

FD-30400

(F)

J

MR. LOUIS E. GITOMAR  
DEPUTY DIRECTOR, OFFICE OF PROCEEDINGS, RAIL SECTION  
INTERSTATE COMMERCE COMMISSION 12TH AND CONSTITUTION, N.W.  
ICC WSH

NOVEMBER 3, 1983

MR. LOUIS E. GITOMAR  
DEPUTY DIRECTOR,  
OFFICE OF PROCEEDINGS -- RAIL SECTION  
INTERSTATE COMMERCE COMMISSION  
12TH AND CONSTITUTION, N.W.  
WASHINGTON, DC 20423

*F.D. 3040*

IN  
COMMER  
P  
NOV  
ADMINISTR  
MAIL

A RECENT WALL STREET JOURNAL ARTICLE CONCERNING THE PROPOSED SP/SANTA FE MERGER STATED THEIR INTENTION TO CREATE A VOTING TRUST FOR STOCK OF SP RAIL AND TRUCK SUBSIDIARIES. SUCH ACTION COULD BE EXTREMELY DETRIMENTAL TO THE SHIPPING PUBLIC IF SUCH A VOTING TRUST WERE ESTABLISHED WITHOUT A PUBLIC HEARING TO ADDRESS THE POTENTIAL DAMAGING EFFECTS. WE ARE CONCERNED THAT APPROVAL OF A VOTING TRUST WOULD BE TANTAMOUNT TO APPROVING THE MERGER APPLICATION WITHOUT PUBLIC INPUT INTO THE DECISION. THE COMMISSION SHOULD NOT APPROVE SUCH A VOTING TRUST WITHOUT A HEARING ON THE EFFECTS ON THE PUBLIC AND SHIPPING INTERESTS.

WE STRONGLY URGE THE COMMISSION TO HAVE A PUBLIC HEARING PRIOR TO ANY CONSIDERATION OF A VOTING TRUST FOR THE STOCK OF SP RAIL AND TRUCK SUBSIDIARIES.

SIGNED,

DAVID L. WILLIAMS  
GENERAL MANAGER/DISTRIBUTION  
UNIMOV CORPORATION  
50 LOCUST AVENUE  
NEW CANAAN, CT 06840  
(203) 966-8888  
TELEX: 996355

ICC WSH

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INTERSTATE  
COMMERCE COMMISSION  
DIVISION

NOV 3 1983

ADMINISTRATIVE SERVICES  
MAIL UNIT

1-008735A307 11/03/83

WSH  
1-83 1217P EST  
CC WSH

*F.D. 30400*

11/03/83  
CSP

TDBN DENVER CO 133 11-03 1209P EST  
TOMER, DEPUTY DIRECTOR RAIL SECTION-INTERSTATE COMMERCE  
APT DLY MG, DLR ASAP RUSH, DLR  
STITUTION NORTHWEST  
C 20423

AND IN THE OCTOBER 28 WALL STREET JOURNAL AN ARTICLE ON THE SP/SANTA FE MERGER, IT STATED THAT THE SP WOULD BE PLACING FOR ITS RAILROAD AND TRUCKING SUBSIDIARIES INTO A VOTING

VIEW. THIS ACTION IS PARTICULARLY ANTI-COMPETITIVE AND WE BELIEVE THAT APPROVAL OF A VOTING TRUST BY THE ICC WOULD AMOUNT TO APPROVAL OF THE MERGER APPLICATION WITHOUT ANY PUBLIC INPUT ON THE MERGER. WE DON'T BELIEVE THE ICC SHOULD APPROVE A VOTING TRUST WITHOUT A HEARING ON THE EFFECTS OF SUCH A VOTING TRUST ON SHIPPING

WE STRONGLY URGE THE ICC TO HOLD A PUBLIC HEARING PRIOR TO ANY CONSIDERATION OF A VOTING TRUST OF THE SP AND SANTA FE MERGER.

DIR, COMM. OF PURCHASING & TRANSPORTATION, ROCKWELL

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MR R  
TH CHEMOO KOCK  
MR REESE H TAYLOR  
CHAIRMAN  
INTERSTATE COMMERCE COMMISSION

LOUIS E GITOMER  
DEPARTMENT DIST RAIL SERVICE  
INTERSTATE COMMERCE COMMISSION  
11/3/83

I READ LAST WEEKS WALL STREET JOURNAL ARTICLE CONCERNING THE SOUTHERN PACIFIC-SANTA FE MERGER WITH SOME ALARM. IT APPEARS THE ESTABLISHMENT OF A VOTING TRUST FOR A SOUTHERN PACIFIC RAIL AND TRUCKING SUBSIDIARY STOCK COULD HOLD POTENTIAL FOR AN ANTI-COMPETATIVE IMPACT. I'M CONCERNED THAT THE VOTING TRUST APPROVAL WILL AMOUNT TO THE APPROVAL OF THE MERGER APPLICATION WITHOUT ANY PUBLIC INPUT. WE BELIEVE THE ICC SHOULD HOLD A HEARING ON THE EFFECTS OF THIS VOTING TRUST AND SHOULD NOT APPROVE PRIOR TO A PUBLIC HEARING.

GEORGE COULAS  
THOMPSON-HAYWARD CHEMICAL COMPANY  
5200 SPEAKER ROAD  
KANSAS CITY, KS 66106

F.D. 30400

INTERSTATE  
COMMERCE COMMISSION  
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NOV 3 1983  
ADMINISTRATIVE SERVICES  
MAIL UNIT



DENTON JOHNSTON, CHAIRMAN OF THE  
PO BOX 9310  
KANSAS CITY MO 64133 03AM

Western  
Union Mailgram



4-0069876307 11/03/83 ICS IPMBNGZ CSP WSHB  
8163562880 MGM TDBN KANSAS CITY MO 99 11-03 1000A EST

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LEWIS E GITOMER, DEPUTY DIRECTOR RAIL SERVICE  
12TH & CONSTITUTION AVE NW  
WASHINGTON DC 20423

IN READING LAST WEEKS WALL STREET JOURNAL REGARDING VOTING TRUSTS IN CONNECTION WITH SP-ATSE MERGER, WE ARE DEEPLY CONCERNED AS TO THE IMPACT CONCERNING SHIPPERS AND RECEIVERS. IT IS OUR BELIEF THE ICC SHOULD HOLD PUBLIC HEARING BEFORE APPROVAL OF A VOTING TRUST. THE UNDERSIGNED IS RESPONSIBLE FOR TRANSPORTATION CHARGES IN EXCESS OF 36 MILLION PER YEAR AND WE FEEL OUR CUSTOMERS WOULD BE JEOPARDIZED WITHOUT INPUT OF PUBLIC HEARING.

DENTON JOHNSTON, CHAIRMAN OF THE BOARD--ACME-CLAREDEN, INC  
PO BOX 9310  
KANSAS CITY MO 64133

10:00 EST

MGMCOMP

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WJ INFOMASTER 1-008044A30R 11/04/83  
ICS IPMWGWC WSH  
ZCZC 03611 11-04 1131A SST  
TLX 892742 ICC WSH  
BT

4-0165725308 11/04/83  
ICS IPM6NGZ CSP

4052246350 TDBN CHICKASHA OK 113 11-04 1137A EST  
PMS MR LEWIS GITOMER, DEPUTY DIRECTOR RAIL SECTION ICC RPT DLY MGM, D  
LR

12TH AND CONSTITUTION NORTHWEST  
WASHINGTON DC 20423

I READ LAST WEEKS WALL STREET JOURNAL'S ARTICLE ON PROPOSED SP AND  
ATSF MERGER AND ACCORDING TO ARTICLE THEY WILL BE CREATING A VOTING  
TRUST FOR STOCK OF SP RAIL AND TRUCKING SUBSIDIARIES. AS A SMALL  
ELEVATOR, I SEE THE POTENTIAL FOR ANTICOMPETITIVE PRACTICES WOULD BE  
EXTREMELY GREAT, AS A RESULT OF A VOTING TRUST. I AM CONCERNED THAT  
APPROVAL OF A VOTING TRUST WOULD AMOUNT TO APPROVAL OF THE MERGER  
APPLICATION WITHOUT ANY PUBLIC INPUT INTO THE DECISION. I DON'T  
BELIEVE THE ICC SHOULD APPROVE VOTING TRUST WITHOUT A HEARING TO  
PROTECT THE PUBLIC AND SHIPPING INTERESTS. I REQUEST THE ICC HAVE A  
HEARING PRIOR TO ANY CONSIDERATION OF A VOTING TRUST.

