles from the Keystone Avenue crossing. Clearly as indicated from the work of Carr (1996) the greatest risk to the Truckee River exists upstream of the California / Nevada border. It is therefore questionable the true benefit of this mitigation measure.

**Comment #78.2:** SEA's suggestion that the formation of a "Community Advisory Panel" would somehow mitigate the increased risk of contamination to the Truckee River is without basis and appears to be an appeasement policy with little to offer the ecosystem or habitat which could be impacted by the increased number of trains.

#### **4.1.6 TRAIN OPERATIONS**

**PMP Text Quote #79:** page 6 - 6, ¶ 6, line 1: *There are two types of potential mitigation measures to decrease the amount of time that trains delay motorists waiting at grade crossings – those that eliminate at-grade crossings entirely and those that reduce the amount of time the trains block the crossings.*

*Mitigation measures with the potential for entirely eliminating traffic delay involve separating the road from the railroad. Highway/rail grade separations can be made by creating an elevated or depressed train way, or by building underpasses or overpasses for vehicles and pedestrians. Any of these options would mean that vehicular traffic would not have to wait at the highway/rail grade-separated crossings while trains passed through the City of Reno.*

**Comment #79.1:** The PMP text notes that there are two types of mitigation measures which would decrease or eliminate railroad related vehicular and pedestrian delay; 1) elimination of at-grade crossings and 2) reducing the time that at-grade crossings are blocked. Using this rationale, SEA must equally investigate all railroad operational factors that result in delay time, including train speed, train length and the number of trains. SEA chose to evaluate only the potentially mitigating affects of increasing the speed of trains through the downtown core to reduce total vehicular and pedestrian delay time. Manipulation of either of the two other identified operational factors (train length and/or the number of trains) would



result in identical reductions in delay time, while at the same time reducing impacts to public safety, noise and air quality.

The primary measure proposed in the PMP to mitigate vehicular and pedestrian delay, increasing train speed in the downtown core from 20 mph to 30 mph, is an operational change which amends an important component of the proposed action, as evaluated in the EA and Post EA, in accordance with the requirements of NEPA. Part 1502.9(c)(1) of Chapter 40 of the Code of Federal Regulations, requires supplemental NEPA documentation when the lead agency makes substantial changes in the proposed action that are relevant to environmental concerns, and/or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Based on these procedural NEPA requirements, the City requests that Post EA be revised to reflect the operational changes recommended for the proposed action and recirculate the Supplemental EA for public review and comment.

**PMP Text Quote #80:** page 8 - 23, ¶ 5, line 1: *The Board, in its Decision No. 44, directed a review of highway/rail grade separations as possible mitigation measures for potential merger-related impacts in Reno. The Board noted in its decision that SEA had determined in the Post EA that separated grade crossings would be needed to address vehicular safety concerns on the existing rail lines in Reno. However, SEA's determination that separated grade crossings would be required did not take into account the benefits of increasing train speeds in Reno.*

*Section 7.2.2 reviews the possible costs, benefits, and potential environmental impacts of seven rail/highway grade separations in Reno. Given the information now available and SEA's further focused analysis in this PMP, SEA now believes that separated grade crossings in Reno are not warranted and would create serious secondary environmental problems. Therefore, SEA does not recommend in the PMP any rail/highway grade separations in the Reno area as Tier 1 mitigation.*

*However, if the parties could resolve the potential adverse effects of separated crossings and reach agreement regarding costs and other issues, then such mitigation could be appropriate as Tier 2 mitigation.*

**Comment #80.1:** SEA has completely ignored a critical mandate contained in Decision No. 44, which states:

*The sole purpose of the mitigation studies will be to arrive at specifically tailored mitigation plans that will ensure that localized environmental issues unique to these two communities are effectively addressed. For example, with respect to vehicular and pedestrian safety, SEA has determined that separated grade crossings and pedestrian overpasses and/or underpasses will be needed to address safety concerns on the existing rail lines in Reno and Wichita.*



*Accordingly, the studies will identify the appropriate number and precise location of highway/rail grade separations and rail, pedestrian grade separations in Reno and Wichita.*

SEA has continued to ignore the aforementioned mandate contained in Decision No. 44, requiring separated grade crossings and pedestrian overpasses / underpasses. Other railroad operational parameters should include length of trains and number of trains, and should be equally evaluated with the proposed increase in speed, to determine the appropriate modifications required to Decision No. 44. Decision No. 44 states that the purpose of the mitigation study is to identify the appropriate number and precise location of highway / rail grade separations, not to randomly change one, but not all railroad operational characteristics to undermine the direct mandates contained in Decision No. 44.

#### **4.1.7 NATIVE AMERICAN ISSUES**

##### **4.1.7.1 Cultural Resources**

**PMP Text Quote #81:** page 7 - 39, ¶ 1, line 1: *Historic and Pre-Historic: Construction of the depressed railway could have potential adverse impacts on historic and pre-historic resources, particularly given the close proximity of the right-of-way to the Truckee River. Prior to undertaking this mitigation option, an analysis would need to be performed regarding the potential presence of these resources. In addition, monitoring for archeological resources would likely be required during construction. Moreover, additional consultation would need to occur with Native Americans regarding possible impacts to Native American resources.*

**Comment #81.1:** Please refer to Comment #48.1 on page 3 - 24 of this comment document for a detailed response to this section of the PMP.

**PMP Text Quote #82:** page 7 - 31, ¶ 1, line 1: *Construction of a highway/rail grade separation would have potential adverse impacts on historic and pre-historic resources, particularly given the close proximity of the right-of-way to the Truckee River.*

*Prior to undertaking this mitigation option, an analysis would need to be performed regarding the potential presence of these resources. In addition, monitoring for archeological resources likely would be required during construction. Moreover, additional consultation would need to occur with the Native Americans regarding possible impacts to Native American resources.*

**Comment #82.1:** Please refer to Comment #48.1 on page 3 - 24 of this comment document for a detailed response to this section of the PMP.

#### **4.1.8 NOISE/VIBRATION**

**PMP Text Quote #83:** page 6 - 42, ¶ 3, line 1: *The Board addressed the public safety implications of the train horn in its Decision No. 44. Specifically, the Board noted that "[a]ny*

*attempt significantly to reduce noise levels at grade crossings would jeopardize safety, which we consider to be of paramount importance."*

**Comment #83.1:** The PMP's assumption here is that any type of mitigation for noise would be based upon change or reduction of the noise source. The City acknowledges that "to alter noise would jeopardize safety which is of paramount importance", but there are other ways, including other mitigation options, to mitigate the increased number of sensitive receptors exposed to post-merger noise which must be given a "hard look" by SEA.

**PMP Text Quote #84:** page 7 - 13, ¶ 1, line 1: *Wheel/rail noise from trains is related to train speed. Increases in train speeds in locations where train horns are not the predominant source of train noise are predicted to result in increases in wheel/rail noise (calculated as varying approximately as  $30 \times \text{Log}10 [\text{speed}]$ ). For those areas where horns are the major source of train noise, an increase in train speeds from 20 to 30 miles per hour for post-merger train levels is not predicted to increase Ldn noise levels. The portion of the rail line proposed for possible increased train speeds is between Keystone Avenue and the Sparks Yard, and the major source of freight train noise in this area is from train horns. An increase from 20 to 30 mph in freight train speeds in this area is not expected to add to post-merger Ldn noise levels.*

page 7 - 13, ¶ 2, line 1: *The Board environmental regulations do not contain ground-borne vibration level criteria. An increase in train speed will increase vibration levels. Train wheels rolling on the rails create vibration energy that is transmitted through the ground. As the train speed increases, the wheel to rail energy increases and vibration levels at receptors increase.*

*A speed increase from 20 to 30 mph could change the vibration velocity levels by 3 dB (with respect to 1 micro in./sec.). Based on human response to residential building vibration, an increase vibration velocity of 3 dB would be barely perceptible.*

**Comment #84.1:** As previously noted, the increase in train speed from below 20 mph to 30 mph would, all other factors being equal, result in a change in Ldn values of  $\approx -1.8$  dB. However, all factors may not be equal in the downtown Reno area, as it may be necessary, at a higher speed, for the engineer to actuate the horn for a greater proportion of the time to ensure that all crossings are clear. In addition, it may be necessary in either rural or urban situations to activate the horn farther from the crossings, which could increase the noise levels at receivers distant from the crossings. The City reiterates the effects of the increase of train speeds cannot be quantified without more specific information regarding the duration of horn use in the urban area, and regarding the point at which horns would first be activated on approach to crossings which are not provided in the PMP.

