

F.D. 30400

1/22/85 - Pgs. 8004-8062

BEFORE THE  
INTERSTATE COMMERCE COMMISSION

----- x

In the Matter of: :

SANTA FE SOUTHERN PACIFIC CORPORATION : Finance Docket

- CONTROL -- : 30400 et al.

SOUTHERN PACIFIC TRANSPORTATION :

COMPANY :

----- x

Hearing Room A

12th & Constitution, N.W.

Washington, D.C.

Tuesday, January 22, 1985

The hearing in the above-entitled matter was convened, pursuant to notice, at 9:00 a.m.

BEFORE:

JAMES E. HOPKINS,

Administrative Law Judge

APPEARANCES:

(As heretofore noted.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

00030000



C O N T E N T S

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
John C. Kenefick				
By Mr. Charles Miller	8008			
By Mr. Nelson		8009		
By Ms. Budeiri		8028		
By Mr. Reed		8034		
By Mr. Vincent MacKenzie		8038		
George A. Craig				
By Mr. Roach	8044			
By Mr. Nelson		8045		
By Mr. Budeiri		8072		
By Mr. Reed		8075		
By Mr. Vincent MacKenzie		8087		
By Mr. Dowd		8090		
Thomas M. Caron				
By Mr. Remes	8097			
By Mr. Hynes		8099		
By Mr. Remes			8125	

E X H I B I T S

<u>Exhibit No.</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
SFSP-C-108	8006	8044
SFSP-C-109	8006	8044
SFSP-C-110	8006	8044
SFSP-C-111	8007	8097
SFSP-C-112	8007	8097
SFSP-C-106		8044

P R O C E E D I N G S

(9:00 a.m.)

1  
2  
3 JUDGE HOPKINS: Let's call the hearing to  
4 order, please.

5 I know everybody is probably going to freeze  
6 here today, but that's the way it is.

7 MR. NELSON: Good morning, Your Honor.

8 As a preliminary matter I would like to mark  
9 some documents for identification and potentially may  
10 move their admission at some point. I hope to ask a few  
11 questions of Mr. Kenefick and Mr. Craig possibly  
12 concerning these documents. Apparently, our effort to  
13 notify the Union Pacific of these documents last Friday  
14 failed for some reason that I don't know, so we'll try  
15 to work around that.

16 We will right now supply the documents to --  
17 well, as I get them marked -- to Mr. Kenefick and also  
18 will supply them to Mr. Craig so that he might be able  
19 to glance at them.

20 The first one, Your Honor, is a multi-page  
21 document which is entitled "Union Pacific Options:  
22 Santa Fe-Southern Pacific Merger." And I don't know  
23 what the next number is.

24 JUDGE HOPKINS: 108. That will be marked for  
25 identification as SFSP-C-108.



1 (The document referred to  
2 was marked Exhibit No.  
3 SFSP-C-108 for  
4 identification.)

5 MR. NELSON: The next document, Your Honor, is  
6 a series of Union Pacific-Missouri Pacific press  
7 releases taken from the UP document depository with page  
8 numbers 400,024 through 400,033.

9 JUDGE HOPKINS: That will be marked for  
10 identification as SFSP-C-109.

11 (The document referred to  
12 was marked Exhibit No.  
13 SFSP-C-109 for  
14 identification.)

15 MR. NELSON: The next document is a speech to  
16 the Transportation Club of Houston, John C. Kenefick,  
17 March 6, 1984, also taken from the Union Pacific  
18 document depository.

19 JUDGE HOPKINS: That will be marked for  
20 identification as SFSP-C-110.

21 (The document referred to  
22 was marked Exhibit No.  
23 SFSP-C-110 for  
24 identification.)

25 MR. NELSON: The next one, Your Honor, is an

1 excerpt from the Union Pacific Corporation 1981 Annual  
2 Report.

3 JUDGE HOPKINS: That will be marked for  
4 identification as SFSP-C-111.

5 (The document referred to  
6 was marked Exhibit No.  
7 SFSP-C-111 for  
8 identification.)

9 MR. CRAIG: And finally, Your Honor, a  
10 document which reads on the title "InfoNews." It's the  
11 Union Pacific house organ, and there are a couple of  
12 articles that have been copied from it.

13 JUDGE HOPKINS: That will be marked for  
14 identification as SFSP-C-112.

15 (The document referred to  
16 was marked Exhibit No.  
17 SFSP-C-112 for  
18 identification.)

19 MR. NELSON: I might say at the outset my  
20 questions -- I have a few questions directed towards  
21 these documents. I don't believe they are very  
22 detailed. I am sure if I get out of line Mr. Miller  
23 will let me know.

24 JUDGE HOPKINS: I'm sure he will.

25 Are you ready, Mr. Miller?



1 MR. CHARLES MILLER: Thank you, Your Honor.  
2 Good morning, Your Honor. We would like to  
3 call at this time Mr. Kenefick.  
4 Whereupon,

5 JOHN C. KENEFICK  
6 was called as a witness by counsel for Union  
7 Pacific-Missouri Pacific and, having been first duly  
8 sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CHARLES MILLER:

11 Q Would you please state your full name and  
12 title?

13 A John C. Kenefick. I am chairman of the Union  
14 Pacific Railroad and Missouri Pacific Railroad.

15 Q Mr. Kenefick, do you have before you a  
16 document which is entitled "Verified Statement of John  
17 C. Kenefick?"

18 A I do.

19 MR. CHARLES MILLER: Your Honor, that appears  
20 as Statement No. 1 in Volume No. UP/MP 23.

21 BY MR. CHARLES MILLER: (Resuming)

22 Q Mr. Kenefick, are you familiar with the  
23 statement that has been identified as your verified  
24 statement in this case?

25 A I am.



1 Q And are the contents of that statement true  
2 and correct to the best of your knowledge and belief?

3 A They are.

4 MR. CHARLES MILLER: Your Honor, the witness  
5 is available for cross examination.

6 CROSS EXAMINATION

7 BY MR. NELSON:

8 Q Good morning, Mr. Kenefick. My name is Milton  
9 Nelson. I represent the Applicants.

10 Page 63 of UP/MP-11, which is one of your  
11 documents here, Mr. Cook, the president and chief  
12 executive officer of Union Pacific Corporation signed  
13 the trackage right application on behalf of that company  
and indicated that he was duly authorized to do so.

14 Was that authorization given by the Union  
15 Pacific Corporation board of directors?

16 A I'm afraid I can't answer specifically. I  
17 don't recall.

18 Q Was the market or extension proposal and  
19 trackage rights that you sought here presented to the  
20 Union Pacific Corporation board of directors?

21 A Well, they were informed of what we were  
22 doing. I indeed reported to them. I'm not sure exactly  
23 --

24 Q Were you responsible for reporting to them?  
25

1 A Yes, sir.

2 Q Were any written materials distributed to the  
3 board of directors in connection with --

4 A I do not recall that. I think we had a couple  
5 of slides likes maps and so on.

6 Q Did you make the presentation yourself to the  
7 group?

8 A Yes, sir.

9 Q And you indicate that you think there were  
10 some slides.

11 A As I recall, yes.

12 Q Was any part of your presentation reduced to  
13 writing outside of the slides?

14 A No. I usually have a few notes and wing it  
15 from there.

16 MR. NELSON: I wonder, counsel, if we might  
17 have an opportunity to see those slides? I think they  
18 might be covered by the discovery request for documents  
19 used in or transmitted to the board of directors in  
20 connection with this proposal.