LEON POAG, PRESIDENT POAG GRAIN INC.  
100 NORTH CHOCTAW  
CHICKASHA OK 73018

1148 EST

NNNN  
1210 EST

ICC WSH

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ICC WSH

WJ INFOMASTER 1-013153A308 11/04/83

ICS IPMWGWC WSH

ZCZC 06131 11-04 0303P EST

TLX 892742 ICC WSH

BT

4-0354575308 11/04/83

ICS IPMBNGZ CSP

4058537104 NL TDBN HENNESSEY OK 112 11-04 0250P EST

PMS LOUIS GITMER DEPUTY DIRECTOR RAIL SECTION ICC RPT DLY MGM, DLR, D

LX

12TH & CONSTITUTION NW

WASHINGTON DC

ACCORDING TO A WALL STREET JOURNAL ARTICLE IN REGARD TO A PROPOSED S & P AND ATSF MERGE IT APPEARS THAT A VOTING TRUST FOR S & P RAIL AND TRUCKING SUBSIDIARY WOULD BE CREATED AS A SMALL COUNTRY ELEVATOR OPERATOR I FEEL THE THREAT OF AN ANTI-COMPETITIVE PRACTICE WOULD BE VERY GREAT IF THIS ALLOWED TO HAPPEN IT WOULD SEEM THAT SUCH A TRUST WOULD MEAN AN AUTOMATIC APPROVAL FOR THE MERGED APPLICATION I DON'T BELIEVE THE ICC SHOULD APPROVE SUCH A MEASURE WITHOUT HOLDING A HEARING FOR COMMENT FROM THE PUBLIC AND SHIPPING INTEREST THEREFORE I REQUEST SUCH HEARING PRIOR TO ANY CONSIDERATION BEING GIVEN TO THE VOTING TRUST SINCERELY

RON BARNETT FARMERS ELEVATOR AND COOP ASSOCIATION HENNESSEY OK

PO BOX 278

HENNESSEY OK 73742

1503 EST

NNNN

1512 EST

ICC WSH

INDUSTRIAL  
COMMERCE COMMISSION

NOV 4 1983

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ZCZC 08411 11-04 0559P EST  
TLX 892742 ICC WSH  
BT

4-0545145308 11/04/83  
ICS IPMBNGZ CSP

4052823900 NL TDBN GUTHRIE OK 26 11-04 0558P EST  
RMS MR. LOUIS GITOMER INTERSTATE COMMERCE COMMISSION, CLR  
12 AND CONSTITUTION NORTHWEST  
WASHINGTON DC 20423

I REQUEST THE C TO HAVE A HEARING PRIOR TO APPROVAL OF A VOTING  
TRUST WHICH COULD ALLOW THE SP-ATSF MERGER WITHOUT HAVING A PUBLIC  
HEARING

LINN CHEATHAM LOGAN COUNTY FARM ENTERPRISES 500 WEST VILAS GUTHRIE  
OK 73044

1759 EST

NNNN  
1803 EST  
+  
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SOUTHERN HARDWOOD TRAFFIC ASSN  
COMMERCE TITLE BLDG SUITE 1000  
MEMPHIS TN 38104 04AM

Western Union Mailgram



1-018234A308 11/04/83 ICS IPMMGE& MFS WSHA  
01022 MGM MEMPHIS TN 25 11-04

*FD-30400*

MR. LOUIS E GITOMER, DEPUTY DIRECTOR  
INTERSTATE COMMERCE COMMISSION RAIL SECTION  
12TH & CONSTITUTION AVE NW RM 5417  
WASHINGTON DC 20423

INTERSTATE  
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NOV 7 1983

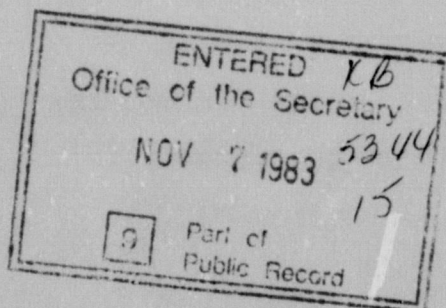
ADMINISTRATIVE SERVICES  
MAIL UNIT

RE: MERGER PROCEEDINGS OF SANTA FE INDUSTRIES AND SOUTHERN  
PACIFIC COMPANY. URGENTLY REQUEST A PUBLIC HEARING BE  
ORDERED THAT ALL INTERESTED PARTIES MAY BE HEARD.

PAUL G MCQUISTON, SOUTHERN HARDWOOD TRAFFIC ASSN

18:13 EST

MGMCOMP



FARMERS GRAIN COMPANY  
BOX 466  
POND CREEK OK 73766 05AM

Western Union Mailgram®



4-0087148309 11/05/83 ICS IPMBNGZ CSP WSHB  
4055324273 MGM TDBN POND CREEK OK 136 11-05 1048A EST

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INTERSTATE  
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ADMINISTRATIVE SERVICES  
MAIL UNIT

LEWIS GETOMER  
DEPUTY DIRECTOR RAIL SECTION ICC  
12 & CONSTITUTION NORTHWEST  
WASHINGTON DC 20423

ACCORDING TO LAST WEEKS' WALL STREET JOURNALS' ARTICLE ON PROPOSED S P AND SANTA FE MERGER THEY WILL BE CREATING A VOTING TRUST FOR STOCK OF S P RAIL AND TRUCKING SUBSIDIARIES. BEING A COUNTRY ELEVATOR, I THINK THE POTENTIAL FOR ANTICOMPETITIVE PRACTICES WOULD BE EXTREMELY GREAT AS A RESULT OF A VOTING TRUST. I AM CONCERNED THAT APPROVAL OF A VOTING TRUST WOULD AMOUNT TO APPROVAL OF THE MERGER APPLICATION WITHOUT ANY PUBLIC INPUT INTO THE DECISION. I DON'T BELIEVE THE ICC SHOULD APPROVE VOTING TRUST WITHOUT A HEARING TO PROTECT THE PUBLIC AND SHIPPING INTEREST. I REQUEST THE ICC HAVE A HEARING PRIOR TO ANY CONSIDERATION OF A VOTING TRUST.

RICHARD HUMPHREYS, GENERAL MANAGER, FARMERS GRAIN COMPANY, POND CREEK, OKLAHOMA

10:50 EST

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5241 (R 7/82)



INTERSTATE METALS CORP LF  
BOX 24063  
OKLAHOMA CITY OK 73124 04AM

Western Union Mailgram



4-0478249308 11/04/83 ICS IPMBNGZ CSP WSHB  
4052352424 MGM TDBN OKLAHOMA CITY OK 136 11-04 0446P EST

FD 30400

LOUIS GITOMER  
RAIL SECTION INTERSTATE COMMERCE COMMISSION  
12 AND CONSTITUTION NORTHWEST  
WASHINGTON DC 20423

INTERSTATE  
COMMERCE COMMISSION  
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NOV 7 1983

ADMINISTRATIVE SERVICES  
MAIL UNIT

I READ LAST WEEK'S WALL STREET JOURNAL ARTICLE ON THE PROPOSED SP-ATSF MERGER AND ACCORDING TO THE ARTICLE THEY WILL BE CREATING A VOTING TRUST FOR STOCK OF SP RAIL AND TRUCKING SUBSIDIARIES. BEING A SMALL RAIL SHIPPER I SEE THAT THE POTENTIAL FOR ANTI-COMPETITIVE PRACTICES WOULD BE EXTREMELY GREAT AS THE RESULT OF A VOTING TRUST. I AM CONCERNED THAT APPROVAL OF A VOTING TRUST WOULD AMOUNT TO APPROVAL OF THE MERGER APPLICATION WITHOUT ANY PUBLIC INPUT INTO THE DECISION. I DON'T BELIEVE THE ICC SHOULD APPROVE OF A VOTING TRUST WITHOUT A HEARING TO PROTECT THE PUBLIC'S AND SHIPPING'S INTEREST. I REQUEST THE ICC HAVE A HEARING PRIOR TO ANY CONSIDERATION OF A VOTING TRUST.  
LEON GALOUB INTERSTATE METALS CORP PRESIDENT

16:47 EST

MGMCOMP

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Office of the Secretary  
NOV 7 1983 *5344*  
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FARMERS ELEVATOR INC MT  
BOX 280  
TEMPLE OK 73568 04AM

Western Union Mailgram



4-0135148308 11/04/83 ICS IPMBNGZ CSP WSHB  
4053425026 MGM TDBN TEMPLE OK 141 11-04 1102A EST

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LEWIS GITOMER  
DEPUTY DIR RAIL SECTION ICC  
12 AND CONSTITUTION NORTHWEST  
WASHINGTON DC 20423

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ADMINISTRATIVE SERVICES  
MAIL UNIT

I READ LAST WEEKS WALL STREET JOURNAL ARTICLE ON THE PROPOSED SP AND SANTA FE MERGER AND ACCORDING TO THE ARTICLE THEY WILL BE CREATING A VOTING TRUST FOR STOCK OF SP RAIL AND TRUCKING SUBSIDIARIES. BEING A SMALL ELEVATOR I SEE THE POTENTIAL FOR ANTI-COMPETITIVE PRACTICES WOULD BE EXTREMELY GREAT AS A RESULT OF A VOTING TRUST. I AM CONCERNED THAT APPROVAL OF A VOTING TRUST WOULD AMOUNT TO APPROVAL OF THE MERGER APPLICATION WITHOUT ANY PUBLIC INPUT INTO THE DECISION. I DON'T BELIEVE THE ICC SHOULD APPROVE VOTING TRUST WITHOUT A HEARING TO PROTECT THE PUBLIC AND SHIPPING INTEREST, I REQUEST THE ICC HAVE A HEARING PRIOR TO ANY CONSIDERATION TO A VOTING TRUST.