However, based upon the noise contours BBA has prepared (BBA, 1997), it appears that the PMP significantly understates the number of people and hotel rooms affected by both pre- and post-merger railroad operation noise exceeding 65 dB Ldn. Thus, the change in

noise level, whatever its magnitude, could still impact a significant number of residents and hotel guests.

#### **4.1.9 AIR QUALITY - VEHICLES**

As discussed in the City's Air Quality Resource Evaluation Comment #59.1 on page 3 - 34 of this comment document, relative to Traffic Delay Resource Evaluation Comment #27.1 on page 3 - 1 of this document, the City has reviewed SEA's methodology for estimating emission from vehicles and concurs with the methodology. Unfortunately, since the emissions calculations are dependent upon the average daily total hours of delay, total daily delay hours, and the number of vehicles delayed, the City would dispute the results of the vehicle emissions studied based upon substandard delay data as well as any mitigation gained by the increased speed of trains using the same inferior delay data.

#### **4.1.10 ECONOMIC ISSUES**

SEA fails to conduct an economic analysis outlining decreased performances of the entire downtown area which will occur even after implementation of the Tier 1 mitigation measures identified in the PMP. Some of these impacts will occur due to restricted access and impaired utilization which will financially affect the downtown casinos and businesses. SEA does not address the fact that downtown casinos and businesses represent a major source of funding for cultural activities, parks, schools, police and fire protection, and other services offered by the City and if casinos and businesses located downtown are financially affected, so are the financial resources that help to fund those services. The City requests that SEA address the implications if some of the Tier 1 mitigation measures are not complied with due to the fact that many of the measures are self regulating. The City requests that the FMP address these economic issues.

### **4.2 TIER 2 MITIGATION**

#### **4.2.1 GRADE SEPARATIONS**

**PMP Text Quote #85:** page 2 - 16, ¶ 3, line 4: *City staff members have further stated that the City does not consider requiring UP/SP to construct highway/rail grade separations in Reno to be acceptable mitigation...The City of Reno staff have actively participated in the task force meetings, and these views have been restated in the press.*

**Comment #85.1:** City staff made no such statements. To the contrary, due to UP's January 31, 1997 proposal to provide the depressed railway at no cost to the City, the City Council subsequently (February 18, 1997) directed the City Manager to emphasize the depressed railway as the City's **primary objective**. As is the policy of the City Manager and his staff, when the City Council provides specific



direction, and clearly is silent on other matters<sup>21</sup> (i.e., grade separations<sup>22</sup>), it would be inappropriate for staff to indicate the City's position one way or another, as was the case during the March 12, 1997 task force meeting. The above noted quote must therefore be deleted from any discussion in the FMP.

#### 4.2.1.1 Traffic Delay

**PMP Text Quote #86:** page 7 - 23, ¶ 1, line 1: *Grade separations would reduce vehicular traffic delay and predicted vehicular accident rates associated with the post-merger increase in through freight trains.*

**Comment #86.1:** SEA concludes that grade separations would reduce delays and accidents but SEA does not consider or offer grade separations to mitigate the merger-related impacts. Clearly grade separations are by definition mitigation: ...*[m]inimizing impacts by limiting the degree or magnitude of the action and its implementation...* [emphasis added] (40 CFR 1508.20).

#### 4.2.1.2 Safety - Pedestrians

**PMP Text Quote #87:** page 7 - 23, ¶ 1, line 1: *Grade separations would reduce vehicular traffic delay and predicted vehicular accident rates associated with the post-merger increase in through freight trains.*

**Comment #87.1:** SEA concedes that grade separations would reduce vehicular traffic delay and predicted vehicular accident rates associated with post-merger related increases in freight trains which leads the City to believe that pedestrian safety would also be vastly improved with this mitigation, with the caveat that the grade separations were implemented closer to Virginia Street where the majority of the pedestrians cross the tracks. Clearly grade separations are by definition mitigation: ...*[m]inimizing impacts by limiting the degree or magnitude of the action and its implementation...* [emphasis added] (40 CFR 1508.20).

However, SEA does not offer grade separations at any of the roadways in either Reno or any crossing in Washoe County. The City requests that this option be given equal consideration (i.e., a "hard look").

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<sup>21</sup>Without the benefits of SEA's complete impact analysis, it is impossible for City staff to present any such "required" (as opposed to "negotiated") alternatives to the City Council.

<sup>22</sup>Hereafter collectively referring to any and all combination of underpasses and/or overpasses.

#### 4.2.1.3 Safety - Emergency Vehicle Access

**PMP Text Quote #88:** page 7 - 23, ¶ 1, line 1: *Grade separations would reduce vehicular traffic delay and predicted vehicular accident rates associated with the post-merger increase in through freight trains.*

**Comment #88.1:** Even though the City disagrees in the measure used by SEA (traffic delay) in determining the effectiveness of mitigation on emergency vehicle access, the City does acknowledge that additional grade separations should have a positive effect on emergency vehicle access in Reno. SEA concedes that grade separations would reduce vehicular traffic delay and predicted vehicular accident rates associated with post-merger related increases in freight trains. The elimination of blockages at an existing at-grade crossing by replacing it with a grade separation would be mitigation: ...*[m]inimizing impacts by limiting the degree or magnitude of the action and its implementation...* [emphasis added] (40 CFR 1508.20). Yet again, SEA does not offer this option or any combination of the grade separations at any of the roadways in either Reno or any crossing in Washoe County. The City requests that this option be given equal consideration (i.e., a "hard look").

#### 4.2.1.4 Safety - Train/Vehicle Accidents

**PMP Text Quote #89:** page 7 - 23, ¶ 1, line 1: *Grade separations would reduce vehicular traffic delay and predicted vehicular accident rates associated with the post-merger increase in through freight trains.*

**Comment #89.1:** As consistent with Comments #86.1, #87.1, and #88.1, SEA concedes that grade separations would reduce vehicular traffic delay and predicted vehicular accident rates associated with post-merger related increases in freight trains which leads the City to believe that the possibility of post-merger train / vehicle accidents would also be vastly improved with this option. Clearly grade separations are by definition mitigation: ...*[m]inimizing impacts by limiting the degree or magnitude of the action and its implementation...* [emphasis added] (40 CFR 1508.20).

However, SEA does not offer this option or a combination of the grade separations at any of the roadways in either Reno or any crossing in Washoe County. The City requests that this option be given equal consideration (i.e., a "hard look").

#### 4.2.1.5 Safety - Hazardous Commodities

The issues involving safety with hazardous commodities associated with grade separations was not addressed in the PMP and the City requests that this potential impact on resources be given equal analysis (i.e., a "hard look").

#### 4.2.1.6 Noise/Vibration

**PMP Text Quote #90:** page 7 - 24, ¶ 1, line 1: *Train horn noise could be eliminated at those grade crossings where highway/rail grade separations are constructed. Of the crossings listed, possible highway/rail grade separations are evaluated in this PMP for Ralston and Lake streets, with 10 and 4 receptors, respectively.*

**Comment #90.1:** SEA concedes train horns could be eliminated with grade separations due to the elimination of the FRA requirement for horn sounding at that particular grade separated crossing. Unfortunately, SEA does not offer this option or any combination of the grade separations at any of the roadways in either Reno or any crossing in Washoe County. The City requests that this option be given equal consideration (i.e., a "hard look") and analysis in the FMP and recommended as Tier 1 mitigation.

#### 4.2.1.7 Property Impacts/Land Use

**PMP Text Quote #91:** page 7 - 24, ¶ 2, line 1: *The most critical potential environmental impacts of the possible highway/rail grade separations would be to adjoining properties. Tables 7.2.2-5a, b, and c summarize the full property acquisition, partial acquisitions, and impairment of access associated with each of the highway/rail grade separations.*

**Comment #91.1:** Grade separations are provided a cursory discussion emphasizing the property acquisition costs as the "most critical potential environmental impact" of the mitigation and actually when justly compensated, land used in a project is typically not considered an impact. Though the City agrees property assemblage would be costly and timely, clearly there is no fatal engineering flaw to many of the possible location for grade separations. Therefore, the argument involving costs and impacts to adjacent properties are inaccurate or unacceptable. Costs<sup>23</sup> is not an issue. Feasibility is.