21 JUDGE HOPKINS: You will provide those?

22 MR. CHARLES MILLER: Yes. We will check and  
23 see if they exist, and if so, we will certainly provide  
24 them, Your Honor.

25 JUDGE HOPKINS: Thank you.



1 MR. NELSON Thank you.

2 BY MR. NELSON: (Resuming)

3 Q Now, at page 1 of your testimony you state  
4 that the proposed merger of SPT and Santa Fe will  
5 probably yield substantial benefits to the resulting  
6 carrier, and that the merger is largely grounded on the  
7 economic benefits from the consolidation of parallel  
8 systems. Do you see that?

9 A Yes, sir.

10 Q Now, you testified in the Missouri  
11 Pacific-Union Pacific-Western Pacific consolidation case  
12 that the economies and efficiencies that you expected to  
13 achieve there were public benefits, did you not?

14 A I believe I did, yes.

15 Q Is it true, Mr. Kenefick, that these types of  
16 benefits will enhance competition to the extent that  
17 Southern Pacific-Santa Fe Railway Company will be a  
18 stronger competitor with the Union Pacific?

19 A Yes, sir.

20 Q Now, you state again on page 1, Mr. Kenefick,  
21 that the driving force of the Union Pacific  
22 consolidation was the need to obtain the service and  
23 ratemaking advantages of a single system. I ask you  
24 whether you will agree that the merger at hand will also  
25 produce those kinds of benefits to the system in

1 addition to the costs and efficiencies?

2 A I believe so, although it does not seem to be  
3 the same extent that was the case in the UP-Missouri  
4 Pacific merger.

5 Q Of course, the Southern Pacific shippers will  
6 extend -- be extended to Chicago, and similarly, the  
7 Santa Fe shippers will be extended to Memphis and St.  
8 Louis, New Orleans?

9 A I would expect there would be some benefit,  
10 but our merger was an end to end rather than a parallel  
11 merger, which I would perceive the SP-Santa Fe merger to  
12 be basically.

13 Q You would agree, would you not, that there  
14 would be a substantial expansion in the geographic scope  
15 of the Santa Fe-Southern Pacific as a result of the  
16 merger regardless of how you characterize it?

17 A It depends on what you mean by "substantial."  
18 Compared to the expansion and scope of the UP-WP-MP, no.

19 Q I wonder if you could refer -- now, this is  
20 SFSP-C-108 -- counsel might give you a copy. This is a  
21 document that you did get some notification of or your  
22 counsel did. Are you familiar with that document in a  
23 general way?

24 A Yes. They gave this to me last night when I  
25 got here.



1 Q But you had seen it before then?

2 A Oh, I believe so.

3 Q Could you for the record state why this  
4 document was prepared?

5 A Well, of course, I don't know exactly what you  
6 have here. If I may look here a minute, maybe I can  
7 find --

8 Q Let me withdraw that question. Were the  
9 various memcranda there prepared at your request?

10 A Yes. Now, that would be a fair question.  
11 There's another document that you were supposed to be  
12 showing me that started the whole thing, but I don't  
13 seem to have it here.

14 Q That is a certain cover memo dated April 24,  
15 as I recall, to Pat Barrett.

16 A That was a letter that I wrote to Mr. Barrett  
17 and others that expressed some dissatisfactions with  
18 previous documents that had been prepared.

19 Q You suggested, as a matter of fact, in that  
20 letter that the first draft that you saw from the  
21 Marketing Sales Department should be torn up.

22 A Burnt or junked or something. It wasn't worth  
23 a damn.

24 Q Was that suggestion carried out, to your  
25 knowledge?



1           A     I suspect that it was to a very large extent.  
2           Q     We didn't find any copies of that first draft  
3 among the documents in your depository, so we assume  
4 that your order or suggestion was carried out.

5           A     It was a strong suggestion.

6           Q     I wonder at this point if you could turn back  
7 to the Marketing Sales Department memorandum. If you  
8 look at the document depository numbers in the lower  
9 righthand corner -- it's page 601509 -- there are some  
10 paragraphs there, and they start out saying, "Long run  
11 commercial impact." I just wanted to ask you about one  
12 sentence there.

13                     "In our opinion, geographic coverage of the  
14 merged system will prove commercially significant to the  
15 ATSF/SP." How did you take that? What did you think  
16 "commercially significant" meant, if you can recall?

17           A     Well, I have trouble recalling what I thought  
18 then.

19           Q     And then if you could turn over to the next  
20 page, the first full paragraph, "The ATSF/SP route  
21 structure will make it a factor in more corridors to and  
22 from California and Texas than the Union Pacific  
23 system. From California, ATSF will serve the Pacific  
24 northwest, the midwest and the southwest via single  
25 system routes. It will serve the east and south via

1 single system routes to and from all major east-west  
2 gateways. It will also serve the intermountain area  
3 over joint line routes via Ogden."

4 Do you regard that as an accurate statement  
5 today of the consequences?

6 A Yes, sir.

7 Q I want to ask you a question about the single  
8 corridor here, Mr. Kenefick. If you could turn to page  
9 11 of your statement. I'm interested in the last  
10 sentence there. You talk about your trackage rights now  
11 are going to replace the competition you say will be  
12 lost between the merging companies in the Southern  
13 Corridor, and then you make a statement, "And in light  
14 of the existing Central Corridor competition between UP,  
15 MP and SPT, they, the trackage rights, will ensure  
16 vigorous competition between the western railroads for  
17 the foreseeable future."

18 Now, my question is can I take it from that  
19 that you see the Southern Pacific-Santa Fe Railway  
20 Company post-merger providing vigorous competition with  
21 the Union Pacific via the Central Corridor?

22 A If I understand the question, I think the  
23 answer is no. I see them providing vigorous competition  
24 with the Union Pacific Central Corridor, but the Santa  
25 Fe-Southern Pacific competition would probably come via



1 their own southern routes between northern California,  
2 on the one hand, and the midwestern markets on the other.

3 Q Well, I have a little trouble then  
4 understanding why this phrase was in this sentence.  
5 That's why I asked the question. If I could go over it  
6 again.

7 In the light of the existing Central Corridor  
8 competition between you and the Southern Pacific  
9 Transportation Company, there will be ensured for the  
10 future vigorous competition.

11 A Well, I consider that we are talking about  
12 competition between two markets, and I don't think that  
13 the location of the route, whether it goes through Utah  
14 or whether it goes through Arizona, is important. I  
15 think that I am trying to say here that the competition  
16 would be strong competition between the Southern  
17 Pacific-Santa Fe system on the one hand, and the Union  
18 Pacific system on the other hand between the northern  
19 California markets and the midwest, the Union Pacific,  
20 of course, clearly operating in the Central Corridor,  
21 the Southern Pacific operating in the Central Corridor  
22 with D&RG or with us if they wanted to -- they don't  
23 seem to want to much -- or in the Southern Corridor over  
24 their own lines.