JOSEPH L ASHBAKER, MGR, FARMERS ELEVATOR  
BOX 280  
TEMPLE OK 73568

11:03 EST

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Office of the Secretary
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BIG THREE INDUSTRIES, INC.  
P. O. BOX 3047  
HOUSTON, TX. 77253 04AM

Western Union Mailgram



1-004232M308 11/04/83 TLX BIG 3 CO HOU WSHA  
01 HOUSTON, TX., 11-4-83

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COMMERCE COMMISSION  
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NOV 7 1983

ADMINISTRATIVE SERVICES  
MAIL UNIT

MR. LOUIS GITOMER  
DEPUTY DIRECTOR, RAIL SECTION  
INTERSTATE COMMERCE COMMISSION  
12TH AND CONSTITUTION  
WASHINGTON, D.C. 20423

FD 30400

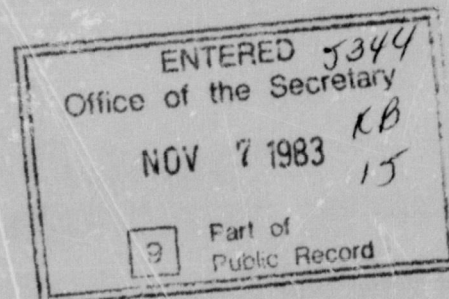
I RECENTLY READ AN ARTICLE IN THE WALL STREET JOURNAL DATED OCTOBER 28, 1983 WHICH INDICATED THAT THE SOUTHERN PACIFIC AND THE SANTA FE ARE CONTEMPLATING PUTTING SP STOCK OF THE RAIL AND TRUCK SUBSIDIARY INTO A BLIND VOTING TRUST TO FACILITATE THE TWO COMPANIES' MERGER.

I BELIEVE THAT SHOULD THE COMMISSION ALLOW THIS ACTION TO OCCUR IT WOULD HAVE THE EFFECT OF APPROVING THE MERGER. I DO NOT BELIEVE THE APPROVAL OF THE VOTING TRUST SHOULD BE ACCOMPLISHED WITHOUT PUBLIC INPUT INTO THE DECISION. THE POTENTIAL FOR ANTI-COMPETITIVE IMPACT IS EXTREMELY GREAT; THEREFORE, I REQUEST THE ICC TO HAVE A PUBLIC HEARING PRIOR TO CONSIDERATION OF A VOTING TRUST IN THE SP/SANTA FE MERGER CASE.

M. E. JACKS  
DIRECTOR OF PURCHASING  
BIG THREE INDUSTRIES, INC.

10:34 EST

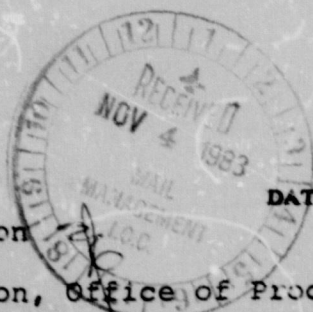
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UNITED STATES GOVERNMENT

# Memorandum



DATE: Sep. 26, 1983

TO : Department of Transportation  
Federal Highway Administration

FROM : Interstate Commerce Commission, Office of Proceedings -  
Section of Operating Rights RYDER/PIE NATIONWIDE, INC.

SUBJECT: No. MC-2900 (Sub-No. 153) RYDER TRUCK LINES, INC.  
(Jacksonville, FL)

CERTIFICATE

dated 6/8/79, as modified, conditioned to  
expire 11/13/83  
insofar as the transportation of Class A and B explosives  
is authorized.

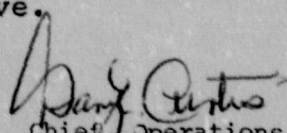
We are in receipt of a petition from the above-named carrier requesting that the expiration date of the certificate be extended for a period of at least five years.

It is requested that you return the attached copy hereof to this office indicating your position in space provided therefor.

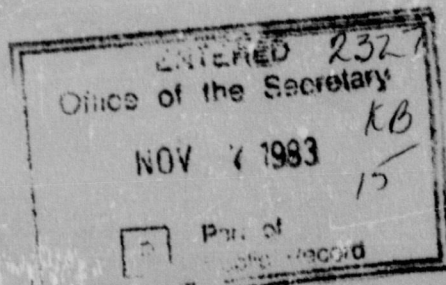
Position of Federal Highway Administration - HMC-12.4  
Office of Motor Carrier Safety 10/19/83

We recommend a 5 year extension

In the event you deem an extension should be denied it is requested that you file (1) an appropriate petition to intervene, and (2) set forth your position together with such facts and law you deem warrants such action. Please serve applicant or its representative.

  
Chief, Operations Division  
Signature and Title

cc:  
HRA-04



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



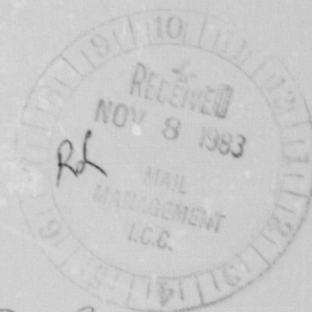
# NORTH TEXAS STEEL CO. INC.



P. O. BOX 2497 -- FORT WORTH, TEXAS 76113-2497 -- (817) 927-5333 -- METRO 654-3328

D. G. WILSON  
Sec'y & Treasurer

November 3, 1983



FD - 3040

Louis E. Gitomer, Deputy Director  
Rail Section  
Interstate Commerce Commission  
12th & Constitution, NW  
Washington, DC 20423

Dear Sir:

We feel that the proposal to merge the Southern Pacific and Santa Fe-Cotton Belt Industries without a public hearing is not in the best interest of the country.

We think that the Interstate Commerce Commission should not approve the voting trust agreement without a hearing on the effects of the voting trust or the public interest.

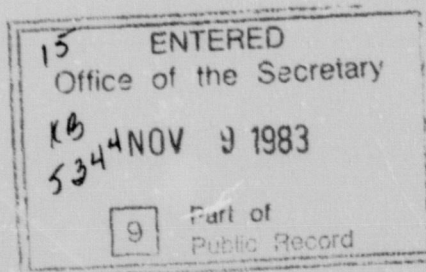
We would appreciate your support of this appeal.

Very truly yours,

NORTH TEXAS STEEL CO., INC.

D. G. Wilson  
Secretary & Treasurer

DGW:nw



OKLAHOMA ORDNANCE WORKS AUTHORITY  
PO BOX 945  
PRYOR OK 74362-08AM

Western Union Mailgram



4-038419S312 11/08/83 ICS IPMBNGZ CSP WSHB  
9188253500 MGM TDBN PRYOR OK 68 11-08 0408P EST

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ADMINISTRATIVE SERVICES  
MAIL UNIT

MR LOUIS GITOMER, DEPUTY DIRECTOR  
RAIL SECTION INTERSTATE COMMERCE COMMISSION  
12TH AND CONSTITUTION NORTHWEST  
WASHINGTON DC 20423

I DON'T BELIEVE THE ICC SHOULD APPROVE A VOTING TRUST WITHOUT A HEARING TO PROTECT THE PUBLIC AND SHIPPING INTERESTS. I REQUEST THE ICC HAVE A HEARING PRIOR TO ANY CONSIDERATION OF A VOTING TRUST BETWEEN THE AT&SF RAILROAD AND THE SOUTHERN PACIFIC.

GENE R REDDEN, ADMINISTRATOR  
OKLAHOMA ORDNANCE WORKS AUTHORITY

16:11 EST

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November 3, 1983

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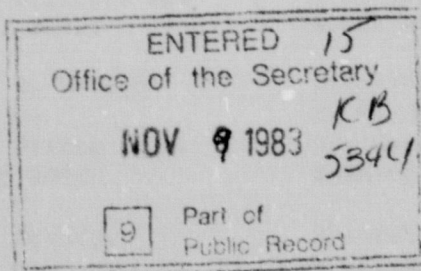
Louis Gitomer  
Deputy Director Rail Section ICC  
12th and Constitution Northwest  
Washington, D. C. 20423

Dear Mr. Gitomer:

Enclosed please find a copy of a night letter which was sent to Mr. Reese Taylor, Chairman of the Interstate Commerce Commission concerning the proposed SP and ATSF merger. We are mailing this to you for you information and action. Thank you for you attention to this matter.

Anadarko Rail Users Association  
Apache Farmers Coop.  
Anadarko Farm Center  
Farmer's Gin, Anadarko  
Western Farmers Electric, Anadarko  
Gold Kist Peanuts, Anadarko

Opitz Elevator, Ft. Cobb  
Caddo Grain, Ft. Cobb  
Carnegie Coop Elevator, Carnegie  
Mt. View Coop Elevator, Mt. View  
Miller Grain, Minco  
Poag Grain, Verden





NIGHT LETTER

November 3, 1983

Mr. Reese Taylor, Chairman  
Interstate Commerce Commission  
12th and Constitution Northwest  
Washington, D. C. 20423

Dear Mr. Taylor:

It has come to our attention through the Wall Street Journal of the proposed SP and ATSF merger. According to this article they will be creating a voting trust for stock of SP rail and trucking subsidiaries. Being small rail users we see the potential for anti-competative practices that would be extremely great, as a result of a voting trust. We are concerned that approval of a voting trust would amount to approval of the merger application without any public input into the decision. We don't believe ICC should approve a voting trust without a hearing to protect the public and shipping interest. We request the ICC have a hearing prior to any consideration of a voting trust.

