

SURFACE TRANSPORTATION BOARD ISSUES DECISION ENDING 3RD ANNUAL ROUND OF "UNION PACIFIC/SOUTHERN PACIFIC" GENERAL OVERSIGHT PROCEEDING

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a decision discussing the issues raised and the conclusions reached in the third annual round of the "UP/SP" general oversight proceeding.

Background. In a decision issued in August 1996, the Board approved the merger of the Union Pacific (UP) and Southern Pacific (SP) railroads. To remedy potential competitive problems, the Board imposed numerous conditions addressing the competitive harm that the merger would otherwise have produced. The key competitive condition required UP to grant extensive trackage rights to The Burlington Northern and Santa Fe Railway Company (BNSF). In addition to specific mitigation measures, one of the conditions provided for a 5-year oversight process focusing on whether the conditions have effectively addressed the competitive issues they were intended to remedy. To facilitate oversight, the Board directed UP and BNSF to file extensive quarterly reports.

Today's Decision. In the decision issued today, the Board addressed the reports filed July 1, 1999, by UP and BNSF, and the comments filed August 16, 1999, by the United States Department of Transportation (DOT), The National Industrial Transportation League (NITL), and the California Public Utilities Commission (CPUC), and the replies filed by UP and BNSF.

The Board announced that these filings reflect that the 1997-1998 UP service crisis is over, that the UP/SP merger is producing benefits for the shipping public and that, to date, the merger has generated no competitive problems. The Board indicated that it agreed with DOT's assessment (an assessment shared by NITL) that "[r]ail service appears to have returned to normal levels," that "competition between BNSF and UP/SP still seems to be vigorous," that "[i]mplementation of the merger thus appears to be proceeding satisfactorily," and that "it is not now necessary to revisit the conditions imposed by the STB."

Unlike prior UP/SP oversight decisions, which addressed issues raised by numerous parties [FOOTNOTE 1: See Surface Transportation Board "News" release No. 97-89, issued October 27, 1997, and No. 98-83, issued December 21, 1998], today's decision addressed issues raised by only two parties--BNSF and CPUC. As to the issues raised by BNSF, the Board concluded that these issues involved issue-specific disputes that BNSF and UP should be able to resolve on their own, on a case by case basis, without the Board's intervention. As to the issues raised by CPUC, the Board concluded: (1) that the merger has not had an adverse impact in the Interstate 5 corridor; (2) that the merger has not had an adverse impact relative to rail operations at the Calexico/Mexicali border crossing; and (3) that, in the Central Corridor, pre-merger UP versus SP competition has been effectively replicated by post-merger UP versus BNSF competition.

The Board's decision today, November 30, 1999, was issued in *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 [General Oversight]*, STB Finance Docket No. 32760 (Sub-No. 21), Decision No. 15.

A printed copy of today's decision is available for a fee by contacting: **D.C. News & Data, Inc., Room 210, 1925 K Street, N.W., Washington, DC 20006, telephone (202) 463-8112.** Today's decision is also available for viewing and

downloading via the Board's website at www.stb.dot.gov.

###