25 Q All right. At page 4 of your statement, Mr.

1 Kenefick, if you will turn to that, you suggest that  
2 because of some competitive responses --

3 A Where are we, please?

4 Q I'm sorry. Right about in the middle of the  
5 page. "Because of effective responses, particularly  
6 SPT's redoubled efforts to shift Central Corridor  
7 traffic to the southern routes" -- do you see that  
8 sentence?

9 A Yes.

10 Q You were finding that your estimated traffic  
11 diversion of 109 million in the MP-UP case has not been  
12 realized. My first question here is has traffic been  
13 shifted from Ogden to Southern Pacific's southern routes?

14 A I can't say for sure. Our interchange with  
15 Ogden has dropped dramatically since our merger.  
16 Whether it is going over the southern routes, or whether  
17 it is going over the Rio Grande, or whether it just  
18 isn't moving at all I don't know.

19 Q You're not aware of the flow of traffic?

20 A I can't say.

21 Q You do agree, though, from your prior  
22 statement that the southern route and the central route  
23 are competitive for some body of traffic?

24 A Oh, yes. Our studies would indicate that a  
25 combined Santa Fe-Southern Pacific route say from a



1 common point such as Kansas City to the Bay Area is  
2 strongly competitive with the Union Pacific single line  
3 route.

4 Q Is it or is it not true, Mr. Kenefick, that  
5 Union Pacific's Central Corridor route between the Bay  
6 Area and points in Texas is competitive with the  
7 southern routes in the Santa Fe and the Southern Pacific?

8 A Well, not in the sense certainly that I'm  
9 talking about, which is the cost of operation involving  
10 distance and grades and so on.

11 Q I ask this question and I am not -- well, I  
12 will ask you to clarify this. There are some press  
13 releases which are in SFSP-C-109 that I would just like  
14 to ask you about for a moment, if counsel can provide  
15 you with a copy. These press releases relate to some  
16 train service that you've instituted post-merger, and I  
17 just ask you to look at page 400,026, which is about in  
18 the middle there.

19 Incidentally, these press releases are  
20 sprinkled with quotes from Mr. Kenefick -- I don't know  
21 if they are really quotes, but knowing how these things  
22 get prepared -- that shows a map --

23 A It shows the problem very well.

24 Q It shows the problem very well, but if you  
25 flip over to the next page here, there's a little bit of



1 text. First of all, just to state for the record here,  
2 it shows a route between San Francisco via Reno and  
3 North Platte, Kansas City, to Fort Worth, Dallas,  
4 Houston and San Antonio. And the second full paragraph  
5 on the next page, "The secret" -- and this is a new  
6 train which results from your single system service with  
7 the Missouri Pacific -- "The secret to this train's  
8 speedy progress is in Kansas City, the schedule from  
9 Houston and Fort Worth, Texas to North Platte, Nebraska  
10 where connections are made to all principal western  
11 destinations and all west coast ports."

12 I guess what you're telling me is that despite  
13 this -- these press releases and the graphic  
14 illustration of your route between the Bay Area and  
15 Texas points that you're not providing meaningful  
16 competition.

17 A It doesn't seem to be. After a year we  
18 handled maybe 15 loads a day, something like that.

19 Q You keep track of those trains' operations?

20 A I do.

21 Q In each direction?

22 A Approximately, yes. It does something.

23 Q Referring back to your statement here on page  
24 4 about competitive responses of the Southern Pacific  
25 and Santa Fe, do you have any Santa Fe competitive

1 response in mind with respect to the Union Pacific  
2 consolidations?

3 A No. I don't get into the specifics of that.

4 Q Could the present proceeding be regarded as  
5 such a competitive response in your mind?

6 A Well, it could be. I hadn't thought of it  
7 specifically in those terms.

8 Q Page 7 of your statement, Mr. Kenefick, on  
9 this page, if I could generally characterize it, you  
10 take issue with the Applicants on the question of  
11 intermodal competition. That begins where the paragraph  
12 begins in the middle of that page. You acknowledge  
13 there that trucks provide intense competition for  
14 railroads in many markets and for many commodities, but  
15 you state there are commodities and markets for which  
16 trucks are not an adequate substitute.

17 Do you see that?

18 A Yes, sir.

19 Q And you cite long hauls and bulk commodities  
20 as examples where trucks --

21 A Hazardous commodities.

22 Q And you state that each situation has to be  
23 judged on its own facts. That is right at the bottom of  
24 the page.

25 A Yes.



1           Q     Now, could I take it from that that you would  
2 acknowledge that somewhere over the 1200 miles of  
3 trackage rights you are seeking here there are markets  
4 or traffic movements for which there is intense truck  
5 competition?

6           A     Somewhere over the 1200 miles there is --

7           Q     We may disagree about how much there is and  
8 where it is, but certainly there are areas where there  
9 is intense competition --

10          A     I expect there would be.

11          Q     -- affecting the markets in the Southern  
12 Corridor.

13          A     I would expect that there would be.

14          Q     Now, you have criticized the other responsive  
15 applicants at pages 10 and 11 of your statement and note  
16 over on page 11 that they are not as limited as the  
17 Union Pacific-Missouri Pacific rights, and they're not  
18 focused on the competitive problems the way --

19          A     That is our view of the situation.

20          Q     The fact of the matter is, though, Mr.  
21 Kenefick, that if your trackage rights were imposed over  
22 this 1200 mile stretch, traffic that would be affected  
23 would include traffic as to which there is intense truck  
24 competition.

25          A     Are you asking me a question?

1           Q     Yes. Wouldn't your trackage rights, if  
2 imposed, enable you to originate or terminate traffic  
3 somewhere over this 1200 miles in markets where truck  
4 competition and/or source competition may today  
5 effectively drive what the rail rates and service will  
6 be?

7           A     I'm not trying to be difficult here, but the  
8 source competition kind of --

9           Q     Well, leave the source competition out.

10          A     Would you try it once again? I think I can  
11 answer it.

12          Q     Okay. I think we have agreed that -- not  
13 agreed as to the extent, but we agree that somewhere  
14 over the Southern Corridor there are markets where there  
15 is intense truck competition.

16          A     Yes.

17          Q     And where there is intense truck competition  
18 -- let me ask you this. Where you find on the Union  
19 Pacific system that very intense intermodal competition,  
20 be it trucks or barges, exists, are your rates and  
21 service then driven by what the trucks -- that is, the  
22 intense competition -- is doing?

23          A     Our rates, I think, are always responsive to  
24 the competitive situation, whatever it may be.

25          Q     Okay. Now, it's possible to some extent -- we



1 haven't agreed on any quantity -- that in the Southern  
2 Corridor there are just such markets, there are such  
3 instances of traffic where there is intense truck  
4 competition.

5 A Are you asking me a question?

6 Q Yes. Is that correct?

7 A I'm terribly sorry. I'm just not following  
8 you here.

9 Q Well, I thought we had agreed earlier that  
10 there is intense competition, truck competition for many  
11 commodities.

12 A In the Southern Corridor. We certainly have  
13 agreed to that.

14 Q My next question is if the trackage rights are  
15 imposed, your ability to originate and terminate traffic  
16 on your trackage rights would embrace that kind of  
17 traffic as well as long haul and bulk commodity  
18 traffic. It is not commodity specific or market  
19 specific, is it; that is, your trackage rights proposal?