Anadarko Rail Users Association  
Apache Farmers Coop.  
Anadarko Farm Center  
Farmer's Gin, Anadarko  
Western Farmers Electric, Anadarko  
Gold Kist Peanuts, Anadarko  
Opitz Elevator, Ft. Cobb

Caddo Grain, Ft. Cobb  
Carnegie Coop Elevator, Carnegie  
Mt. View Coop Elevator, Mt. View  
Miller Grain, Minco  
Poag Grain, Verden

CC: Honorable David Boren  
United States Senator  
440 Russell Senate Office Building  
Washington, D. C. 20510

Honorable Don Nickles  
United States Senator  
123 Russell Senate Office Building  
Washington, D. C. 20510

Honorable James R. Jones  
U. S. Representative  
203 Cannon House Office Bldg.  
Washington, D. C. 20515

Honorable Michael L. Synar  
U. S. Representative  
1713 Longworth House Office Bldg.  
Washington, D. C. 20515

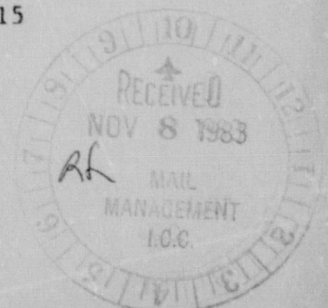
Honorable Wesley W. Watkins  
U.S. Representative  
137 Cannon House Office Bldg.  
Washington, D. C. 20515

Honorable Dave McCurdy  
U. S. Representative  
313 Cannon House Office Bldg.  
Washington, D. C. 20515

Honorable Mickey Edwards  
U.S. Representative  
208 Cannon House Office Bldg.  
Washington, D. C. 20515

Honorable Glenn English  
U. S. Representative  
109 Cannon House Office Bldg.  
Washington, D. C. 20515

Louis Gitomer  
Deputy Director Rail Section ICC  
12th and Constitution Northwest  
Washington, D. C. 20423



**W&W**  
**STEEL CO.**

BOX 25369

OKLAHOMA CITY 73125

405/235-3621

November 8, 1983

FD 30400



Mr. Tew Gitomer Director  
Railroad Section  
Department of Interstate Commerce  
12 & Constitution, N.W.  
Washington, D. C. 20423

Re: Merger of ATSF & SP Railroads

Dear Mr. Gitomer:

W & W Steel Company owns two steel fabrication plants which are serviced exclusively by the Santa Fe Railroad. One plant is located in Lubbock, Texas and the other in Albuquerque, New Mexico.

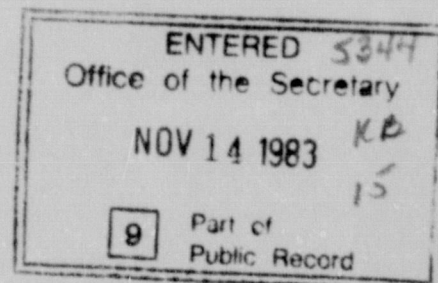
It is our understanding that the proposed merger between the Santa Fe and Southern Pacific Railroads can be accomplished through a voting trust, thus by-passing any public input or opportunity for public discussion.

W & W Steel Company knows the Santa Fe Railroad to be a fine outstanding company and we would in no way wish to cast any doubt on their intentions, but we would certainly feel better about their proposal if some form of public hearing was held, to allow all sectors involved in this merger, to have their say before it is approved.

Yours very truly,

W & W STEEL COMPANY

Ken Price Vice President  
Director of Purchasing/Traffic





LAW OFFICES

WHEELER & WHEELER

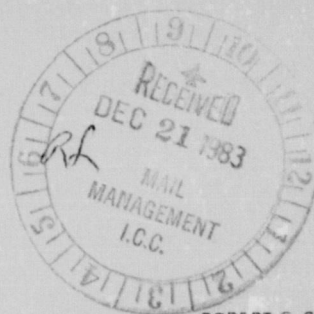
1729 H STREET, NORTHWEST

WASHINGTON, D. C. 20006

(202) 337-6500

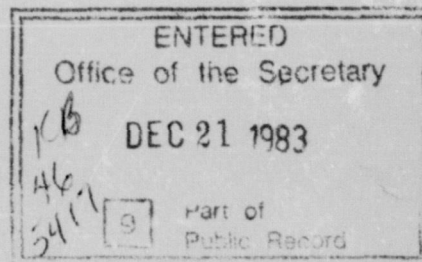
BURTON K. WHEELER (1887-1975)  
EDWARD K. WHEELER  
ELDON S. OLSON  
RICHARD H. STRODEL  
RICHARD H. STREETER  
KEITH G. O'BRIEN  
STEVEN A. LANCELOTTA

December 19, 1983



ROBERT G. SEAKS  
OF COUNSEL

Mr. James H. Bayne  
Acting Secretary  
Interstate Commerce Commission  
12th Street and Constitution Avenue, N.W.  
Washington, D. C. 20423



Re: Finance Docket No. 30400  
Santa Fe Southern Pacific Corporation -  
Control - Southern Pacific Transportation  
Company; Merger - The Atchison, Topeka and  
Santa Fe Railway Company and Southern  
Pacific Transportation Company

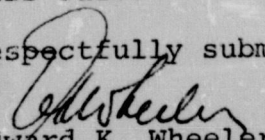
Dear Mr. Bayne:

By its letter of December 15, 1983, the Missouri-Kansas-Texas Railroad Company ("MKT") requests a one week extension in which to file a response to our Petition for Protective Order. We strenuously object to the granting of this request.

As the Commission is aware, Southern Pacific Transportation Company and The Atchison, Topeka and Santa Fe Railway Company and their affiliate companies are making every effort to file their application for control and merger in February, 1984. They currently need the Protective Order to permit the exchange of information necessary in the preparation of evidence in support of their application. Therefore, further delay in a decision on the issuance of a protective order will seriously interfere with the preparation of the application and supporting testimony. Since the protective order is modeled on and very similar to that issued by the Commission in the CSX Corporation-Control-American Commercial Lines, Inc. Case (Finance Docket No. 30300), we do not believe there can be serious questions with respect to its propriety as MKT alleges.

In all recent consolidation cases, the Commission has adopted a policy of refusing to grant delays predicated solely on other workload of counsel for one of the parties. It should not make an exception to that practice in this case.

Respectfully submitted,

  
Edward K. Wheeler

EKW:LDM

cc: Edward K. Greenberg, Esq.  
R. Eden Martin, Esq.  
Louis Gitomer, Esq.



M LIPSITZ & CO  
PO BOX 1175  
WACO TX 76703 14AM

Western  
Union Mailgram



4-048888S318 11/14/83 ICS IPMBNGZ CSP WSHB  
8177566661 MGM TDBN WACO TX 155 11-14 0546P EST

FD 30400

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12 & CONSTITUTION NORTHWEST  
WASHINGTON DC 20423

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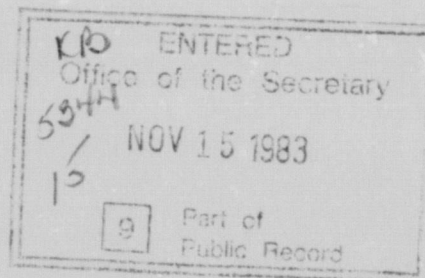
ADMINISTRATIVE SERVICES  
MAIL UNIT

A RECENT ARTICLE IN THE WALL ST JOURNAL NOTED THAT FP IS CREATING TRUST STOCK OF ST RAIL AND TRUCKING SUSIDIARY IN PREPARTING FOR THE ANTICIPATED MERGER OF FP TRANSPORTATION CO AND THE ATSS RAILROAD M. LIPSITZ & CO HAVE ALWAYS MAINTED A GOOD RELATIONSHIP WITH BOTH RAILROADS THE CAUSE OF THE POTENTIAL FOR ANTI COMPETITIVE CONDITION AS A RESULT OF THE MERGER WE ARE CONCERNED THT A VOTING TRUST APPROVAL WOULD RESULT AN APPROVAL OF THE MERGER WITHOUT PUBLIC INPUT WE DONOT BELIEVE THIS IS THE INTENT OF THE ICC THEREFORE WE REQUEST THAT A HEARING BE CONVENED PRIOR TO THE CONSIDERATION OF A VOTING TRUST WE TAKE NO POSITION NEITHER PRO NOR CON REGARDING THE MERGER THE MRGER COULD BE IN THE PUBLICS BEST INTEREST WE ARE ONLY ASKING THAT THE PUBLIC BE HEARD

RESPCTFULLY TOM SALOME PRESIDENT M LIPSITZ CO INC

17:46 EST

MGMCOMP





**JAMES RIVER CORPORATION**

P. O. Box 2218, Richmond, VA 23217 (804) 644-5411

November 7, 1983

Mrs. Agatha Mergenovich, Secretary  
Interstate Commerce Commission  
12th & Constitution Avenues, NW  
Washington, DC 20423

FD 30400

ENTERED	5344
Office of the Secretary	
NOV 10 1983	15 KB
<input type="checkbox"/> 9	Part of Public Record

Dear Mrs. Mergenovich:

James River Corporation is a major manufacturer and converter of paper and paper products, with 64 manufacturing facilities which are in locations extending from the East to the West Coast.

