

**SURFACE TRANSPORTATION BOARD EXTENDS SERVICE ORDER FOR EMERGENCY  
IN THE WEST, EXPANDS RELIEF IN HOUSTON, REQUIRES UP/SP AND BNSF TO  
PRIORITIZE GRAIN TRAFFIC, DIRECTS MORE SPECIFIC DATA FILINGS**

Surface Transportation Board (Board) Chairman Linda J. Morgan and Vice Chairman Gus A. Owen announced today that the Board has extended, until March 15, 1998, the emergency service order that, among other things, permitted the Texas Mexican Railway (Tex Mex) to handle traffic of the Union Pacific Railroad Company/Southern Pacific Transportation Company (UP/SP) in Houston as a means to help mitigate the rail service problems in the western United States. The Board also modified the service order in a variety of respects to help facilitate the service recovery effort.

In first issuing the service order five weeks ago, the Board found that there is a transportation emergency that has had substantial adverse effects on shippers and on rail service in a broad region of the United States. See "Surface Transportation Board News" release No. 97-92, issued October 31, 1997. In its decision issued late yesterday, one day after an oral hearing at which railroads, shippers, labor, and government agencies testified, the Board found that, while service is showing signs of improvement, the service recovery to date is not broad enough in scope. Accordingly, the Board concluded that its further involvement was necessary and appropriate.

Yesterday's order built on the remedies adopted in the original service order, and sought to advance the objective that the Board has followed throughout the emergency in the West: that of facilitating the service recovery, in a timely manner, without substantially impeding UP/SP's own recovery efforts and without unduly taxing, to the detriment of shippers, the resources of other carriers that have their own capacity limitations. The Board noted in yesterday's order that some of the remedies that it decided not to adopt would have overreached, or would not have facilitated the resolution of the emergency, and that some could not have been lawfully prescribed in this case because they represent long-term proposals directed at competitive issues rather than short-term solutions to the current service emergency. The Board stated: "Our choice of remedies reflects our view that government cannot, as a general rule, operate private businesses as well as private businesses can operate themselves and that government should promote appropriate private-sector initiatives and private-sector solutions to problems among private parties, but that government must intervene in a focused and constructive way if and to the extent necessary to resolve a given problem."

After directing all of the Nation's railroads to cooperate and assist in the service recovery effort, the Board imposed specific additional remedies. The Board found that focusing its remedies on particularly congested geographic areas and particular commodity groups that have been adversely affected would be the best way to assure improvements that would most quickly improve service throughout the West. The Board stressed that its remedies were designed to ensure

that the service recovery effort would not disadvantage one commodity group or one geographic area in favor of another.

Some of the particular remedies that the Board imposed included the following:

1. Texas. Complementing the relief provided in the initial service order allowing Houston shippers access to Tex Mex service, the Board directed UP/SP to release fully from their contracts all shippers in the Houston switching district so that they could route traffic over The Burlington Northern and Santa Fe Railway Company (BNSF) in addition to either UP/SP or Tex Mex. The Board found that this action would provide an additional means to clear out traffic in the Houston area, which continues to be congested. To assure that other carriers in the Houston area are in a position to have input into decisions about the movement of trains, the Board also directed UP/SP to permit representatives of BNSF and Tex Mex full access to UP/SP's Spring, TX, dispatching facility as neutral observers.

2. Agricultural Prioritization. Based on testimony by shippers and by the United States Department of Agriculture in the Board's proceeding and in recent Congressional hearings, the Board found that rail service to agricultural shippers by both UP/SP and BNSF is inadequate. Noting that there is a lot of grain on the ground that is at risk of spoiling, and that there appears to have been no clear prioritization among grain shipments to ensure that those grain stocks that need to move first in fact receive priority service, the Board directed both UP/SP and BNSF to meet with appropriate agricultural representatives and, within one week, submit plans establishing priorities for the shipping of grain. The Board stressed that, by requiring prioritization within the universe of agricultural shipments, it did not mean to suggest that either UP/SP or BNSF may shortchange the agricultural community in general in favor of service to other shippers.

3. More Specific Data Reporting. Largely in response to suggestions from participants in the proceeding, particularly coal interests and the California Public Utilities Commission, the Board required that, in addition to the substantial informational reports already being submitted, UP/SP prepare more focused reports. The enhanced reports, which should help the Board to evaluate the progress of the service recovery, require that information be broken out more specifically, and that it be broken out as to particular problem areas.

4. Carrier Cooperation. Consistent with its general admonition to the railroad industry to cooperate to solve the problems in the West, the Board identified several specific areas in which agreement among carriers might produce benefits. It directed UP/SP to follow through on commitments made before the Board regarding assistance from other carriers, and to report back to the Board, within one week, on other arrangements that could further facilitate the service recovery.

5. Duration of the Service Order. Finally, the Board noted that, at the hearing, UP/SP had argued that, if the Board extended the service order, at most, a 30-day extension would be appropriate; some of the shippers, by contrast, had argued that a full 240-day extension -- the maximum extension of an emergency order allowed by law -- is needed. The Board concluded that the most appropriate extension

would be between those two extremes, or until March 15, 1998. An extension of this duration, the Board found, would address the concerns expressed by shippers that they were unable to take advantage of new access to other carriers because the 30-day effective period of the original service order -- the maximum time initially allowable under the law -- was too short a period during which to make alternative arrangements. Given the level of progress made to date in addressing the rail crisis in the West, the Board concluded that an extension until March 15 should provide enough time for necessary service improvements to be realized.

The Board's decision, to which Chairman Morgan appended a separate commenting expression, was issued yesterday in the case entitled *Joint Petition For Service Order*, **Supplemental Order No. 1 to STB Service Order No. 1518**.

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