20 A I think you are making a statement to me.

21 Q You think I am testifying?

22 JUDGE HOPKINS: Everyone has been doing that,  
23 Mr. Kenefick. Go ahead.

24 THE WITNESS: I'm sorry.

25 BY MR. NELSON: (Resuming)



1 Q Well, isn't it a fact, Mr. Kenefick, that if  
2 your trackage rights were imposed over the Southern  
3 Corridor that it would enable you to attract traffic --  
4 to have an impact on traffic as to which there is today  
5 intense truck competition?

6 A Yes, sir.

7 Q I'm sorry for taking so long to get that out.

8 A We are not communicating right here.

9 Q I'm sure it's my fault, Mr. Kenefick.

10 A No, sir. I'm afraid it's mine.

11 Q On page 5 of your statement, Mr. Kenefick, you  
12 state that "Without the trackage rights we seek" -- and  
13 this is right at the bottom of the continuing paragraph  
14 -- "many parts of the growing Sunbelt markets would be  
15 effectively precluded from enjoying two carrier  
16 competition, and we would be foreclosed from  
17 participating in these markets on an interline basis."

18 Now, my question here, Mr. Kenefick, is what  
19 particular markets would you be foreclosed from  
20 participating in on an interline basis?

21 A It would be a market, say, that was now a one  
22 and local, for example, be local to the Southern Pacific  
23 and perhaps on the other end would be local to the Santa  
24 Fe in a single line haul. They can take it straight  
25 through without giving us a chance.

1 Q That would be a market where today the joint  
2 Union Pacific route via El Paso?

3 A Particularly through Sweetwater, the El Paso  
4 interchange.

5 Q Your opposition traffic study makes an  
6 assumption which I would like to read to you. I'm not  
7 going to ask you whether you agree with it or not. And  
8 I will give this to you if you want it. It appears in  
9 UP/MP-22, and it's Appendix 8 of the traffic study.

10 "The assumption is that neither Union  
11 Pacific-Missouri Pacific nor Southern Pacific-Santa Fe  
12 would cancel joint rates or close routes that are  
13 available today. However, neither agree will agree to  
14 the establishment of competitive rates over new routes  
15 which would decrease their revenues."

16 Do you have that in mind?

17 A I think so.

18 Q My question is if that assumption were  
19 appropriate, were true in fact, how would Union Pacific  
20 be foreclosed from participating in the markets you  
21 suggest?

22 A Well, if I understand that you assume there  
23 would be no closure of existing routes and gateways, but  
24 it has been our experience, particularly since the  
25 Staggers Act, with contract rates and such things as



1 that there are many ways to substantially close without  
2 officially closing a gateway -- commercially closing I  
3 guess is the phrase -- through contract rates, through  
4 special incentives and things like that. This has been  
5 the case in our own situation at Ogden where certainly  
6 the gateway has not been closed. Our interchange has  
7 gone from a very significant one to nothing.

8 Q Now, is that because the incentive rates or  
9 contract rates are lower than the existing rates,  
10 published rates?

11 A We believe that to be the case. We know that  
12 some of the traffic has been diverted to the Rio Grande  
13 Railroad. We assume that arrangements were made between  
14 the Southern Pacific and the Rio Grande that attracts  
15 the shippers more than any arrangements we can make over  
16 our own railroad.

17 Q Let's take Sweetwater, for example. Are you  
18 suggesting then that SPSF could close Sweetwater  
19 commercially even if existing routes and rates remain in  
20 effect, as is assumed in your traffic study,  
21 commercially close it by reducing the single line rate  
22 and not participating in a reduction in the joint line  
23 rate?

24 A I don't know about that specifically, but you  
25 might do it through a contract device.

1 Q Which would reduce the single line rate?

2 A It would do something that would be more  
3 attractive to the shipper if he used the single line  
4 haul rather than the joint route.

5 Q You don't in your own mind -- and I am  
6 referring now to the speech that you haven't had an  
7 opportunity to see -- but let me ask you a question  
8 directly, which I'm inferring from the speech so that  
9 you will know that ahead of time.

10 You don't see anything wrong where there is a  
11 competing single line rate -- route and a joint line  
12 route for there to be no parity between the routes where  
13 the single line route is more efficient? In other words  
14 you are not advocating parity here, are you?

15 A No, I'm not advocating parity, certainly not  
16 in all cases.

17 Q Perhaps you could refer to that speech. I'm  
18 on page 18. It's page 400,112 in the UP document  
19 depository. At the top of that page you say, "We are  
20 taking steps to ensure that shippers' competitive  
21 interests are protected."

22 And here, if you just take a moment to look at  
23 it, you were talking about an agreement you reached with  
24 the SP concerning the maintenance of open routes and  
25 gateways.



1           A     May I look at this for a minute to get the  
2 context?

3           Q     Yes.

4                     (Pause.)

5           A     Yes, sir.

6           Q     Do any of the joint line UP-SP routes which  
7 are embraced in this agreement -- you are familiar with  
8 that agreement, are you not, somewhat?

9           A     Oh, somewhat would be the best I could say.

10          Q     If you can answer this question. If you  
11 can't, that's fine. But if you know, do any of the  
12 joint SP-UP routes that are maintained as a result of  
13 that agreement compete with either the single line Union  
14 Pacific or Southern Pacific route as an alternative?

15          A     I think I had better say I can't tell you  
16 definitely.

17                 MR. NELSON: Thank you, Mr. Kenefick. I have  
18 no further questions.

19                 JUDGE HOPKINS: Department of Justice, Ms.  
20 Budeiri.

21                 BY MS. BUDEIRI:

22           Q     Good morning, Mr. Kenefick. My name is  
23 Priscilla Budeiri, and I represent the United States  
24 Department of Justice.

25                 In reference to page 3 of your testimony, the

1 first paragraph, which would be the most effective way  
2 of preserving parallel railroad competition: denying  
3 the SFSP merger application or allowing the Santa Fe and  
4 Southern Pacific to merge, but conditioning the merger  
5 on the institution of trackage rights?

6 A Which would be the more effective way of  
7 preserving competition?

8 Q Yes.

9 A Oh, I think I would have to say denying the  
10 merger would be the more effective way.

11 Q Will the imposition of trackage rights reduce  
12 in any way the realization of benefits by the merged  
13 SFSP system?

14 A The benefits to whom?

15 Q The benefits that the SFSP system claims will  
16 result from the merger.

17 A Well, I think they would to some extent.

18 Q They would?

19 A I'm sorry. Let me see if I understand.  
20 You're talking about the benefits to the Southern  
21 Pacific and the Santa Fe as opposed to public benefits?

22 Q Well, all the benefits that the Applicants  
23 claim. We can argue over if they are public benefits or

24 --

25 A I guess I would say that the trackage rights,



1 in my judgment, would reduce the direct monetary  
2 benefits to the Southern Pacific and Santa Fe. On the  
3 other hand, they might enhance the public benefits that  
4 might be claimed for the merger.

5 Q So that I understand a subject you have  
6 previously discussed, you were discussing on page 4  
7 about SP's competitive response by shifting traffic from  
8 the Central Corridor to the Southern Corridor; and I  
9 just want to make sure I understood that discussion.