The subject we wish to address is the announcement of the Atchison, Topeka and Santa Fe Railway and the Southern Pacific Transportation's forth-coming merger plans.

Our concern is with the article which appeared in the Wall Street Journal on October 28, 1983, wherein we noted that these two major rail carriers have created an independent "Voting Trust".

We feel that this action creates the potential anti-competitive impact and our concern is the approval of this "Voting Trust" will amount to the approval of this merger without any public impact for consideration prior to the decision.

James River Corporation requests that the Interstate Commerce Commission call a Public Hearing prior to any consideration for approval of the Archison, Topeka and Santa Fe Railway and Southern Pacific Transportation's "Voting Trust".

We also request that James River Corporation is placed on record as being totally opposed to this parallel merger with significant environmental and competitive issues.

Sincerely,

*Ray A. Cantrell*

Ray A. Cantrell  
Manager  
Rail Transportation

RAC:sjw





FD-30400

ICC WSHO

WROVD

ICC WSH

WRAC SOLS

MR REESE H. TAYLOR, CHAIRMAN  
INTERSTATE COMMERCE COMMISSION

MR LOUIS E. BITTNER  
DEPUTY DIRECTOR, RAIL SECTION

A RECENT ARTICLE IN THE WALL STREET JOURNAL STATED THAT THE SOUTHERN PACIFIC COMPANY IS CREATING A VOTING TRUST FOR STOCKS OF THE SOUTHERN PACIFIC RAILROAD AND TRUCKING SUBSIDIARY. THIS ACTION IS IN PREPARATION FOR THE ANTICIPATED MERGER OF THE SOUTHERN PACIFIC TRANSPORTATION COMPANY AND THE AT&P RAILROAD.

WE AT PARKER BROTHERS AND CO INC, HAVE A GOOD RELATIONSHIP WITH BOTH RAILROAD COMPANIES. HOWEVER, IN THE INTEREST OF GOOD BUSINESS PRACTICES AND BECAUSE THE POTENTIAL FOR COMPETITIVE CONDITIONS IS A POSSIBILITY AS THE RESULT OF THIS MERGER, WE FEEL THAT THE CREATION OF THE VOTING TRUST WITHOUT INPUT FROM OUTSIDE BUSINESS WOULD NOT BE IN THE BEST INTEREST OF THE RAILROAD INDUSTRY.

WE, THEREFORE, REQUEST THAT A HEARING BE HELD PRIOR TO THE CONSIDERATION OF THIS VOTING TRUST. WE DO NOT TAKE A POSITION FOR OR AGAINST THE PROPOSED MERGER AT THIS TIME. WE FEEL THAT IT IS IN THE PUBLIC'S BEST INTEREST THAT SUCH A HEARING BE HELD.

WILL BANKSTEN  
VICE PRESIDENT  
PARKER BROS + CO INC.  
1171/24  
ICC WSH

INTERSTATE  
COMMERCE COMMISSION  
COMMUNICATIONS SECTION

NOV 7 1983

ADMINISTRATIVE SERVICES  
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WEIR GRAIN AND ELEVATOR CO ELC  
PO BOX 666  
WEIR TX 78674 09AM

Western Union Mailgram



4-0226646313 11/09/83 ICS IPMBNGZ CSP WSHB  
5128632035 MGM TDBN GEORGETOWN TX 111 11-09 0117P EST

FD-30100

LOUIS E GITOMER DUPLY DIRECTOR RAIL SECTION  
12TH AND CONSTITUTION NORTHWEST  
WASHINGTON DC 20423

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ADMINISTRATIVE SERVICES  
MAIL UNIT

THE FOLLOWING IS A COPY OF MAILGRAM SENT TO REESE TAYLOR CHAIRMAN ICC

HAVING NOTICED RECENTLY THAT THE SP RAILROAD IS CREATING A VOTING TRUST, IN ANTICIPATION OF MERGER CONSIDERATIONS WITH THE AT AND SF, WE AT WEIR GRAIN AND ELEVATOR COMPANY ARE SOMEWHAT CONCERNED THAT THIS ACTION WOULD PRECLUDE PUBLIC INPUT DURING THE STUDY PERIOD, WE ARE NOT TAKING ANY POSITION, EITHER PRO OR CON, REGARDING THIS PROPOSAL BUT IN ALL FAIRNESS WANT TO ENSURE THAT THE PUBLIC INTEREST BE HEARD, RESPECTFULLY

CC TO LOUIS E GITOMER DEPUTY DIRECTOR RAIL SECTION  
E L COALE GENERAL MANAGER

13:20 EST

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5241 (R. 7-82)

GALESBURG GRAIN INC JHA  
BOX 150  
GALESBURG KS 66740 09AM

Western Union Mailgram



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5167632417 MGM TDBN GALESBURG KS 62 11-09 1113A EST

*FD-30400*

LOUIS E. GITOMER, DEPUTY DIRECTOR, RAIL  
SECTION, INTERSTATE COMMERCE COMMISSION  
12TH & CONSTITUTION NORTHWEST  
WASHINGTON DC 20423

THE FOLLOWING IS A COPY OF MAILGRAM SENT TO:  
REESE TAYLOR, CHAIRMAN INTERSTATE COMMERCE COMMISSION  
12TH & CONSTITUTION NORTHWEST  
WASHINGTON DC. 20423

STRONGLY URGE ICC HEARING ON SP/ATSF MERGER TO ALLOW PUBLIC INPUT  
PRIOR TO CONSIDERATION OF VOTING TRUST.  
J.H. ALLEN, PRESIDENT, GALESBURG GRAIN INC.

11:15 EST

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5241 (R. 7/82)



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NOV 10 1983

ADMINISTRATIVE SERVICES  
MAIL UNIT

ICC WSH  
11/10/83

MESSRS REESE H. TAYLOR, CHAIRMAN, INTERSTATE COMMERCE COMMISSION,  
12 TH AND C CONSTITUTION N.W., WASHINGTON DC 20423 AND LOUIS E.  
GITOMER, DEPUTY DIRECTOR RAIL SECTION, ICC

WE ARE CONCERNED OVER NEWSPAPER ARTICLES THAT THE SOUTHERN PACIFIC  
IS CREATING A VOTING TRUST STOCK OF SP RAIL AND TUCKING SUBS-  
IDIARIES IN PREPARATION FOR THE ANTICIPATED MERGER OF THE SP TRNS.  
CO. AND THE ATSF RAILROAD. WE ARE CONCERNED THAT A VOTING TRUST,  
THAT IS - TRUST. APPROVAL WOULD RESULT IN APPROVAL OF A RAILROAD  
MERGER WITHOUT PUBLIC INPUT. WE FEEL THIS IS THE RESPONSIBILITY  
OF THE INTERSTATE COMMERCE COMMISSION. ACCORDINGLY WE REQUEST THAT  
THE ICC CONVENE A HEARING PRIOR TO CONSIDERATION OF THE VOTING  
TRUST MENTIONED IN THE NEW MEDIA. THANK YOU.

MR. MELVIN WENTRECK, GEN MGR, GRANGER GRAIN, P O BOX 698, GRANGER,  
TX 76530  
11/10/83

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NATIONAL FIBER SUPPLY CO.  
55 E. MONROE ST.  
CHICAGO, IL 60603 09AM

Western Union Mailgram



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01 CHICAGO IL NOV 9 1983

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MR. LOUIS E. GITOMER, DEPT. DIRECTOR RAIL SECTION  
INTERSTATE COMMERCE COMMISSION  
12TH & CONSTITUTION  
WASHINGTON, DC 20423

NOV 10 1983

ADMINISTRATIVE SERVICES  
MAIL UNIT

DEAR MR. GITOMER:

LAST WEEK THE WALL STREET JOURNAL CARRIED AN ARTICLE CONCERNING PROPOSED SOUTHERN PACIFIC-SANTA FE MERGER. ACCORDING TO THE ARTICLE, IT STATED THAT THE SOUTHERN PACIFIC WOULD PLACE THE STOCK OF ITS RAILROAD AND TRUCKING SUBSIDIARISSE INTO A VOTING TRUST TO HASTEN THE MERGER WITH THE SANTA FE. IT IS OUR VIEW IF THE COMMISSION ALLOWS APPROVAL OF A VOTING TRUST, IT WOULD MEAN THE MERGER COULD BE ACCOMPLISHED WITHOUT ANY PUBLIC HEARING OR INPUT.

WE DO NOT BELIEVE THE ICC SHOULD APPROVE VOTING TRUSTS WITHOUT A HEARING ON THE EFFECTS OF A VOTING TRUST ON THE PUBLIC AND SHIPPING INTEREST. WE REQUEST THE ICC TO HAVE A HEARING PRIOR TO ANY CONSIDERATION OF VOTING TRUST IN THE SOUTHERN PACIFIC-SANTA FE MERGER.