#### 4.2.1.8 Economic Issues

SEA fails to conduct an economic analysis outlining short-term decreases in performances and long-term increases in performances of the entire downtown area which might occur with implementation of the grade separation option. Some of these short-term impacts will occur due to restricted access and impaired utilization during construction which will financially affect the downtown casinos and businesses. SEA does not address the fact that downtown casinos and businesses represent a major source of funding for cultural activities, parks, schools, police and fire protection, and other services offered by the City and if casinos and businesses located downtown are financially affected, so are the financial resources that help to fund those services. The City requests that the FMP address these economic issues associated with the grade separation option.

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<sup>23</sup>Please note that SEA has indicated "economic" factors (ostensibly cost) are not part of the mitigation study as mandated under Decision No. 44.



#### 4.2.2 DEPRESSED RAILWAY

**PMP Text Quote #92:** page 2 - 21, ¶ 2, line 1: *Many community members felt that lowering the tracks would be the best solution for all concerned. The Reno City Council has endorsed the depressed railway as a priority for the City and the City's primary objective for downtown. Those in favor of building a depressed railway feel that this option would solve potential noise impacts, facilitate access to local businesses, unite a community split by the railroad, and improve downtown streets such as Lake, Center, Virginia, Sierra, West, Arlington, Ralston, Washington, Vine, and Keystone. Parties who question the viability of the proposed depressed railway fear the trench would create groundwater problems, jeopardize business with noisy construction, not address problems with Arlington and Lake streets, and be subject to flooding and litter. Others state that enclosing the tracks in a tunnel and extending them further west would be a good solution.*

page 8 - 22, ¶ 3, line 1: *The City of Reno has strongly advocated the construction of the depressed railway. In fact, recently the City and UP jointly studied the feasibility of this option as part of their private negotiations (see Section 2.9). The position of the City reflects the historical relationship of downtown Reno and rail operations. The City has stated its views that a depressed railway would substantially alleviate a variety of delay and safety (both pedestrian and vehicular), noise, emergency response, and air quality problems that currently exist in Reno.*

**Comment #92.1:** The City finds SEA's explanation and history of the depressed railway lacking factual analysis. During the February 13, 1997, STB Public meetings, UP presented a model of the depressed railway and made statements to the public and the media touting the benefits of the depressed railway. Due to UP's January 31, 1997 proposal to provide the depressed railway at no cost to the City, the City Council subsequently (February 18, 1997) directed the City Manager to emphasize the depressed railway as the City's primary objective. UP has strongly advocated the construction of depressed railway as demonstrated by UP's lobbying efforts the week of March 17-21, 1997, when UP again presented its model of the depressed train and lobbied state legislators for a week regarding funding options.

**PMP Text Quote #93:** page 7 - 32, ¶ 2, line 1: *Under the plan considered by UP and the City, tracks would begin to be lowered in the vicinity of Sutro Street east of the downtown area and would rise in elevation to meet the existing grade near the 2nd Street overpass west of Keystone Avenue. For this proposal, major streets would cross over the depressed railway on bridges and minor streets would be closed.*

*The depressed railway would be 54-feet wide, the width of the existing UP right-of-way through the downtown area, between the inside faces of the retaining walls. To provide the required 23-foot vertical clearance above the tracks, the top of rail would be about 27 feet below the grade (elevation) of adjacent streets. The track structure would require that the subgrade of the railway be about 30 feet below grade. Ditches or underdrains for the railway would be below subgrade. Based on the profile of the current proposal, the existing grade crossing at Sutro Avenue would be lowered slightly, and the grade crossing at Morrill Avenue would be*

closed. The existing underpass at Wells Avenue also would be closed. The profile of Keystone Avenue would be raised more than 12 feet to cross the tracks. The depressed railway would contain two tracks plus a maintenance access road. Some access to the railway may be needed in or near the downtown area.

The depressed railway would eliminate all at-grade crossings in the downtown area, thereby eliminating traffic and pedestrian delays and noise due to whistle blowing and crossing bells. Several potential environmental impacts would relate to the concept, including:

- Maintenance of vehicular and train traffic during construction.
- Noise, dust, vibration, and inconvenience during construction.
- Relocation of underground utilities.
- Modification of adjacent structures.
- Groundwater impacts, both during construction and permanent. Storm water discharge from the depressed railway.
- Property impacts and acquisition.
- Construction duration.

**Comment #93.1:** SEA discusses the temporary "shoo fly" proposed by UP under the heading of maintenance of vehicular and train traffic during construction", but fails to note that re-routing of traffic to the Feather River route is feasible, just as re-routing of traffic from the Feather River route to the central corridor when the Feather River route was closed for repairs.

**Comment #93.2:** SEA says "several potential environmental impacts" from constructing a depressed railway exist. The City believes this statement is misleading and incorrect - these are not potential environmental impacts, they are normal, temporary construction impacts which are mitigated through existing City permitting processes and required Washoe County Health Department Air Quality Construction Permits. Table 14 below lists generally accepted elements of the human environment as prescribed by law (which must be reviewed to determine if they will be affected).

Others not specifically enumerated in Federal law include, forestry; geologic resources; lands; meteorology; noise; range; recreation; seismic; socioeconomics; soils; traffic; vegetation; visual resource management; wild horse & burro; and wildlife. The FMP must therefore recognize these as normal, temporary construction impacts.

#### 4.2.2.1 Traffic Delay

**PMP Text Quote #94:** page 7 - 33, ¶ 4, line 1: *Traffic Delay: With Year 2000 traffic, the depressed railway would reduce the projected post-merger total vehicular traffic delay attributable to freight trains from 373 hours per day to 33 hours per day, well below the projected total pre-merger traffic delay of 189 hours per day [emphasis added].*

Table 14	
Critical Elements of the Human Environment	
Element	Relevant Authority
Air Quality	The Clean Air Act as amended (42 USC 7401 et seq.)
Areas of Critical Environmental Concern	Federal Land Policy and Management Act of 1976 (43 USC 1701 et seq.)
Cultural Resources including Paleontological Resources	National Historic Preservation Act as amended (16 USC 470)
Farm Lands (prime or unique)	Surface Mining Control and Reclamation Act of 1977 (30 USC 1201 et seq.)
Floodplains	E.O. 11988, as amended, Floodplain Management, 5/24/77
Native American Religious Concerns	American Indian Religious Freedom Act of 1978 (42 USC 1996)
Threatened or Endangered Species	Endangered Species Act of 1973 as amended (16 USC 1531)
Wastes, Hazardous or Solid	Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended (42 USC 9615)
Water Quality Drinking/Ground	Safe Drinking Water Act as amended (42 USC 300[f] et seq.) Clean Water Act of 1977 (33 USC 1251 et seq.)
Wetlands/Riparian Zones	E.O. 11990, Protection of Wetlands, 5/24/77
Wild and Scenic Rivers	Wild and Scenic Rivers Act as amended (16 USC 1271)
Wilderness	Federal Land Policy and Management Act of 1976 (43 USC 1701 et seq.) Wilderness Act of 1964 (16 USC 1131 et seq.)

Source: City of Reno



**Comment #94.1:** The depressed railway actually has the potential to offset the impacts of the proposed 24 trains as well as any future increase in freight train traffic, as well as incidental pre-existing traffic. The secondary mitigation effects of the depressed railway do not diminish the fact that the depressed railway is by definition traffic mitigation: ...*[r]educing or eliminating the impact over time by preservation and maintenance operations during the life of the action...* [emphasis added] (40 CFR 1508.20).

#### 4.2.2.2 Safety - Pedestrians

**PMP Text Quote #95:** page 7 - 33, ¶ 4, line 1: *Pedestrian Safety: The depressed railway option would remove the potential conflicts between the trains and pedestrians resulting in a substantial reduction in pedestrian safety concerns* [emphasis added].

**Comment #95.1:** SEA concedes that implementation of the depressed railway option would remove the potential conflicts between the trains and pedestrian resulting in a substantial reduction in pedestrian safety concerns. The secondary mitigation effects of the depressed railway do not diminish the fact that the depressed railway is by definition safety mitigation: ...*[r]educing or eliminating the impact over time by preservation and maintenance operations during the life of the action...* [emphasis added] (40 CFR 1508.20).