10 Are you able to give us examples of  
11 commodities which the SP was successful in shifting  
12 traffic from the central to the southern route?

13 A No. As I think I told Mr. Nelson, we know  
14 that the Ogden interchange has gone way down, and we  
15 don't know how much might have gone on the Southern  
16 Corridor, how much might have gone to the Rio Grande,  
17 our competitor, and how much just isn't moving by one  
18 reason or another by rail.

19 Q As far as traffic at the Ogden interchange, is  
20 this all kinds of commodities?

21 A Very broad range of commodities, yes.

22 Q Will the amount of rent charged for the  
23 trackage rights affect the degree of competition the UP  
24 will pose to the merged SFSP firm?

25 A It could.

1 Q Can you describe how it could?

2 A Well, if the rent was so high that the Union  
3 Pacific's costs of operating over the trackage were  
4 significantly higher than the Southern Pacific-Santa  
5 Fe's costs, obviously we would have difficulty competing.

6 Q What other factors will affect the level of  
7 competition the UP would be able to offer the SFSP  
8 system if the UP receives trackage rights?

9 A A great deal will be the territory that we can  
10 service on both ends, and particularly in the California  
11 area where we will be dependent either on the Southern  
12 Pacific-Santa Fe themselves for connections or perhaps  
13 attracting things like piggyback traffic that we can get  
14 off the street.

15 Q Well, what will affect the UP's ability to  
16 attract piggyback traffic?

17 A The ability to give service and the ability to  
18 give price. I think those are the two big items.

19 Q How will the service that UP is able to offer  
20 be affected by the trackage rights?

21 A We wouldn't be able to offer any service if we  
22 didn't have the trackage rights.

23 Q But given that you do have trackage rights,  
24 how does the service you would be able to offer if you  
25 were operating over your own line compare with your



1 ability to offer that same degree of service over  
2 trackage right lines?

3 A We cannot provide now on our own lines  
4 effective competitive service really between say  
5 Southern California on the one hand and Texas on the  
6 other because of the extreme circuitry going up to Salt  
7 Lake and over to Kansas City and down.

8 Q Maybe I will rephrase my question because I  
9 don't think it was very clear. Would you please compare  
10 the service you could offer over your own line with  
11 service -- assuming we are moving from A to B in both  
12 instances -- if you can just generally compare the  
13 service you could offer if you were moving from A to B  
14 over your own tracks versus the service you could offer  
15 if the service from A to B was over trackage rights?

16 A You are talking about abstract points A and B?

17 Q Yes.

18 A Generally comparable. Certainly there's a  
19 good example of this between San Bernardino and Barstow  
20 on the Santa Fe, but the Santa Fe is the tenant, and we  
21 operate over them, and we run just as fast as they do.

22 Q In general, speaking of all aspects of  
23 service, if you had trackage rights that you are  
24 requesting, how effective a constraint would the UP-MP  
25 trackage rights be on the merged SFSP system?

1           A       Well, I think it would be quite an effective  
2 constraint in the areas where we will be competing.  
3 We're talking between common points. We would not --  
4 under our proposal we would not be able to offer very  
5 effective service to a shipper that was still captive to  
6 either the SP or the Santa Fe, but at common points I  
7 think we can give them a very good run for the money.

8           Q       In reference to page 10 of your testimony,  
9 which would impose less costs on the merged SFSP system  
10 -- the granting of trackage rights over a given area of  
11 SFSP track or the granting of IRMA over a given area of  
12 SFSP track?

13          A       I don't know that I could answer that because  
14 I really don't quite understand this independent  
15 ratemaking authority.  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1 MS. BUDEIRI: Thank you.

2 JUDGE HOPKINS: Ms. Reed.

3 BY MS. REED.

4 Q Good morning, Mr. Kenefick. My name is Mary  
5 Reed, and I'm appearing on behalf of the U.S. Department  
6 of Transportation.

7 A I think we have met before.

8 Q I believe we have, sir; a few years back.

9 At the top of page 3 you state that: "We know  
10 from our own experience the trackage rights conditions  
11 are the most effective means of preserving parallel  
12 competition."

13 Is that statement based, in part, on the  
14 trackage rights that were imposed on the UP/MP merger?

15 A Yes. And in part on our own experience with  
16 trackage rights in other areas.

17 Q Have the trackage rights that were granted in  
18 the UP/MP merger imposed any operating burden on the  
19 PACRAIL System?

20 A Not significant that I am aware of.

21 Q Have you been able to work out any scheduling  
22 problems with carriers that were granted trackage  
23 rights?

24 A I am not aware that there have been any  
25 scheduling problems.

1 Q As far as you're concerned, there have not  
2 been any significant problems with those trackage  
3 rights?

4 A That's correct.

5 Q Have they, in your opinion, enabled the SP and  
6 the DRGW to be an effective competitive force in the  
7 Central Corridor?

8 A I can't speak too much for the Central  
9 Corridor, but we certainly saw some traffic disappear  
10 from our line in a hurry and move over the Rio Grande,  
11 for example, between Pueblo and Kansas City.

12 Q Do you consider the SP-DRGW routing to Kansas  
13 City to be competitive with the UP routing?

14 A To some extent.

15 Q To some extent?

16 A Yes.

17 Q Would you say that you have a superior  
18 competitive routing?

19 A Yes. We have a shorter and faster route.

20 Q Now, with regard to the trackage rights that  
21 were granted to the MKT, have they imposed any operating  
22 or scheduling burdens on the PACRAIL System?

23 A Again, not to my knowledge.

24 Q Now, at page 5, the first full paragraph, you  
25 indicate that you are seeking trackage rights between



1 Sacramento and Oakland.

2 Does the UP System presently operate between  
3 Sacramento and Oakland?

4 A Yes.

5 Q Do you compete with the SP for this traffic?

6 A Well, there's very little traffic that I know  
7 of moving specifically between those two points, but as  
8 a part of a through route, yes, we do compete with the  
9 SP.

10 Q You're saying that there's not much traffic  
11 that originates on the SP line in that corridor?

12 A No. I'm not aware of any significant volume  
13 originating at Sacramento, for example, and terminating  
14 at Oakland.

15 Q Talking about local traffic. Do you compete  
16 with the SP for traffic that originates at Oakland?

17 A Yes.

18 Q Do you compete with the SP for traffic that  
19 originates at Sacramento?

20 A Yes. And a couple of points in between.

21 Q Does the SP interchange traffic with you at  
22 those points today?

23 A I believe we do. Well, I know we do at both  
24 places to some extent. It's not a major interchange.

25 Q At the top of page 5, you indicate that your

1 existing route between California and Texas points  
2 cannot provide meaningful competition because of the  
3 extreme circuitry.

4 Does that mean that for points north of Texas,  
5 you believe that the Central Corridor route is  
6 competitive?

7 A Yes. Kansas City, for example.

8 Q What about Oklahoma?

9 A Well, I haven't really studied about where it  
10 divides. I mean Houston, obviously no, and Kansas City  
11 yes. But I'm not sure where the line is.