NATIONAL FIBER SUPPLY CO.  
25 3020 NATL FIBER CGO

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MAIL UNIT

ICC WSH

11/18/83

MR. REESE H. TAYLOR  
CHAIRMAN  
INTERSTATE COMMERCE COMMISSION  
12TH & CONSTITUTION N.W.  
WASHINGTON, D.C. 20423

MR. LEWIS E. BITTNER  
DEPUTY DIRECTOR RAIL SERVICE  
INTERSTATE COMMERCE COMMISSION  
12TH & CONSTITUTION N.W.  
WASHINGTON, D.C. 20423

FARMERS EXPORT CO. IS CONCERNED ABOUT THE PROPOSED SOUTHERN PACIFIC  
SANTA FE MERGER, SPECIFICALLY THE ESTABLISHMENT OF A VOTING TRUST  
FOR SOUTHERN PACIFIC RAIL AND TRUCKING SUBSIDIARY STOCK. ALTHOUGH  
FARMERS EXPORT CO. HAS NOT TAKEN A POSITION ON THE MERGER WE ARE  
CONCERNED THAT A VOTING TRUST APPROVAL WITHOUT A PUBLIC HEARING  
WOULD AMOUNT TO THE APPROVAL OF THE MERGER APPLICATION WITHOUT ANY  
PUBLIC INPUT INTO THE DECISION. WE BELIEVE THE I.C.C. SHOULD HOLD  
A HEARING ON THE AFFECTS OF A VOTING TRUST ON THE PUBLIC INTEREST,  
AND SHOULD NOT APPROVE A VOTING TRUST PRIOR TO A PUBLIC HEARING.

FARMERS EXPORT CO.  
DONALD L. FENNELLY  
TRAFFIC MANAGER

FARMER EX 0LPK

ICC WSH

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FD-30400

4 FEB 1987

Gentlemen: I cannot see why you are considering:  
 denying the merger of the STATE-SP RAILROADS.  
 These are two historic railroads. Their merger would  
 not hamper <sup>and has not hampered</sup> competition and their names would be  
 preserved. Their "being together" these last few  
 years has been of financial benefit to the AREA.  
 Denial of the merger may mean the demise (with its  
 resultant financial havoc) of one or the other of the  
 railroads. I sincerely hope you will SANCTION THE  
MERGER.

Why not come out here and see for  
 yourselves? READ UNDERSTAND that a small R.R. has opposed the  
 merger yet wants to buy one of the R.R! Does this  
 opposition not speak of self-interest, not of lack of  
 competition? B.P. WHITEHEAD 185 Knollwood TR SAN RAFAEL CA 94901



FD-30400

4 FEB 1987

GENTLEMEN: I CANNOT SEE WHY YOU ARE CONSIDERING DENYING THE MERGER OF THE STATE-SP RAILROADS. THESE ARE TWO HISTORIC RAILROADS. THEIR MERGER WOULD NOT HAMPERS <sup>AND NOT HAMPERS</sup> COMPETITION AND THEIR NAMES WOULD BE PRESERVED. THEIR "BEING TOGETHER" THESE LAST FEW YEARS HAS BEEN OF FINANCIAL BENEFIT TO THE AREA. DENIAL OF THE MERGER MAY MEAN THE ~~DIS~~ MISE (WITH ITS RESULTANT FINANCIAL HAVOC) OF ONE OR THE OTHER OF THE RAILROADS. I SINCERELY HOPE YOU WILL SANCTION THE MERGER.

WHY NOT COME OUT HERE AND SEE FOR YOURSELVES? I ~~UNDERSTAND~~ <sup>READ</sup> THAT A SMALL R.R. HAS OPPOSED THE MERGER YET WANTS TO BUY ONE OF THE R.R. DOES THIS OPPOSITION NOT WREAK OF SELF-INTEREST, NOT OF LACK OF COMPETITION? B.A. WHITEHEAD 185 KNOXWOOD DR SAN RAFAEL CA 94901

FD-30400

J



ADDRESS ALL COMMUNICATIONS  
TO THE COMMISSION  
CALIFORNIA STATE BUILDING  
SAN FRANCISCO, CA 94102  
TELEPHONE: (415) 557-  
2017

INTERSTATE  
COMMERCE COMMISSION  
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OFFICE OF HEARINGS

**Public Utilities Commission**

STATE OF CALIFORNIA

FILE NO.

August 22, 1985

Honorable James E. Hopkins  
Administrative Law Judge  
Interstate Commerce Commission  
12th Street & Constitution Ave., N.W.  
Room 3121  
Washington, D.C. 20423

**FILE IN DOCKET**

Dear Judge Hopkins:

Re: Santa Fe Southern Pacific Corporation Control  
Southern Pacific Transportation Company,  
F.D. No. 30400, et al.

Dear Judge Hopkins:

During the government witness phase of these proceedings last May, counsel for Applicants addressed a question to the undersigned just prior to examining John Williams, a witness sponsored by the State of California Public Utilities Commission and the State Department of Transportation regarding the "position" of the State in this matter. My response was accurately recorded in the transcript. However, in order to clear up any misimpression which may have arisen regarding the purport of my answer, I remind the Commission and the Parties that on June 1, 1984 the California agencies both filed Responses to the Applications under the Code of Federal Regulations under Procedural Rules Section 1180.4(d) and (c) wherein we stated our formal positions as "undetermined". I further indicated at that time that the "definitive" position on all relevant issues affecting California will be taken during the course of the proceedings and/or brief following close of all proceedings.

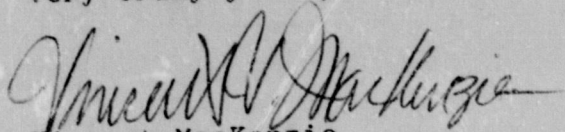
During March, 1985, we, along with other governmental parties were afforded opportunity to present formal evidence through sponsored witnesses regarding issues we believe important to California. In the transmittal letter submitting the testimony we stated that the "final position of the People of California and



Honorable Judge E. Hopkins  
August 22, 1985  
Page 2

the Public Utilities Commission will be stated on brief following the receipt of all evidence and conclusion of hearings". We intend to exercise that privilege at the conclusion of these proceedings.

Very truly yours,



Vincent MacKenzie  
Principal Counsel

VM:afm

cc: All Parties  
Commissioner Bagley

33

30400

T

LAW OFFICES

**LEE J. KUBBY, INC.**  
A PROFESSIONAL CORPORATION

BOX 60485  
SUNNYVALE, CALIFORNIA 94086-0485  
(415) 691-9331

ENTERED Office of the Secretary
MAR 14 1995
5 Part of Public Record



**PLEASE RESPOND TO:**  
Box 60398  
Palo Alto, CA 94306

(415) 948-4158

March 1, 1995

Secretary  
Interstate Commerce Commission  
12th and Constitution Aves. N.W.  
Washington, D.C. 20423  
Fin Doc 30400 Sub 21

Re: Interstate Commerce Commission  
Decision  
Finance Docket No. 30400  
(Sub-No. 21)  
Santa Fe Southern Pacific Corporation  
Control  
Southern Pacific Transportation Company  
Status of decision

Dear Gentle People:

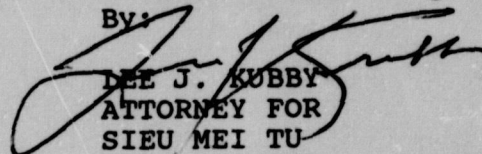
On or about February 7, 1993, the above matter was submitted to the Commission. Please advise the current status of the submission.

Thank you for your courtesies.

Respectfully,

LEE J. KUBBY, INC.  
A Professional Corporation

By:

  
LEE J. KUBBY  
ATTORNEY FOR  
SIEU MEI TU

LJK:me



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OCT 22 1986

This decision will be included in the bound volumes of the  
ICC 2d series

CHEMICAL MANUFACTURERS ASSOCIATION  
Office of General Counsel

SERVICE DATE

OCT 10 1986



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INTERSTATE COMMERCE COMMISSION

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Finance Docket 30400, et al.

SANTA FE SOUTHERN PACIFIC CORPORATION--CONTROL--SOUTHERN PACIFIC  
TRANSPORTATION COMPANY

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MAY 31 1988	
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*WJ*  
*2219*

Calcot states that cotton shippers place heavy reliance on boxcar transportation because of its lower cost relative to TOFC or all-motor transportation. Cotton prices, according to Calcot, cannot absorb high transportation costs. Cotton can be stored until market and transportation prices are optimal. Calcot must ship large quantities of cotton over long distances and has benefitted from the competition between SPT and ATSF over the years. This competition has been based on rates and TOFC ramp locations. Because Calcot has plants located on both SPT and ATSF, even though the plants are served exclusively by one or the other, the two railroads have been compelled to offer competitive rates and service at all plants. While SPT has provided most of Calcot's boxcar transportation, TOFC service has allowed both carriers to serve all of Calcot's plants.