#### 4.2.2.3 Safety - Emergency Vehicle Access

**PMP Text Quote #96:** page 7 - 33, ¶ 4, line 1: *Emergency Vehicle Access: The depressed railway option would also eliminate any blockage of emergency vehicles for those streets that would be grade-separated* [emphasis added].

**Comment #96.1:** SEA concedes that implementation of the depressed railway option would eliminate any blockage of emergency vehicles for those streets that would be grade-separated. This secondary mitigation effect of the depressed railway does not diminish the fact that the depressed railway is by definition emergency vehicle access mitigation: ...*[r]educing or eliminating the impact over time by preservation and maintenance operations during the life of the action...* [emphasis added] (40 CFR 1508.20).

#### 4.2.2.4 Safety - Train/Vehicle Accidents

**PMP Text Quote #97:** page 7 - 33, ¶ 4, line 1: *Train/Vehicle Accident: With Year 2000 traffic, a depressed railway would reduce the projected post-merger total train-vehicle accidents attributable to freight trains from 0.952 accidents per year to 0.146 accidents per year. The pre-merger accidents were projected to be 0.795 accidents per year* [emphasis added].

**Comment #97.1:** SEA concedes that with year 2000 traffic, a depressed railway option would reduce the projected post-merger total train-vehicle accidents attributable to freight trains from 0.952 accidents per year to 0.146 accidents per year. This secondary mitigation effects of the depressed railway actually benefits all parties involved: UP (with lessened liability), UP's workers (with lessened exposure to potential derailment), and the City (with less likelihood of fatalities amongst the citizens and visitors of Reno. This secondary mitigation effect does not diminish the fact that the depressed railway is by definition train / vehicle accident mitigation: *...[r]educing or eliminating the impact over time by preservation and maintenance operations during the life of the action...* [emphasis added] (40 CFR 1508.20).

#### 4.2.2.5 Noise/Vibration

**PMP Text Quote #98:** page 7 - 33, ¶ 4, line 1: *Noise: A depressed railway from Keystone to Sutro would eliminate the need for horn sounding in that area and would reduce potential noise impacts to 62 noise-sensitive properties (Parcels), including hotels/casinos...All but four of these crossings (Woodland, Del Curto, Stag and Sage) would be grade-separated under the depressed railway option* [emphasis added].

**Comment #98.1:** This is the only proposed or suggested mitigation which effectively mitigates horn noise on surrounding sensitive receptors, businesses, visitors, pedestrians, and citizens of Reno. The secondary mitigation effects of the depressed railway does not diminish the fact that the depressed railway is by definition noise abatement / mitigation: *...[r]educing or eliminating the impact over time by preservation and maintenance operations during the life of the action...* [emphasis added] (40 CFR 1508.20).

#### 4.2.2.6 Air Quality - Vehicles

**PMP Text Quote #99:** page 7 - 33, ¶ 4, line 1: *Air Quality: Tables 7.2.3-2, -3, and -4 show the effects on air quality of a depressed railway. Intersections that would become grade-separated as part of the depressed railway option are assumed to revert to the peak background CO level of 6.0 ppm because queuing-related emissions would be eliminated...* [emphasis added].

**Comment #99.1:** The secondary mitigation effects of the depressed railway does not diminish the fact that the depressed railway is by definition air quality mitigation: *...[r]educing or eliminating the impact over time by preservation and maintenance operations during the life of the action...* [emphasis added] (40 CFR 1508.20).

#### 4.2.2.7 Property Impacts/Land Use

**PMP Text Quote #100:** page 7 - 24, ¶ 2, line 1: *The most critical potential environmental impacts of the possible highway/rail grade separations would be to adjoining properties. Tables 7.2.2-5a, b, and c summarize the full property acquisition, partial acquisitions, and impairment of access associated with each of the highway/rail grade separations.*

**Comment #100.1:** The depressed railway is provided a cursory discussion (a "soft look") emphasizing the property acquisition costs as the main impact of the mitigation. When justly compensated, land used in a project is typically not considered an impact. The depressed railway receives only the most basic of evaluations — then it is summarily dismissed. Table 13 on page 4 - 2 above, provides a comparison of each mitigation option and the degree to which the mitigation measure would reduce potential environmental impacts (decreased) and introduce potential environmental impacts (increased) from post-merger increase in freight train traffic.

#### 4.2.2.8 Economic Issues

SEA fails to conduct an economic analysis outlining short-term decreases in performances and long-term increases in performances of the entire downtown area which might occur with implementation of the depressed railway option. Some of these short-term impacts will occur due to restricted access and impaired utilization during construction which will financially affect the downtown casinos and businesses. SEA does not address the fact that downtown casinos and businesses represent a major source of funding for cultural activities, parks, schools, police and fire protection, and other services offered by the City and if casinos and businesses located downtown are financially affected, so are the financial resources that help to fund those services. The City requests that the FMP address these economic issues associated with the depressed railway option.

#### 4.2.3 I-80 RE-ROUTE

**PMP Text Quote #101:** page 2 - 1, ¶ 1, line 1: *The merger application included plans covering the rerouting of train traffic within the combined system, the consolidation of yards and terminal facilities, changes in activities at rail yards and intermodal facilities, abandonment of some rail line segments, and construction of new rail line segments.*

page 2 - 21, ¶ 6, line 1: *Early in the study, the City of Reno stated that rerouting trains to a new rail line route parallel to I-80 and bypassing the downtown area would be a viable solution.*

**Comment #101.1:** When discussing re-routing, SEA only discussed I-80, not the Feather River Route. The issue involving safety with hazardous commodities associated with the I-80 reroute option was not addressed in the PMP and the City requests that this issue be given equal analysis and consideration in the FMP.



**Comment #101.2:** SEA fails to conduct an economic analysis outlining increases in performances of the entire downtown area which will occur with implementation of the I-80 re-route option. SEA does not address the fact that downtown casinos and businesses represent a major source of funding for cultural activities, parks, schools, police and fire protection, and other services offered by the City and if casinos and businesses located downtown are financially affected, so are the financial resources that help to fund those services. The City requests that the FMP address these economic issues associated with the I-80 re-route option.

#### 4.3 OTHER MITIGATION OPTIONS

**PMP Text Quote #102:** page 7 - 55, ¶ 2 and line 1: *System-wide and corridor specific mitigation measures (see Section 7.2.7) imposed in Decision No. 44 provide a high level of protection from hazardous materials events in the Reno and surrounding area. Moreover, UP has sophisticated detection equipment (hot box, dragging equipment, and high, wide, shifted load detectors) throughout the Reno area. Section 6.2.5 reviews the detection equipment already present on the UP mainline in Reno, Washoe County, and the surrounding area. Installation of additional detectors could reduce the likelihood of hazardous materials spills.*

*In addition, UP could establish a Community Advisory Panel, consisting of representatives of the Reno/Sparks/Washoe County community, including Native Americans, who are willing to work with UP management on a regular basis to review safety, environment, and health issues associated with rail operations, particularly as they relate to the transport of hazardous materials.*

**Comment #102.1:** First, system-wide and corridor specific mitigation measures imposed in Decision No. 44 are measures that are required to be implemented throughout the country and can not be considered as mitigation to offset the specific merger-related impacts in the Reno / Sparks / Truckee Meadows area without absolute quantifiable results. Certain presumed benefits of these system-wide and corridor specific mitigation measures may not produce the offsetting benefits equally throughout the country or corridor, and therefore may actually provide no benefit to Washoe County, the location of the impact.

*Watch Out Reno, You're About To Get Railroaded! If you care about your health, safety, and quality of life, you have less than one week to take action!*

City of Reno, Community Relations Department

*It's a charade.*

Harry York, Executive Director, Reno-Sparks Chamber of Commerce

5.0

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## 5.0 REFERENCES

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**A Copy of the City of Reno  
Comment Document  
Appendices is available upon  
request to:**

**Harold McNulty  
Surface Transportation Board  
Section of Environmental  
Analysis  
1925 K Street NW, 5th Floor  
Washington, DC 20423**



## Fire Department

Charles R. Lowden  
Fire Chief

Lee Amestoy  
Assistant Chief

Larry S. Farr  
Fire Marshal



October 14, 1997

Office of the Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K Street, NW, Room 700  
Washington, DC 20423-0001

### CENTRAL ADMINISTRATIVE UNIT

REC'D: 10-22-97

DOCUMENT # 10-29-97 4:47:23pm

FD#32760 RL 04

Attention: Elaine K. Kaiser  
Chief, Section of Environmental Analysis  
Environmental Filing - Designate Reno

Dear Board Members;

I have reviewed the Preliminary Mitigation Plan for the City of Reno and can only express great disappointment. The Plan falls far short of truly identifying the impacts to the community and therefore cannot reasonably propose true mitigation.