12 Q You don't know where the dividing point would  
13 be?

14 A No.

15 Q Now, you indicated before that the UP and the  
16 MP compete with the Southern Pacific in the Central  
17 Corridor. Do you believe that after the merger, the SP  
18 will have to continue to use this corridor to be an  
19 effective competitive alternative?

20 A My personal opinion is that they would not.

21 Q They would not have to use the --

22 A I would think no.

23 Q They will handle Oregon and California traffic  
24 via the southern route?

25 A Well, we have made some studies as to the



1 relative efficiencies of different routes, and between  
2 northern California on the one hand and, let's say, a  
3 point like Kansas City on the other hand, our studies  
4 would indicate that a combined Santa Fe/Southern Pacific  
5 route would be fully competitive with our Central  
6 Corridor route.

7 Now, when you get up into the Oregon territory  
8 and come down over the old Modoc Line, not the Southern  
9 Pacific, then the Central Corridor becomes a more  
10 efficient route.

11 This is at least a theoretical consideration.

12 Q Did your study include considerations of  
13 transit time and cost?

14 A Yes. Primarily distance, grade, rise and  
15 fall, the amount of fuel that would be consumed, things  
16 like that.

17 MS. REED: Thank you very much. That's all I  
18 have.

19 MR. VINCENT MAC KENZIE: Your Honor, may I ask  
20 a question?

21 BY MR. VINCENT MAC KENZIE:

22 Q Mr. Kenefick, I am Vincent MacKenzie for the  
23 State of California. I would like to ask you a couple  
24 of questions.

25 In your statement to the Transportation Club

1 that was marked as SFSP-C-110 that Mr. Nelson asked you  
2 several questions regarding, there was that statement  
3 that you referred to on page --

4 A 18.

5 Q This was 400-112 where you stated that you are  
6 taking presently steps with other carriers to assure  
7 that shippers will have, that their competitive  
8 interests will be protected.

9 Can you inform the Commission and the State of  
10 California whether or not there are any steps which you,  
11 if the application is granted with SFSP, can take to  
12 protect shippers' competitive interests?

13 A Well, I'm not sure I can answer that very  
14 well. What I was referring to here, if I may, about  
15 this time, the Southern Pacific closed a gateway -- I  
16 think it was at Ogden. Or it's the other way around.  
17 The Southern Pacific closed our gateway at Colton and we  
18 closed the gateway at Ogden in retaliation, and it got  
19 to a point we were then in a situation where we had a  
20 shipper on the UP at one end and the SP on the other  
21 end, and there's no way he could get between the two  
22 points.

23 And we got together with the Southern Pacific  
24 and said this is ridiculous, which indeed it was, and  
25 worked out a system to provide an open, efficient route



1 so that a shipper could always use it.

2 The question as to what might happen in the  
3 future, I'm just not quite sure. This requires a  
4 certain amount of negotiation.

5 Q Are there any steps you are taking with other  
6 carriers in response to the anticipated granting of an  
7 unconditioned SFSP application?

8 A Not to my knowledge, sir.

9 Q Do you expect the agreement that you allude to  
10 in that paragraph with SP will continue if the  
11 application is granted without conditions?

12 A I cannot say. I think Mr. Craig might be able  
13 to help you a little bit on that.

14 Q Would you expect the Southern Pacific to be  
15 cooperative in the future if the application is granted  
16 without conditions?

17 A Perhaps.

18 Q The last part of that paragraph alludes to  
19 your working on similar arrangements with other  
20 carriers. Again, is that --

21 A At that time, as I recall, we were trying to  
22 work out some similar arrangement with the Norfolk  
23 Southern. I'm not aware that we ever did get the job  
24 done.

25 Q If the trackage rights that are sought by UP

1 are granted by the Commission as part of a decision in  
2 this case, what ways can the UP prevent any possible  
3 downgrading of any of the SPT lines in order that UP can  
4 maintain viable competition over the lines if trackage  
5 rights are granted?

6 A This could be a problem, but I think we would  
7 have to try to work that out as a part of our operating  
8 agreements that we would propose to enter into with the  
9 Southern Pacific Santa Fe.

10 Q Is it based mostly on a "tit for tat"  
11 situation? That is, you do something to me, I can  
12 retaliate.

13 A Well, that works if it works, and sometimes if  
14 he does "tit," and you haven't got "tat," then you have  
15 a problem.

16 MR. VINCENT MAC KENZIE: Thank you.

17 JUDGE HOPKINS: Thank you. Anything further,  
18 Mr. Miller?

19 MR. CHARLES MILLER: We have no redirect, Your  
20 Honor.

21 JUDGE HOPKINS: Thank you. You are excused,  
22 sir.

23 (Witness excused.)

24 JUDGE HOPKINS: You move the admission of Mr.  
25 Kenefick's testimony?



1 MR. CHARLES MILLER: So moved.

2 JUDGE HOPKINS: Any objection? It will be  
3 received in evidence.

4 What about your --

5 MR. NELSON: I move SFSP-C-110, 109, and 108.

6 MR. CHARLES MILLER: Your Honor, as Mr. Nelson  
7 alluded earlier, and so did Mr. Kenefick, there was a  
8 cover memo that went with the document that's been  
9 marked as Exhibit 108.

10 We have no objection to the admission of 108,  
11 but we would like to have the cover memo admitted as  
12 well, so that the context of --

13 JUDGE HOPKINS: If you wish, you can submit it  
14 at a later date.

15 MR. CHARLES MILLER: We will do so, and I just  
16 want to reserve the right to do so, and indicate that it  
17 goes with Exhibit 108.

18 JUDGE HOPKINS: Surely. You can put it in as  
19 one of your exhibits and indicate clearly what it is  
20 intended for.

21 MR. NELSON: No objection.

22 JUDGE HOPKINS: Any further objections?

23 MR. CHARLES MILLER: Other than that, we have  
24 no objection to the document.

25 JUDGE HOPKINS: You're talking about 110, 109,

1 and 108, because those are the only ones that you asked  
2 Mr. Kenefick about?

3 MR. NELSON: That's right. I didn't ask him  
4 about 111 and 112. And just as a matter of  
5 housekeeping, I'd like to move the admission of  
6 SFSP-C-106, which happens to be one of the pages from  
7 this 108 exhibit.

8 JUDGE HOPKINS: I know. That was held up the  
9 other day, as I remember.

10 MR. NELSON: But just so that the record is  
11 clear when they're talking about 106.

12 JUDGE HOPKINS: That was held up the other  
13 day, as I remember.

14 MR. NELSON: That's correct.

15 JUDGE HOPKINS: No objection, is there?

16 MR. CHARLES MILLER: It was held up the other  
17 day, Your Honor, because questions were asked of a  
18 witness who was unable to supply the information going  
19 to the foundation for the document. So we would reserve  
20 the right to supplement the record to supply the answer  
21 to those questions.

22 But, other than that, we have no objection.

23 JUDGE HOPKINS: You have the right to submit  
24 that, so Exhibit 106, 108, 109, and 110 will be received  
25 in evidence.)



1 (The documents referred to,  
2 previously marked Exhibits  
3 SFSP-C-106, 108, 109, and  
4 110 for identification, were  
5 received in evidence.)

