

SURFACE TRANSPORTATION BOARD ISSUES DECISION CLARIFYING "BURLINGTON NORTHERN-SANTA FE" RAILROAD'S RIGHT TO SERVE THE HALSTED, TX, FACILITY OF THE LOWER COLORADO RIVER AUTHORITY

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PUBLIC & MEDIA ADVISORY:
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THE LOWER COLORADO RIVER AUTHORITY

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a decision clarifying the extent of the trackage rights acquired in 1996 by The Burlington Northern and Santa Fe Railway Company (BNSF) in connection with the Board's approval of the merger of the railroads controlled by the Union Pacific Corporation and its subsidiaries Union Pacific Railroad Company and Missouri Pacific Railroad Company. and the Southern Pacific Rail Corporation and its subsidiaries. Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and the Denver & Rio Grande Western Railroad Company. In its August 1996 decision, the Board granted approval of the UP-SP merger Prior to common control, the Union Pacific Railroad Company and Missouri Pacific Railroad Company were known as the "UP" rail carriers. The Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company were known as the "SP" rail carriers. subject to a number of conditions intended to alleviate certain anticompetitive impacts that would have occurred without the imposition of those conditions. The conditions included the grant to BNSF of extensive trackage rights over the new UP-SP system. Included among the trackage rights granted to BNSF were trackage rights intended to allow BNSF to operate coal trains to the Fayette Power Project, a coal-fired power station at Halsted, Texas, that is jointly owned by the Lower Colorado River Authority and the City of Austin, TX (collectively, LCRA/Austin). The Halsted plant burns coal mined in the Powder River Basin of Wyoming and, for many years, the coal has been transported by UP under a LCRA/Austin-UP contract. Recently, a dispute arose concerning the effective date of BNSF's trackage rights with respect to rail service to the Halsted plant. BNSF and LCRA/Austin argued that the trackage rights became effective on September 11, 1996, the effective date of the UP-SP merger. UP maintained, however, that these trackage rights were not effective on that date, and that they would not become effective until the future date on which the present LCRA/Austin-UP contract expired. In the decision released today, the Board ruled that BNSF's

trackage rights with respect to the Halsted plant had indeed become effective on September 11, 1996. Relying on the plain language of the trackage rights condition, the Board rejected UP's argument that, with respect to the Halsted plant, BNSF's trackage rights were intended to have a delayed effective date.

The practical effect of the Board's decision is that it will allow LCRA/Austin to tender to BNSF, and it will allow BNSF to transport, the portion of LCRA/Austin's coal receipts not committed to UP under the present LCRA/Austin-UP contract. The effect of the Board's decision will be experienced almost immediately, because BNSF, acting to fulfill its obligations under a new LCRA/Austin-BNSF contract, has indicated that a train loaded with coal for the Halsted plant is scheduled to depart from the Powder River Basin on or about August 15, 1997.

The Board issued its decision in the case entitled Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company--Control and Merger--Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company, Finance Docket No. 32760, Decision No. 73, on August 14, 1997.

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