My primary concern is public safety. In the report, on page 6-15, there are six bullet points that are identified as "potential impacts.... on emergency vehicle response". Bullet points one and six are impacts, the rest are general statements that seem to be made to justify the reports findings. The real impact of emergency vehicle response is not identified. The real impact is, the Reno Fire Department currently has approximately 3700 emergency service calls that require emergency vehicles to cross the railroad tracks. Those calls for service are currently impacted by an average of twelve trains daily. The merger will impact those calls by twenty-four trains per day average. Train speed is not going to mitigate the impact of the frequency of trains versus emergency calls for service. Additionally, vehicle gridlock created by railroad crossings being blocked by a passing train has not been examined. The impact of vehicle gridlock on emergency vehicles responding, happens on both sides of the railroad tracks and hampers quick response whether or not emergency vehicle must cross the tracks.

If train speed is allowed to stand as the primary mitigation for emergency vehicle response, lives and property will be lost as a result of the merger and the actions of the Surface Transportation Board.

Page two  
PMP Response

The installation of video monitors and train displays in the dispatch center does nothing but add work and confusion to the process of dispatching emergency vehicles. There are all sorts of issues related to this proposal, not the least of which is additional training and or staff required to properly use the system and the most important; will it work and not add to longer and or incorrect dispatches.

Video monitors and train displays are not mitigation. They are, additional costs to the City of Reno and confusion for those trying to dispatch emergency vehicles.

Potential hazardous materials spills along the Truckee River corridor are not adequately identified. Again, without properly identifying the impact a mitigation cannot be recommended. However, I do believe the Railroad should develop a comprehensive contingency plan to provide drinking water to the City of Reno. The plan should identify the feasibility of constructing an emergency pipeline from the Boca reservoir to Reno. The plan should identify the route, pipe size, pump size, number and locations of pumps, construction time and cost. The cost to develop a contingency plan is small and is sound emergency planning.

The contingency plan is a must, since we know it is only a matter of time before there is a hazardous material spill on the Truckee River corridor.

The railroad should also be required to provide hazardous material emergency response equipment, in addition to the training they are offering. When a hazardous material spill does occur it will be the fire department responding and trying to mitigate the danger.

In closing let me say the PMP falls far short of mitigating any public safety impacts to the City of Reno and in fact may compound the impacts and impede our ability to respond to emergencies in our community. Speeding the trains through Reno does nothing in the way of maintaining emergency vehicle response pre or post merger. Video cameras and displays in dispatch may cause delays in emergency vehicle dispatches and add additional costs to the City of Reno. Hazardous materials impacts have, in no way, been adequately identified therefore full mitigation is unknown; however an emergency contingency plan should be developed.

I have spent 27 years working for the safety of the citizens and visitors of the City of Reno and to that end I must present the forgoing based on my knowledge of the Cities emergency response system and experience in dealing with the railroad over those years. I hope you will consider the impact of your final report on the lives of those who live and visit the City of Reno.



Page 3  
PMP Response

It seems to me, there needs to be more study. More questions need to be asked; more answers need to be found.

Please seriously consider my response to the PMP. I am available to answer any questions and to assist in any way possible to provide a mitigation plan that protects the lives and property of the citizens and visitors of the City of Reno.

Sincerely,

Larry S. Farr  
Fire Marshal  
City of Reno, Fire Department  
Bureau of Fire Prevention

xc:  
Mitigation file  
Readers File

# The City of Sparks

## OFFICE OF THE CITY MANAGER

OCTOBER 16, 1997

MS. ELAINE K. KAISER, CHIEF  
SECTION OF ENVIRONMENTAL ANALYSIS, ENVIRONMENTAL FILING - RENO  
OFFICE OF THE SECRETARY  
CONTROL CASE UNIT  
FINANCE DOCKET NO. 32760  
SURFACE TRANSPORTATION BOARD  
1925 K STREET, NW, ROOM 700  
WASHINGTON, DC  
20423-0001

Post-It™ brand fax transmittal memo 7671		# of pages > 2
To <i>ELAINE KAISER</i>	From <i>Rob Pyzel</i>	
Co. <i>Section/Environ. Analysis</i>	Co. <i>City of Sparks</i>	
Dept. <i>Surface Trans. Board</i>	Phone # <i>(702) 353-2368</i>	
Fax # <i>(202) 565-9000</i>	Fax # <i>(702) 353-1608</i>	

CENTRAL ADMINISTRATIVE UNIT

REC'D: 10-16-97

DOCUMENT # 10-17-97 1:32:49 pm

FD#32760 RL04

DEAR MS. KAISER:

I AM WRITING TO CORRECT THE PRELIMINARY MITIGATION TASK FORCE CITY OF SPARKS REPRESENTATIVE'S STATEMENT GIVEN DURING THE OCTOBER 9, 1997 AFTERNOON PUBLIC INFORMATION MEETING.

DURING THE AFTERNOON MEETING, MR. ROBERT PYZEL, CITY OF SPARKS RAILROAD MITIGATION MERGER TASK FORCE REPRESENTATIVE, INCORRECTLY STATED THE CITY OF SPARKS' POSITION REGARDING THE PRELIMINARY MITIGATION PLAN (PMP) FOR THE SOUTHERN PACIFIC/UNION PACIFIC RAILROAD MERGER (MERGER). MR. PYZEL STATED THAT THE CITY OF SPARKS SUPPORTED THE FINDINGS OF THE PMP WITH THE ADDITIONAL RECOMMENDATION THAT A MINIMUM OF TWO GRADE-SEPARATED CROSSINGS BE REVIEWED AND INCLUDED AS PART OF THE FINAL MITIGATION PLAN FOR THE MERGER.

MR. PYZEL MISUNDERSTOOD THE DIRECTION HE RECEIVED FROM THIS OFFICE. THE CITY MANAGER TOLD MR. PYZEL THAT WHILE THE CITY SUPPORTS THE PROCESS OF THE RAILROAD MITIGATION MERGER TASK FORCE, STAFF'S



RECOMMENDATION IS NOT TO SUPPORT THE RECOMMENDATIONS OF THE PMP. THE CITY OF SPARKS HAS NOT YET TAKEN A FORMAL POSITION. HOWEVER, THE CITY COUNCIL WILL BE MEETING ON OCTOBER 27TH, AT WHICH TIME THIS ISSUE WILL BE DISCUSSED AND A FORMAL POSITION REGARDING THE PMP ADOPTED AND FORWARDED TO THE SURFACE TRANSPORTATION BOARD.

BOTH MR. PYZEL AND I FORWARD OUR APOLOGIES FOR THE MISUNDERSTANDING AND MISCOMMUNICATION OF THE CITY OF SPARK'S POSITION REGARDING THE RECOMMENDATION OF THE PMP TO THE SECTION OF ENVIRONMENTAL ANALYSIS. I HOPE THIS LETTER CLARIFIES THE ACTUAL POSITION THE CITY OF SPARKS IS TAKING REGARDING THE PMP RECOMMENDATIONS AT THIS TIME.

CORDIALLY,



TERRY J. REYNOLDS  
CITY MANAGER  
CITY OF SPARKS

TR/RP/PMP-STB.LTR

CC: MAYOR BRUCE BRESLOW  
COUNCILMAN JOHN MAYER  
COUNCILMAN PHIL SALERNO  
COUNCILMAN TONY ARMSTRONG  
COUNCILMAN PHIL ZIVE  
COUNCILWOMAN CINDY HENDERSON  
CHARLES MCNEELY, RENO CITY MANAGER



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3  
4 SURFACE TRANSPORTATION BOARD  
5 SECTION OF ENVIRONMENTAL ANALYSIS  
6 TASK FORCE MEETING  
7  
8  
9

10  
11 Wednesday, October 8, 1997  
12

13 Reno City Council Chambers  
14 490 South Center Street  
15 Reno, Nevada  
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22

23 COPY  
24

25 Reported by:

KRISTINE A. BOKELMANN, CCR #165

APPEARANCES:

SURFACE TRANSPORTATION BOARD  
SECTION OF ENVIRONMENTAL  
ANALYSIS REPRESENTATIVES  
AND/OR CONTACTS:

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## RENO CITIZENS REPRESENTATIVES:

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RICHARD VITALI  
Harrah's Reno  
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Native American Representative:

PAULA BERKLEY  
Paula Berkley & Associates  
908 Nixon Avenue  
Reno, Nevada

Business Community  
Representative:

BILL OSGOOD, Chairperson  
Reno Downtown Improvement  
Association  
One East First Street  
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APPEARANCES: (Continued.)