6 JUDGE HOPKINS: Who will be the next witness?

7 MR. CHARLES MILLER: Mr. Roach will bring up  
8 the next witness.

9 MR. ROACH: Your Honor, the next witness is  
10 George Craig.

11 Whereupon,

12 GEORGE A. CRAIG

13 was called as a witness by counsel for Union Pacific -  
14 Missouri Pacific and, having first been duly sworn by  
15 the Administrative Law Judge, was examined and testified  
16 as follows:

17 DIRECT EXAMINATION

18 BY MR. ROACH:

19 Q Would you state your full name, please?

20 JUDGE HOPKINS: Excuse me one minute, Mr.  
21 Roach. For the record, Mr. Nelson, are you withdrawing  
22 111 and 112, or what?

23 MR. NELSON: I think I may have one or two  
24 questions of Mr. Craig on those.

25 JUDGE HOPKINS: All right. We will consider

1 them later.

2 Go ahead, Mr. Roach; I'm sorry.

3 MR. ROACH: Thank you, Your Honor.

4 BY MR. ROACH: (Resuming)

5 Q Could you state your name, please?

6 A George A. Craig.

7 Q And what is your position?

8 A Senior Vice President, Marketing & Sales,  
9 Union Pacific System.

10 Q I put before you, sir, a verified statement,  
11 17 pages in length, bearing a verification signed on  
12 August 29, 1984. Is that your verified statement in  
13 this proceeding?

14 A It is.

15 Q Do you have any corrections that you wish to  
16 make to it?

17 A No.

18 Q Is it true and correct, to the best of your  
19 knowledge and belief?

20 A It is.

21 MR. ROACH: The witness is available for  
22 cross-examination.

23 CROSS EXAMINATION

24 BY MR. NELSON:

25 Q Does the Union Pacific exact monopoly profits



1 on soda ash traffic that originates at Green River,  
2 Wyoming?

3 A We don't think so.

4 Q Pardon?

5 A We don't think so.

6 Q Now, UP is the only railroad which serves soda  
7 ash deposits at Green River; isn't that correct?

8 A That's correct.

9 Q What prevents you from charging monopoly  
10 prices?

11 A Well, there is truck competition from there.

12 Q Are there any other constraints on your soda  
13 ash moves?

14 A Well, we have to be concerned about the market  
15 competition of our soda ash with origin points in  
16 California and in New York.

17 Q Now, soda ash moves long haul, generally,  
18 doesn't it? And it's a bulk commodity?

19 A Yes.

20 Q So from that, I take it you would agree, as a  
21 general principle, that there may be circumstances which  
22 constain rail rates to and from exclusively-served  
23 points.

24 A Yes.

25 Q And if that is true as a matter of principle,

1 it could also apply to some extent to common Santa Fe  
2 Southern Pacific points today, could it not?

3 A There is some constraint.

4 Q If your trackage rights were granted, and you  
5 were serving these common points, you would be able to  
6 impact traffic, would you not, as to which there may be  
7 source competition or intermodal competition similar to  
8 your soda ash movements; is that correct?

9 A I'm not sure I see the correlation of us  
10 serving a common point with our market activity on soda  
11 ash.

12 Q You want to serve the common point to make  
13 sure that there is competition at a former SFSP common  
14 point.

15 A That's correct.

16 Q I am suggesting, Mr. Craig, that at such a  
17 common point, there may be today as to a certain  
18 commodity, sufficient intermodal competition or source  
19 competition to provide a constraint on rates and service  
20 without regard to whether Union Pacific trackage rights  
21 were granted or not.

22 A If you have something specific, I think maybe  
23 it would help everybody. What specific commodity, what  
24 market area are you talking about?

25 Q I am just trying to apply the principle.



1 A Yes, there should be some. Yes.

2 Q If your trackage rights were imposed, you  
3 would be able and would seek, would you not, to handle,  
4 if possible, any and all commodities available at the  
5 common point?

6 A Yes.

7 Q Whether or not they were subject to intense  
8 intermodal competition or severe source competition; is  
9 that correct?

10 A Yes.

11 Q Is it important in your mind, from the  
12 economic standpoint with your trackage rights, that you  
13 would be able to solicit and handle any and all  
14 commodities?

15 A Yes.

16 Q And any and all length of haul that might be  
17 involved?

18 A Yes.

19 Q With respect to your common point discussion,  
20 I have a question about Dow Chemical. That is served  
21 exclusively by Missouri Pacific at Freeport, Texas, is  
22 it not?

23 A That's correct.

24 Q Dow does have operations in other parts of the  
25 country, doesn't it?

1 A Yes.

2 Q And really ships commodities all over the  
3 United States?

4 A Yes.

5 Q You don't regard Dow as being at Union  
6 Pacific's mercy at Freeport, do you, with respect to  
7 traffic moving from Freeport to St. Louis?

8 Let me withdraw that.

9 A Thank you.

10 Q Are there also constraints on your ability to  
11 exact monopoly profits from Dow at Freeport?

12 A You mentioned a good market there. Let's talk  
13 about Freeport to St. Louis. Probably 65 percent of  
14 Dow's production moves by water. So, yes, in that  
15 particular instance we do, in fact, have competition  
16 that would constrain the marketing activity.

17 Q Where does the preponderance of Dallas  
18 outbound traffic terminate? Where does it go from  
19 Freeport?

20 A A lot of it goes to Midland, Michigan. A lot  
21 of it goes to users in the Northeast and in the  
22 Southeast. And there is a substantial amount that comes  
23 out to California.

24 Q What percentage would you say?

25 A I don't know.



1 Q I'd like to ask a couple of questions about  
2 your non-common points discussion which starts about  
3 page 5 of your statement, Mr. Craig.

4 I think your thesis here, as I take it, is  
5 that the pressure of a nearby railroad may provide  
6 competition because the shipper can truck his goods to  
7 the closest station. Is that correct?

8 A Yes. That's from verified statements from  
9 shippers in the San Joaquin Valley who are testifying  
10 that's exactly what they do.

11 Q Well, what sort of distances do you have in  
12 mind here? What is close enough to be a competitive  
13 railroad?

14 A I think every commodity, every movement is  
15 going to have to be analyzed and stand on its own. We  
16 have testimony in here where produce people have  
17 deliberately put facilities on both the SP and the Santa  
18 Fe. And when one of them gets out of hand with pricing  
19 or the service fails, or the equipment is not available,  
20 he will track to the other one.

21 That's a determination every shipper has to  
22 make for himself, every movement. It's awful hard to  
23 generalize what that trucking distance can be and be  
24 economic. I see Kennecott says he can truck 107 miles  
25 to keep the SP honest, at his Arizona facility.

1 Q That's the example you give on page 6 of your  
2 statement; from Hayden, Arizona and shipping 108 miles  
3 to the Santa Fe, and the commodity there is copper.

4 A Yes.

5 Q In that example, the copper was unloaded from  
6 the trucks into boxcars for forwarding, was it not?

7 A I don't know.

8 Q Did such a movement ever occur?

9 A I don't know that either. Mr. Melville's  
10 statement, I think, should be self-explanatory.  
11 Movement doesn't have to occur to exert some discipline  
12 on a serving carrier. Its presence sometimes is  
13 helpful.

14 Q Do you suppose that the vicinity, the  
15 proximity for commodities moving by trailer from origin  
16 to destination, let's say of fresh fruits and  
17 vegetables, that there would be a wider reach than there  
18 would be for copper generally?