In Calcot's view, California and Arizona cotton is unique in that the fibers are finer and stronger than those in cotton grown in Arkansas, Texas, and the Southeast. Although Calcot uses motor carrier service, this use has amounted to only about 15 percent of domestic Calcot business. The principal reasons for this limited use of trucks are higher rates and insufficient capacity per truck (less than half that of a boxcar). The availability of equipment and the variation of rates associated with truck transportation is highly seasonal. In times of peak demand, truck service is not reliable, because the truckers prefer to haul higher-rated commodities, and equipment shortages become acute.

This evidence clearly documents our earlier conclusion that applicants' failure to study exempt traffic was both legally and factually incorrect and resulted in substantially distorted conclusions.

Applicants used other "screens" in their competitive studies to exclude certain rail traffic from further competitive analysis. One such screen in fact eliminated Calcot's traffic from consideration by applicants. This screen eliminated ATSF and SPT rail traffic from consideration if more than 50 percent of a commodity group moved by any other carrier of any mode. Most of the commodity groups excluded were 2-digit Standard Transportation Commodity Code (STCC) groups which in most instances encompass huge varieties of specific commodities. For example, Calcot's product, raw cotton, is included in STCC 01, Farm Products, which includes, obviously, products having vastly different transportation characteristics ranging from large-volume, bulk movements of grains to small-volume, highly perishable products such as strawberries. Thus, while more than half of the 2-digit group, Farm Products, may move via other modes, exclusion of the entire universe of farm products from competitive analysis represents nothing more than contrived methodology.

Another screen used by applicants was a "containerizability" screen, i.e., if a shipment known to be carried by applicants could physically be carried in a truck trailer or container, such traffic was eliminated from further consideration. The theory, as here applied, is untenable, because it gave no consideration to (1) the economic feasibility of transporting "containerizable" commodities presently handled in rail carload service, and (2) the economic feasibility for shippers to put their shipments in containers in the first place. Applicants' witness admitted that he had not interviewed any shippers concerning the subject. (Tr. 10772).

Shippers appearing on behalf of Union Pacific testified that their traffic was excluded under applicants' containerizability screen. These shippers produce steel and blast furnace products,



copper products, petroleum products and chemicals. From their standpoint, containerization of their carload traffic would not be economically justified on the bases of their own production methods and/or the cost of transportation by truck. In the case of chemicals, safety considerations were cited as additional factors necessitating rail movement.

Various witnesses presented by applicants alluded to source and product competition as a constraint on applicants' combined market power. Methodologies employed ranged from another "screen" to case studies. As with the portions of the studies already discussed, applicants relied heavily on assumptions instead of facts to justify exclusions of broad categories of traffic from further consideration as relevant subjects of analysis.

We will next discuss applicants' case studies. These constituted their best effort to demonstrate that motor carriers are actually a reasonable substitute for rail carriers and can adequately constrain rail rates, thus diminishing the significance of a high rail market share and expanding the relevant product market to include transportation by truck.

Applicants made two efforts to show that because motor transportation is sufficiently substitutable for rail, rail rates would be adequately constrained. The first presentation focused on national aggregated statistics. In response to substantial criticism, a rebuttal study was presented through 39 case studies that sought to compare motor and rail rates for 39 specific commodities over one or more specified geographic flows. Shippers, brokers, and motor carriers were telephoned and asked whether and for what rate they could ship a commodity between two points. These examples sought to compare motor rates with rail rates, showing the distances of movements. The examples were selected to rebut traffic flows identified by government parties as competitive problems, but applicants' study "did not . . . try to find the points where today significant amounts of potentially competitively impacted traffic are moving on these two railroads . . . ." <sup>34/</sup>

Of the 39 case studies, the following table demonstrates that 26 show the lowest truck rate to be at least 22 percent higher than the lowest rail rate. Even if we could rely upon applicants' presentation, these rate disparities are significant.

COMPARATIVE RATES<sup>35/</sup>

<u>Case Study and Flow</u>	<u>Percent By Which Lowest Truck Rate Exceeds Lowest Rail Rate</u>
<u>#3, #4 - grain</u>	
Council Bluffs - LA	78%
Council Bluffs - Brawley	79%
Council Bluffs - Long Beach	79%
Kansas City - LA	104%
Kansas City - Brawley	86%
Kansas City - Long Beach	106%

<sup>34/</sup> Tr. 17,529. See Tr. 17,560.

<sup>35/</sup> UP, supported by other protestants, sought to have the testimony stricken. The motion was based on procedural and substantive criticisms. See Tr. 17,983-18,004.

<u>#8 - aggregates/clays</u>		
Bentonite - Houston		24%
Belle Fourche - Houston		23%
<u>#10, #11, #12 - Liquid chemicals</u>		
Houston - LA (glycol		165%
(toluene)		147%
(acetone)		165%
<u>#14 - sodium compounds</u>		
LA - Little Rock		32%
<u>#15 - asphalt</u>		
LA - Phoenix (liquid)		80%
Bakersfield - Phoenix (liquid)		102%
<u>#16 - petroleum lubricating oils</u>		
Houston - SF		26%
<u>#18 - corn syrup</u>		
Cedar Rapids - LA		67%
Springfield - LA		58%
Davenport - LA		66%
<u>#19, #31, #32, #33 - paper products</u>		
Portland - LA (fibreboard)		98%
(wrapping paper)		50%
(newsprint)		39%
<u>#21 - iron or steel bars or pipe</u>		
Beaumont - LA (bar)		30%
Beaumont - SF (bar)		43%
<u>#22 - cement</u>		
Dallas - Amarillo		54%
<u>#23 - industrial sand</u>		
Minneapolis - Fresno		91%
LaCrosse - Fresno		94%
<u>#25 - soybean cake</u>		
Sioux City - LA	"Not truck	Competitive"
Sioux City - Fresno	"Not truck	Competitive"
Des Moines - LA	"Not truck	Competitive"
Lincoln - LA	"Not truck	Competitive"*
<u>#26 - frozen foods</u>		
LA - Chicago (frozen citrus)		25%
(frozen foods)		25%
LA-KC (frozen foods)		53%
Stockton/Fresno - KC (frozen foods)		53%
<u>#27 - canned goods</u>		
LA - Chicago		38%
Stockton - Chicago		46%
Stockton - Atlanta		23%
Stockton - Rochester		38%



#28 - wine and brandy

SF/Stockton - Chicago	(boxcar)	22%
SF/Stockton - Miami	(boxcar)	42%

#29 - granulated sugar

SF - Chicago	(bulk)	76%
SF - Dallas		40%

#35 - iron, steel or aluminum scrap

Presno - SF		40%
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#36 - soybean oil

Minneapolis - LA		41%
Kansas City - LA		31%

#37 - beer

LA - Phoenix		45%
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#39 - native asphalt

Dabney TX - Beaumont TX		67%
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\*SFSP-52 V3 Baker at 64.

Were we to accept the case studies at face value, we would conclude that applicants failed to prove motor-for-rail substitutability. A substantial number of rates presented are too high to offer a reasonable constraint on rail market power, and are much higher than DOJ's Merger Guidelines' "small but significant nontransitory" test of five percent a year. Merger Guidelines, at 2.11.

In addition, the study does not provide adequate reliability to indicate actual substitutability. We cannot give any weight to the study as evidence of motor-for-rail substitutability for several reasons. Selective use was made of the information. Potentially damaging information was discarded. Supporting papers were heavily redacted as to shippers' use of alternative modes, so as to call into question the validity of both rail and motor rates. Much of the study is based on hearsay without corroborating data.

The rail rates provided by applicants were subjected to continued revisions and dispute and could not be shown to be the lowest available rail rates, against which to compare truck rates. Applicants made two formal "errata" filings to both rail and motor rates on July 26 and August 1, 1985. Additional refinements to the rates were made as applicants' witness testified. Some rates were demonstrated to be substantially in error during cross examination. Some rates were simply withdrawn in response to protestants' criticisms. Rail contract rates were incomplete as presented. UP counsel pointed out that by the time the dust had cleared, 108 changes had been made to 105 rates presented.

The following determinations, contrary to applicants' study's findings, were possible:

1. Applicants' finding that rail and truck rates for cotton shipments were virtually identical was inconsistent with Calcot's



witness who stated: "The rail rates, both boxcar and TOFC, that Calcot pays for shipments of cotton from the San Joaquin Valley to the Southeast are well below the lowest truck rates available."<sup>36/</sup>

2. Applicants' finding of no difference between motor and rail rates for transcontinental potato movements was inconsistent with DOT reporting of 50 to 99 percent higher motor rates.

3. Applicants alleged that there was no difference between motor and rail rates for plastics movement, but applicants' witness admitted that the percentage difference for bulk movements "would approach 80 to 100 percent."

4. Both the motor and rail rates on lumber from Seattle to Phoenix were admitted "to be a mistake."

5. The TOFC rates from Los Angeles to Houston were admitted to be up to 33 percent higher by truck, although the study shows them to be only 15 percent higher by truck.

Numerous rail rates that were lower than those relied upon were not provided because of applicants' opinion that they were not presently being used.

Traffic and contract rate information was provided the witness through applicants' counsel. However, he was not provided with all relevant information. For example, TOFC information was not provided, because it was "too sensitive."