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2 Business Community Alternate: HARRY YORK  
3 Reno-Sparks Chamber of  
4 Commerce  
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Reno, Nevada

5 NRFA Representative: BOB BURN, Chairperson  
6 Nevadans for Fast &  
7 Responsible Action  
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8 NFRA Alternate: John Frankovich  
9 P.O. Box 2670  
Reno, Nevada

10 Washoe County Representative: Bob Webb, Community  
11 Coordinator  
12 Washoe County Department of  
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Reno, Nevada

13 Regional Transportation  
14 Commission Representative: JACK LORBEER  
Regional Transportation  
Commission  
600 Sutro Street  
Reno, Nevada

15  
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17  
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1 RENO, NEVADA, WEDNESDAY, OCTOBER 8, 1997, 12:05 P.M.

2 -ooo-

3  
4 MS. WILSON: Good afternoon everybody. Thanks for  
5 coming and thanks for adapting to our different environment in  
6 here. It's a little cozy, but this is the only room that was  
7 available here for us to meet today at City Hall.

8 I think most of the task force members, I think  
9 I've gotten you all to come up front. If there are any others,  
10 move up front, and then you're all welcome to get as close as  
11 you can. We will be using the screen.

12 We are going to be following the agenda that we  
13 passed out today, and usually the first thing we do is go  
14 around the room and introduce ourselves. So we'll do that  
15 first. I'm Kay Wilson and I'm on the third-party consultant  
16 team.

17 MR. MANSEN: Dave Mansen, third-party independent  
18 consultant.

19 MR. BRADHURST: Steve Bradhurst representing the  
20 Citizens of Reno.

21 MR. DEMUTH: Mark Demuth. I'm with the  
22 environmental team with the City of Reno.

23 MS. BELAUSTEGUI: Merri Belaustegui-Traficanti,  
24 deputy city attorney.

25 MR. FRANKOVICH: John Frankovich, NFRA.

1 MR. WEBB: Bob Webb with Washoe County.  
2 MR. PYZEL: Ron Pyzel with City of Sparks.  
3 MR. SCOLARO: Ron Scolaro, Amtrak.  
4 MR. OSGOOD: Bill Osgood with the Downtown  
5 Improvement Association of Reno.  
6 MS. PERREAULT: Olivia Perrault. I'm on the  
7 third-party contractor team.  
8 MR. STARZEL: Bob Strazel with Union Pacific.  
9 MR. HEMMER: Mike Hemmer for Union Pacific.  
10 MR. BURN: Bob Burn representing NFRA.  
11 MR. FRANK: Winn Frank with the third-party  
12 consultants study group.  
13 MR. McNULTY: Harold McNulty with the  
14 Transportation's Board Section of Environmental Analysis.  
15 MS. WILSON: Paula.  
16 MS. BERKLEY: Paula Berkley, Reno/Sparks Indian  
17 Colony.  
18 MR. SHEARIN: Gui Shearin, third-party  
19 consultant.  
20 THE REPORTER: I'm sorry. I can't hear.  
21 MR. RUBY: Eric Ruby with the environmental team  
22 representing the City of Reno.  
23 THE REPORTER: Thank you.  
24 MS. HENDERSON: Colleen Henderson, the  
25 environmental team.



1 MS. WILSON: Back row.  
2 MS. PUDDINGTON: Monica Puddington, NDOT.  
3 MR. BROWN: Syd Brown, consultant for NDOT.  
4 MS. WILSON: Both of those are with Nevada DOT.  
5 MS. PETERSON: Becky Peterson with Channel 2  
6 News.  
7 MS. WILSON: Thank you.  
8 MR. PARTLOW: Frank Partlow, Northern Nevada  
9 Network.  
10 MS. WILSON: Behind Frank.  
11 MR. HOUTS: Rich Houts, Building Construction  
12 Trades Council of Northern Nevada.  
13 MR. RAFTER: John Rafter, Building Trades.  
14 MS. WILSON: Thank you.  
15 MR. YORK: Harry York, Reno/Sparks Chamber  
16 executive.  
17 MR. ASSELIN: Andy Asselin, Flamingo Hilton.  
18 MS. BURKHART: Nancy Burkhardt, compliance downtown  
19 area.  
20 MS. WILSON: Mr. Ogee.  
21 MR. OGEE: Tom Ogee, Union Pacific Railroad.  
22 MR. HORIUCHI: Wayne Horiuchi with UP.  
23 MS. LINN: Elaine Linn, the Dolphin Group.  
24 MR. NAPIERSKI: Frank Napierski, Napz Drayage,  
25 Reno.

1 MS. WILSON: Okay. A couple of people, gentlemen  
2 just walked in. Welcome to the task force meeting. I'll hand  
3 you some materials, and would you like to introduce yourself.

4 MR. TAUSCH: I'm Jerry Tausch, locomotive engineer  
5 with the Union Pacific.

6 MR. PALETTA: Ron Paletta, same.

7 MS. WILSON: Okay. Great.

8 MR. LANG: My name is Jerry Lang and I'm with the  
9 Union Pacific Railroad.

10 MS. WILSON: Thank you. Okay. What we would like  
11 to do, we have one unusual thing today. We do have a court  
12 reporter with us today so that we can get all the task force  
13 comments down in detail. Her name is Kris..

14 And that probably means we'll need to take about a  
15 three-minute break at two. I don't really want us to leave the  
16 room. Maybe we'll just stretch and chat a minute while she  
17 changes her tape, and it means if we do get to your discussion  
18 time, if you could just give your name initially. You don't  
19 need to give your address and like that, like you would at a  
20 public meeting, just your name so she can try to keep up.

21 We do have some handouts that are being passed  
22 out. They include the agenda. They include -- yes, Merri.

23 MS. BELAUSTEGUI: Before you move on, the City  
24 would like to applaud your efforts for bringing a court  
25 reporter here today, and it would be helpful for all the task

1 force members for you to explain why you diverged from your  
2 policy of never recording task force meetings in the past.

3 MS. WILSON: Okay. The reason that we have a  
4 court reporter here today is that this meeting is specifically  
5 on the Preliminary Mitigation Plan to hear the task force  
6 comments, plus we're having two public meetings for the same  
7 purpose tomorrow, and we just wanted to be able to get the  
8 comments down in as much detail as possible.

9 Let's see. I was talking about the handouts. We  
10 have an agenda. We also have the handouts that Dave and Mac  
11 will be using during their presentation, and then we have a  
12 frequently asked questions, public information sheet that was  
13 prepared by the Section of Environmental Analysis of the  
14 Surface Transportation Board.

15 So with that, I think we will go ahead and get  
16 started. I would like to ask you to hold your questions during  
17 the initial presentation. Mac and Dave would like to get  
18 through their presentation, and then most of the meeting is  
19 devoted to task force discussion. If you've got notes, you can  
20 write them down on the handouts.

21 There's a copy of everything that we're  
22 presenting. There's even a copy -- a few things we probably  
23 won't take time to present. So any questions?

24 Okay. We'll go ahead and get started, and I'll  
25 let Mac start off.



1 MR. McNULTY: Thank you, Kay. Thank you for all  
2 coming here today, and my part is going to be pretty brief from  
3 the outset, just to review a little bit of the Board's  
4 authority here.

5 Most of you know this already, what our position  
6 is. We have the authority to impose conditions on railroad  
7 mergers, but that is not limitless. We have to use a test of  
8 reasonableness, and we can only mitigate those conditions per  
9 those environmental conditions which result from the merger.

10 Specifically here we're talking about the impact  
11 potential from the addition of about 11 trains daily, average  
12 daily; and we are not to address preexisting conditions, that  
13 is, conditions that existed before the merger took place, those  
14 conditions being the result of the development along the track,  
15 hotels, businesses, and so forth.

16 The Board has also said that there are really two  
17 tiers of mitigation we're looking at. Tier one is mitigation  
18 which the Board can impose on the railroad alone and the  
19 railroad would be responsible for funding those conditions.

20 Tier two conditions are much more far reaching and  
21 would require funding on the part of other parties over whom  
22 the Board has no authority, and as well as the railroad, and to  
23 best determine by the negotiation process.

24 These parameters, as it states in here, were set  
25 down in Decision 71 in the merger proceedings by the Board

1 prior to the preparation of the Preliminary Mitigation Plan  
2 that we have with us today. We'll be discussing the authority  
3 of the Board as the presentation continues, have questions on  
4 it. I'll attempt to answer them the best I can.

5 Specifically here the Preliminary Mitigation Plan  
6 identifies the environmental impact solely from the traffic  
7 increases resulting from the merger, and we've tried to  
8 identify actions which either reduce or totally eliminate  
9 potential environmental impacts that I described.

10 Beyond that, we strongly encourage the City, other  
11 interested parties, and the Union Pacific to negotiate  
12 settlement of their own making and get that done as soon as  
13 possible.

14 I don't think I have to review the entire  
15 background of this case, but a couple of words about the Final  
16 Mitigation Plan process.

17 Once the comment period here, the preliminary plan  
18 is completed on October 16th, we'll be taking into  
19 consideration all of those comments here today and the meetings  
20 tomorrow and the written comments sent into us, and revise, if  
21 necessary, our preliminary plan and prepare the Final  
22 Mitigation Plan, which will come out sometime in December. We  
23 don't have a specific date on that because we don't know the  
24 amount of work we're going to be required to put in on it yet.

25 Once that's done, that will be put out for public

1 comment again, and after that comment period is completed,  
2 we'll be receiving or putting all the comments together and  
3 preparing our recommendations to the Surface Transportation  
4 Board members so that they can issue a decision sometime  
5 probably February or March.

6 Merri.

7 MS. BELAUSTEGUI: How many days will we have to  
8 comment after your final plan comes out in December?

9 MR. McNULTY: We're still at ground zero on that.  
10 We'll let you know as soon as we make up our minds on it.

11 MS. BELAUSTEGUI: Well, I might caution you that  
12 if you're putting it out into December, you do have the holiday  
13 period in there, and I would hope you would take that into  
14 serious consideration.

15 MR. McNULTY: That's definitely in our minds.

16 MS. BELAUSTEGUI: Thank you.

17 MS. WILSON: They're not able to hear at all back  
18 here. Is there a way we can turn on the microphone?

19 MR. DEMUTH: See if they're on.

20 MS. WILSON: You can move down closer. You don't  
21 need to sit all the way in the back.

22 MR. GUILD: You can't hear in this row either,  
23 so --

24 MS. WILSON: Come sit over here, Joe. Joe,  
25 there's a chair right here if you want to hear.



1 Can you hear? Go ahead, Dave.

2 MR. McNULTY: I'm basically through. I would  
3 refer you to the map that's included in the packet here which  
4 shows the entire merged Union Pacific/Southern Pacific system,  
5 and that kind of puts things in perspective of what we looked  
6 at initially and what we're down to looking at now.

7 Turn the meeting over now to Dave Mansen.

8 MR. MANSEN: Thank you, Mac.

9 Each of you has received a copy of the Preliminary  
10 Mitigation Plan. What I would like to do is take a few minutes  
11 and try and summarize some of the more salient key points that  
12 we have made in the mitigation plan.

13 And the purpose today is really to get your  
14 comments, but we do want to present to you what we put in the  
15 plan so that we can explain some of the critical elements.

16 Our assignment was to do a focus study of the  
17 impacts of the increased train traffic in the City of Reno and  
18 the surrounding area from the merger, and to do that, we had to  
19 identify what types of traffic, train traffic we would be  
20 looking at.

21 We had Union Pacific look at the freight that they  
22 have been carrying in the past; and they ran a computer model,  
23 simulated model of all of the freight of the area, all of the  
24 freight cars and ran that over the entire 34,000 mile system to  
25 do a projection of the types of traffic that we can anticipate

1 in the City of Reno.

2 That was one of the most extensive analysis that  
3 we're aware of of the train traffic projection. The  
4 third-party independent consultant then reviewed that work and  
5 found that it seemed to be quite reasonable, and we have  
6 presented the results of what we expect in the City of Reno on  
7 this chart. You've seen it before. It's in the Preliminary  
8 Mitigation Plan.

9 I will point out what we're talking about here.  
10 In the year 1995 we had 13.8 trains, 1.1 of which was Amtrak,  
11 so we had 12.7 through freight trains in the year 1995.

12 Based on the modeling that I just mentioned, the  
13 anticipated increase in freight train traffic through the City  
14 of Reno is 11.3 trains. That's an increase of 7.3 trains for  
15 Union Pacific/Southern Pacific, and an anticipated increase of  
16 four trains for Burlington Northern.

17 So our assignment for this Preliminary Mitigation  
18 Plan was to identify mitigation for that increase, for that  
19 11.3 train average daily increase of trains through the City of  
20 Reno.

21 By the way, the overheads are also in your packet  
22 if you follow with me.

23 To evaluate ways to mitigate those impacts, we  
24 looked at a number of mitigation options. The one that we were  
25 proposing as preliminary in the Preliminary Mitigation Plan is

1 increased train speed, and I want to talk a bit about what that  
2 does and why we are recommending that, at least preliminarily.

3 We came to the City of Reno early part of February  
4 and actually for 24 hours a day, seven days, watched the  
5 impacts of the train traffic for that week. That happened to  
6 be a week when they were running additional trains through Reno  
7 because of the flood on the Feather River route, and for that  
8 week we had an average of 20 freight trains daily.

9 That's not quite the anticipated level that we  
10 expect under the merger. It approaches the anticipated level  
11 of all trains for Union Pacific and BNSF is 24 trains.

12 That week we evaluated the relationship between  
13 the train traffic, the street traffic, and the gate down times  
14 for each of the crossings in the City of Reno, and once we  
15 identified that relationship, we were able to evaluate what  
16 types of traffic delays could be anticipated for both  
17 pre-merger conditions and post-merger conditions, and that's  
18 what's on the screen here.

19 Pre-merger delay, 12.7 trains, total delay, this  
20 is one hour equals 30 cars stopped for two minutes or 60 cars  
21 stopped for one minute, however you want to evaluate that.

22 For the 16 crossings in the City of Reno, the  
23 pre-merger traffic delay is anticipated -- or was actually 189  
24 hours. With the increase to 24 freight trains per day, that  
25 increases to 373 hours.



1           And if you increase the train speeds by ten miles  
2   an hour, and what we did is increase the observed trains that  
3   we saw by ten miles an hour. For example, if we saw a train  
4   going four miles an hour, we assumed it was going 14. If we  
5   saw a train going 18 miles an hour, we assumed it would go 28.

6           So we took a conservative approach to evaluate the  
7   increased train speeds, and by increasing each train ten miles  
8   an hour in speed, we reduced the traffic delay to less than  
9   pre-merger levels. We reduce traffic delays by 219 hours, and  
10   that is 35 hours less than the pre-merger level.

11           As a result, we also reduced to the low pre-merger  
12   levels the emissions from the idling traffic vehicles at the 13  
13   crosses.

14           One of the advantages of this increased train  
15   speed is that we get the reduction in traffic delay at multiple  
16   locations, and I'll talk a bit more about that later, but for  
17   the area that we're looking at, you actually get a reduced  
18   traffic delay at 13 crossings rather than just one or two.

19           It also provides some reduction in some of the  
20   major downtown streets where grade separations do not appear to  
21   be practical due to the land considerations, the property that  
22   needs to be taken.

23           Although our analysis was conservative, although  
24   we said we're only assuming a ten-mile-per-hour increase, the  
25   Surface Transportation Board at this point is proposing that

1 all trains be required to travel at 30 miles an hour through  
2 this area, subject to the conditions of safety, and we'll talk  
3 a bit about that.