The witness admitted that ". . . there are some corridors where rail costs are significantly below truck costs and only applicants provide competitive service." He also admitted that interline rail service provides competition that trucks cannot, for example, for movements of soybean meal to Fresno.

Numerous concessions were made that the case studies were either irrelevant or inappropriate. For example, the studies concerning sodium compounds, plastics and wheat flour compared bulk rail rates with packaged motor rates. A comparison of the bulk motor rates indicated motor rates that were twice as high as those quoted. The witness admitted that motor rates (unspecified) were too high to handle bulk shipments, for example, of petroleum oil and chemicals. He further admitted the following commodities can be transported significantly less expensively by rail than truck: grain, clay aggregates, sodium compounds, and corn syrup. The witness could find no truck movements of grain for Case Study #3 because of prohibitively higher motor carrier costs.

TOFC information was presented as if it included COFC traffic when it did not. Motor carrier costs and rates were predicated on backhaul operations only. Yet, for important examples, such as grain and paper into Phoenix, and for corn syrup, backhauls do not generally exist. The witness admitted that the lack of backhauls would approximately double motor costs.

Comparisons were made between motor transport of one commodity with rail transport of another, as if the two commodities were substitutable when they were not; for example: liquid asphalt and black asphalt. When a comparison of motor and rail could not be made, the witness relied upon source and product competition: for example, petroleum products, iron and

<sup>36/</sup> All quotes are from Testimony presented August 22, 1985. See TF. 17,478-17,726.

steel, and sodium compounds. No supporting evidence as to whether these products were in fact substitutable was presented.

Reliance was placed on subsequent local distribution costs to include post-rail movement motor deliveries, but no offsetting savings for shippers that result from rail distribution were considered. Applicants' witness testified that some shippers "ship virtually 100 percent rail to save on the warehousing cost." And the importance of rail service to warehouses for perishable and frozen food shippers and for canned goods shippers was ignored.

The witness also testified that heavy loadings, long distances, high volumes, and loading investments by shippers, etc., were determinative of whether motor carriers could compete with rail. No attempt was made in applicants' presentation to quantify the amount of traffic affected by those considerations.

"The principle [sic] issue is the degree to which trucks are interchangeable with railroads from the perspective of shippers so that they can act to constrain railroads' rates and services to competitive levels." UP Control, 366 I.C.C. at 672. If the rate and service differentials between rail and motor transportation are significantly great for a substantial amount of traffic, so that motor service is unlikely to constrain rail monopoly behavior, the relevant product market should be defined as transportation service provided by rail carriers.

Applicants' market impact studies are replete with errors of assumption and fact, and internal inconsistencies. Their adoption of DOT's methodology late in the proceeding compounded the problem because DOT excluded exempt traffic from consideration. Both studies had as their main thrust the effect of the merger on transportation rate competition, with only token acknowledgment of service competition. Railroads are in the business of selling railroad transportation service. Price competition for rail service can be and is important where rail service is truly competitive with transportation service provided by other modes, but applicants and DOT eradicated all but an insignificant amount of rail traffic from study.

DOJ, like applicants and DOT, relied on a screening process to define relevant markets, although DOJ's screens were not as exclusionary. Nonetheless, DOJ assumed that if non-rail modes handled 50 percent or more of a commodity between origin-destination pairs (in those instances where movements of the commodity exceeded 10,000 tons by rail), the non-rail mode was substitutable. While DOJ's methodology was to look at all rail traffic, including exempt traffic, and then to apply screens such as the one mentioned above, the assumptions in the screens were almost all oriented to the conclusion that a large market share held by other modes, or, in some instances, by other railroads, constituted substitutability for applicants' services. We reject that conclusion.

Several of the opposing parties presented modal share data. As is generally known, and as demonstrated on this record, market share data for trucks and water carriers carry a high degree of imperfection due to an absence of uniform data reporting by private and exempt carriers, to the extent they publish data at all. Further, some of the truck data sources rely on observations taken at the shipper's loading dock and may not take into account a subsequent haul by rail in TOFC service. Thus, we recognize that the modal share data used by all parties are not precise, and we must conclude that such data offer only an insight as to the magnitude of the market shares held by each of



the various modes. Such data do not offer an insight into the general substitutability of one mode for another.<sup>37/</sup> However, there are modal share data of record here that suggest the effectiveness of the various modes in specific geographic markets in excess of 1,000 miles.

Table 1, already discussed, shows the few commodity groups that motor carriers handle in excess of 1,000 miles without regard to specific geographic markets. Using an updated and at least partially corrected set of data initially used by applicants, Union Pacific produced the following overall rail shares of total transportation for certain markets in excess of 1,000 miles:

<u>Geographic Market</u>	<u>Rail % of Total</u>
Southeast to S. Cal.	66
Gulf Coast to S. Cal.	60
S. Cal. to Southeast	52
San Joaquin to Southeast	75
Southeast to Bay Area	60

Table 2 (see Appendix D), is also based on data presented by Union Pacific and shows modal share data for traffic flows between San Francisco and Los Angeles on the west, and Houston, Dallas, New Orleans and Atlanta on the east. Of particular interest here is the information in the footnote to Table 2. This shows that, where railroads have a relatively low share of total traffic in one direction between major cities, the non-rail mode having the largest share handles large volumes of particular commodities. Special note also should be made of the rail flows from San Francisco to Dallas and New Orleans and from Atlanta to San Francisco: Each of these flows shows a rail share of less than 50 percent. On the eastbound movements to Dallas and New Orleans, the truck shares are dominated by shipments of farm products and food products. From Atlanta to San Francisco, about one-sixth of the truck share is comprised of food products, while another one-third involves textile mill products. Thus, the Atlanta to San Francisco market represents an exception to the general conclusions we have reached. If the record were all-encompassing of traffic flows between major pairs of cities, other exceptions undoubtedly would surface.

We note, therefore, that modal share data are influenced by geographic definition, and the Atlanta-San Francisco traffic flow is a case in point. There, rail share is 48 percent, but when we consider the entire Southeast to the Bay Area (see the small table above), the rail share is 60 percent. Protestants rather uniformly and accurately criticized applicants' use of geographic market definition on the basis that relatively small rail-served areas were being compared to much larger geographic areas with the result that rail shares were understated compared to truck shares.

Applicants, LOT, and DOJ have all placed a great deal of weight on rate competition while virtually ignoring service competition, including the economic feasibility of one mode physically to substitute for another in terms of unit capacity, shipment volume (other than for obvious bulk commodities), scheduling, equipment ownership and availability, reliability of

<sup>37/</sup> In UP Control, 366 I.C.C. at 671-672, the Commission recognized that a nontrivial share for trucks in certain markets does not imply that motor carriers are generally substitutes for railroads; rather, the nature of the substitution must be understood.



service, and, where significant, transit time. The methods used by these parties to determine the competitive impact of the proposed merger were each designed to "back into" a relevant body of rail traffic subject to anticompetitive consequences. It would have been helpful if each party had begun by using the traffic data available to the applicants from their own records, identifying movements to or from points where the number of rail competitors would be reduced to at least 3 or less, and systematically interviewing the shippers/receivers of those movements to see if other options were available to them.

Great emphasis has been placed by applicants, DOT, and DOJ on the absolute amount of tonnage in specific movements that have been "identified" as having anticompetitive consequences from the proposed merger. These numbers reflect a static world. Much of the traffic data were for the year 1982. It may well be that 1982 was not typical, being a recession year. The point is that rail traffic volumes are anything but static for an individual carrier, let alone the industry. Shippers and receivers, even in "basic industries", are constantly changing, as are the products produced or used by them.<sup>38/</sup>

As discussed at length above, the record makes it abundantly clear that the relevant product market here is railroad freight transportation. Equally as clear is the necessity, to the extent our authority permits, for this Commission to assure the continuation of adequate levels of rail intramodal competition.

#### Geographic Market

Geographic markets must "correspond to economic realities." Brown Shoe, 370 U.S. at 336. We recognize that railroads "sell their geography," UP Control, 366 I.C.C. at 505, so the distinctions between product and geographic markets may tend to blur. Under section 7 of the Clayton Act, we must examine significant submarkets where the transaction may "substantially . . . lessen competition." Brown Shoe, 370 U.S. at 325.

There has been no attempt on the record to uniformly define relevant geographic corridors, although definitions were largely consistent among the parties. For purposes of this proceeding, the following corridors within the Western District constitute the relevant geographic markets (these definitions are geographic as opposed to being definitions of specific carrier routes):

1. Central Corridor - Northern California and Oregon through Ogden and Salt Lake City to the Chicago, Kansas City and St. Louis gateways.
2. Southern Corridor - California through Arizona, New Mexico, Texas, Louisiana and Arkansas to the gateways of New Orleans and Memphis.
3. Pacific Coast Corridor - Washington, Oregon and California.
4. Intrastate California Corridor - Bay Area to the Los Angeles Basin.
5. Midwest North-South Corridor - Kansas to Louisiana and Texas, including Texas border crossings to Mexico.

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<sup>38/</sup> In fact, SFSP's Chairman relied upon expected rail traffic growth in the territory served by ATSF as a reason for advocating the merger to the SFI Board of Directors. Tr. at 258.