4 I want to talk a little bit about the increased  
5 train speed and how that relates to safety in the City of  
6 Reno. The Federal Railroad Administration has a formula for  
7 predicting accidents, and if you have adequate warning devices  
8 at your crossing, speed is not included in that formula.

9 So what essentially the Federal Railroad  
10 Administration is saying is if you have flashing lights and  
11 gates, that the speed of the train does not affect the number  
12 of accidents that occur. It does affect severity, and we'll  
13 talk about that in a minute.

14 One other point I want to make is there is a  
15 Federal Railroad Administration regulation that requires a  
16 minimum warning of 20 seconds in advance of the train coming  
17 into the crossing, and that is regardless of whatever speed the  
18 train is going. So even in areas where -- in rural areas where  
19 it's traveling much faster speeds, there has to be a 20-second  
20 warning, at least.

21 We recognize there is a major interest, concern  
22 for the safety of the citizens of Reno, and we have added some  
23 additional mitigation regarding safety that will enter into it.

24 Another option that we looked at that the Board  
25 directed us to look at was grade separations. We did not

1 recommend any grade separations, and I want to explain the  
2 reasons that we didn't.

3 For one thing, as I mentioned earlier, we get  
4 reduced traffic delay at multiple locations with the increased  
5 train speed. If you were to take a given grade separation and  
6 put it in place, you don't get anywhere near the reduction in  
7 traffic delay that you would get from the increased train  
8 speed.

9 I put one up here to show you, for example, you  
10 built -- and this, by the way, is the most effective of the  
11 grade separations in terms of reducing -- in fact, it's the  
12 highest traffic, too, the one at Keystone.

13 If we were to put a grade separation in at  
14 Keystone, we would get 79 hours of reduction at that crossing.  
15 That's about one-third of the reduction in delay that we get  
16 from increasing the train speeds.

17 In fact, for all of the grade separations that we  
18 looked at, we looked at all of the possible locations, we  
19 actually designed grade separations for seven locations because  
20 we felt they were the most possible locations as a result of  
21 the high traffic and the land uses surrounding the locations.

22 If you were to take the delay reduction from all  
23 seven of those, you still do not get the level of reduction  
24 that you get from increasing the train speeds.

25 MR. DEMUTH: But do you get below pre-merger?



1 MR. MANSEN: No. Let me check that, Mark. I  
2 don't know.

3 The other reason that we did not recommend a grade  
4 separation is the property impacts that are associated with  
5 each and every one of these. The most effective one I  
6 mentioned earlier was Keystone.

7 Keystone has, as you can see, 23 properties that  
8 would be affected by a grade separation. It would also in this  
9 case require actually relocating Fourth Street, because Fourth  
10 Street is too close to the rail line to actually put a grade  
11 separation in.

12 The next option that we looked at is one that is  
13 highly -- Olivia -- is clearly highly effective. The City has  
14 shown a great deal of interest and support for the depressed  
15 railway.

16 We did not recommend a depressed railway as a  
17 Union Pacific mandated mitigation only because it goes beyond  
18 the impacts of the merger. It mitigates not only the impacts  
19 of the merger, but preexisting conditions, and therefore, goes  
20 beyond the authority of the Board to mandate that Union Pacific  
21 pay for the entire depressed train way. It involves major  
22 cost. It does have adverse construction impacts.

23 As Charles McNulty was saying a bit ago, we  
24 certainly encourage negotiations to continue on this particular  
25 option because it is highly effective in mitigating not only

1 the existing -- not only the merger impacts but preexisting  
2 impacts.

3 Two other options that we discussed on occasion in  
4 the task force, the I-80 bypass. Again, well beyond the  
5 jurisdiction of the Board. As I understand it, the City  
6 Council is still interested in that one, but that would require  
7 a separate application to the Surface Transportation Board, and  
8 it's well beyond the jurisdiction of the Board to mandate.

9 Elevated railway we discussed briefly, but there  
10 was -- at least the Downtown Business Association expressed  
11 their dislike for that because of the visual barrier that it  
12 creates. It divides the city. There was concern of possible  
13 derailments, and there would be some existing structures over  
14 the track that would need to be removed for that option.

15 To look at each of these mitigations, we studied  
16 seven subject areas -- or 11 subject areas, and we've had this  
17 list in front of you before, and evaluated each of those  
18 subject areas and I'd like to go through those fairly quickly.

19 The traffic delay, as I mentioned earlier, the  
20 calculations were based on actual observed conditions here in  
21 the City of Reno. We used the City of Reno traffic numbers for  
22 the year 2,000 when they were available, and in most cases they  
23 were available. At times for some of the outlying crossings we  
24 had to use FRA traffic data, but I've gone through these  
25 numbers.

1 Pre-merger traffic delay, 189 hours. The average  
2 delay per vehicle, this is per vehicle that is stopped by a  
3 train, 2.30 minutes. About two minutes. Under the  
4 post-merger, the average delay is a little over two minutes.

5 If you increase the train speed, that average  
6 delay is -- per vehicle is reduced to about one and one quarter  
7 minutes, 1.27 minutes, and the delay, as I mentioned earlier,  
8 is less than pre-merger levels.

9 The post-mitigation of 30 miles per hour is a  
10 reasonable speed for the City of Reno. There has been concern  
11 expressed about safety associated with increased train speeds,  
12 and we took a very hard look at that issue.

13 Over the past 25 years there have been four  
14 fatalities, one of them this weekend, this last weekend, and  
15 two injuries in the City of Reno.

16 The City has noted that there are problems with  
17 large crowds for the special events, Hot August Nights and so  
18 on.

19 What we are proposing to require Union Pacific is  
20 construction of two straight pedestrian grade separations,  
21 overcrossings or undercrossings at two locations, and those two  
22 locations, based on our data, are the highest pedestrian areas  
23 in the City of Reno, and that's Sierra Street and Virginia  
24 Street.

25 In addition -- well, let me back up a bit. A good



1 way to prevent accidents, to the extent possible, is to try and  
2 warn people and keep them off of the right-of-way, and we have  
3 put a number of mitigation measures into here to do exactly  
4 that, either grade separations, pedestrian walkways, or give  
5 them additional warning and advice that will prevent them from  
6 driving around gates, and I'll talk about each of those as we  
7 get to them.

8               Proposing grade separations at Sierra and Virginia  
9 Street, proposing that we put signs for pedestrians at six  
10 locations, warning them if a train is coming, electronic  
11 signs. Also additional skirts on the pedestrian gate to offer  
12 incentives for pedestrians not to dive under the gates, which  
13 you all observed as you were looking at videotapes and as we  
14 were looking at the videotapes.

15               Downtown employee training program, and I  
16 remention the fact that there's a warning not only for  
17 vehicles, but for pedestrians of 20 seconds required. As I  
18 understand it, Union Pacific actually provides a little more  
19 than 20 seconds in the City of Reno today. There is fencing  
20 along the right-of-way in downtown Reno. Olivia.

21               This is out of the report. I wanted to show you a  
22 summary again of some of the delay statistics, in particular  
23 point out the 189 pre-merger and 373 post-merger increased  
24 train speed, 154. The average delay per vehicle, one point --  
25 almost two minutes pre-merger, 2.01 post-merger, and the

1 reduction in delay with the increased train speeds of one and  
2 one quarter minutes.

3 The number of vehicles stopped does increase. It  
4 goes from 5,740 to 11,130 post-merger, and it's actually higher  
5 than post-merger -- higher than pre-merger, but because of the  
6 reduction in delay time, the overall delay is less. Those  
7 statistics are --

8 Health and safety is a critical concern to us, and  
9 we saw last night that it's again a critical concern for the  
10 City of Reno. A couple of points about that. One is there are  
11 emergency service facilities on both sides of the tracks.

12 The total gate down time for the 16 grade  
13 crossings will increase under the post-merger train levels.  
14 The average gate down time per train is 3.4 minutes for both  
15 the pre- and post-merger. But if we increase that -- if we  
16 increase the train speed, the average gate down time is 2.28  
17 minutes.

18 Now, I want to talk about the 2.28 minutes for a  
19 second. If you multiply -- now, this is at one location. This  
20 is the average per train. If you multiply the 2.28 minutes  
21 times the number of trains and divide that by the number of  
22 minutes in the day, we're talking about a gate down time a  
23 little less than 4 percent.

24 Let me restate that. The gate will be down at any  
25 given location in the City of Reno less than 4 percent over the