19 A I missed something in your question.

20 Q Let me rephrase it. That was quite awkward.

21 Don't you think that the copper example, the  
22 108 mile copper example, if you took another commodity,  
23 you've indicated that it's going to vary from commodity  
24 to commodity, and I was just positing a movement that  
25 we've put in a truck trailer and trucked to another



1 railroad, and then moved beyond in the trailer.

2 Would you think that would be likely to exert  
3 competitive pressure from a longer distance than the  
4 Kennecott example?

5 A I'm sorry; I'm still missing something.

6 Q Would it be more economical, likely to be more  
7 economical to truck something in a trailer, more  
8 light-loaded in a trailer, and move it on the railroad  
9 in the trailer to destination from a farther distance?

10 A Yes. Yes, I would think so. Again, though, I  
11 think we have to be careful. Different products moving  
12 between different markets can accept additional  
13 transportation costs and others cannot.

14 I don't believe you're going to be able to  
15 ship much produce 109 miles, truck produce 109 miles,  
16 and then have the subsequent movement go out 500, 600,  
17 800 miles.

18 I think the economics would mitigate against  
19 that.

20 Q I'd like to talk about the new shipper  
21 location discussion that begins on page 9 of your  
22 testimony. In this regard, could you identify Upland  
23 Industries for the record?

24 A Upland is a real estate subsidiary of the  
25 Union Pacific Corporation.

1           Q       Your 1983 Annual Report which is in UP/MP 12  
2 says that Upland has a million acres of surface land and  
3 manages over 50 industrial parts and districts in the  
4 West. Does that sound about right?

5           A       I'll take it as your word if it's in the  
6 book.

7           Q       Now, UP's acreage in California was enhanced  
8 substantially when it acquired the Western Pacific,  
9 wasn't it?

10          A       What kind of acreage?

11          Q       Industrial land.

12          A       I don't know what you mean by "substantial."  
13 I am not aware of any really major industrial  
14 development that we have in the WP. The WP disposed of  
15 a lot of property.

16          Q       In any event, Upland does have prime acreage  
17 -- I'm taking the phrase from your Annual Report -- in  
18 the Bay Area and in Central California.

19                 Would you suppose in a postmerger environment,  
20 let's say there weren't any trackage rights granted for  
21 the purposes of this discussion, that a firm that wants  
22 to locate in central California is going to look at  
23 places like Stockton and Turloc, as well as, let's say,  
24 Bakersfield and Fresno which would be exclusively served  
25 by the SPSF postmerger? They would likely shop around



1 for their --

2 A Depending on what his product was and his  
3 market was; yes.

4 Q Well, as a matter of fact, if the shippers  
5 were so concerned about being exclusively served by one  
6 railroad, wouldn't the merger actually enhance Upland's  
7 ability to market industrial real estate at jointly  
8 served points such as Stockton and Turloc?

9 A Hit me one more time with that.

10 Q If your thesis is correct that shippers don't  
11 want to be served, they would avoid like the plague  
12 service by a single railroad --

13 A I'd say they would prefer joint service; yes.

14 Q So they would prefer Union Pacific joint  
15 location real estate to Southern Pacific Santa Fe real  
16 estate?

17 A They would prefer Southern Pacific Santa Fe  
18 property if it was at a common point with the Union  
19 Pacific. And unfortunately in California, most of ours  
20 is common point with the Southern Pacific or the Santa  
21 Fe.

22 Q At page 9 of your statement, Mr. Craig, you  
23 make the statement that Union Pacific, in the first full  
24 paragraph there, "UP will not be able to compete without  
25 the crackage rights we are seeking for movements between

1 California, Texas, Louisiana, and much of the Southeast.

2 My question is, what part of the Southeast  
3 could you competitively serve without --

4 A The northern part, the Kentuckys and the  
5 Tennessee -- we can compete in that area. Virginia.

6 Q Virginia. North Carolina?

7 A You begin to scratch a little bit in some of  
8 those. We haven't drawn a line at any place that says  
9 here we can compete and here we cannot.

10 Generally, when you get into the Georgia,  
11 Alabama area, and certainly, you know, Mississippi,  
12 Louisiana.

13 Q That competition would be via the Memphis  
14 Gateway, would it?

15 A Yes.

16 Q I'd like to ask just a couple of questions  
17 about the TOFC discussions in your testimony. And for  
18 that purpose, Mr. Miller, I would like to refer to this  
19 1981 Annual Report which is SFSP-C-111.

20 If you could turn over to page 9, it is not  
21 very easy to do, because my copy is pretty faded.

22 A I don't see any numbers on here. Can you tell  
23 me what it starts with?

24 Q The numbers are down in this corner here.

25 A Well, mine are blocked out. Okay, I think



1 I've got it.

2 Q We have a page with a photograph on it. Well,  
3 assuming we have page 9, Mr. Craig, and we will find out  
4 fairly shortly. In the third column there, the first  
5 full paragraph refers to TOFC business of the Union  
6 Pacific, and the passage starts out: "To recapture  
7 business from trucks, the railroad offered new pricing  
8 programs and launched an innovative, coast-to-coast  
9 piggyback operation during the year with American  
10 President Lines, Transway, and Chicago & North  
11 Western."

12 That is an accurate statement, although you  
13 were not on the Union Pacific at that time.

14 A That's correct.

15 Q Are you familiar with this service?

16 A Yes, I am.

17 Q And it is correctly described here?

18 A Yes.

19 Q It is a fact that TOFC was deregulated, Mr.  
20 Craig, because it was viewed to be in direct competition  
21 with very effective motor carriers? And I just quoted  
22 from Mr. Kenefick's speech before you answer the  
23 question. I could refer you to that. But isn't that  
24 correct, that was the basic reason TOFC was deregulated,  
25 the presence of very effective motor carriers? Isn't

1 that true?

2 A I don't know. I will take your word for it.

3 Q Near the top of page 7, you state that TCFC  
4 allows railroads to reach out within limits to shippers  
5 in a wider area. That's back on page 7. You might want  
6 to take a glance at that.

7 My question is, what sort of limits do you  
8 have in mind in terms of distance? And here again, you  
9 run into the same problem we were talking about earlier,  
10 the length of haul; you know, origin/destination has  
11 something to do with it. We figure that in the valley  
12 area down there, 50 miles is a long way to go and to be  
13 able to absorb the drayage.

14 A lot would depend on what the drayage charges  
15 are. Drayage charges in certain parts of the country  
16 are substantially higher than they are in other parts,  
17 so therefore you can reach out. But 50 miles gets to be  
18 quite a ways on an average.

19 And we look at that as kind of a ballpark.

20 Q Again, you are not generalizing. You say  
21 you've indicated before you can't generalize about these  
22 things. You have to look at them case by case.

23 A But I say on an average in our company, we  
24 look at 50 miles as about the outer limit.

25 Q. Although for the vicinity competition that we



1 talked about earlier, we had 108 mile --

2 A It's real simple. If the local carrier runs  
3 his prices up so that they are exorbitant, then the  
4 higher he runs his price, the further that fellow can  
5 truck it. It gets to be nothing but market dictation  
6 after a while to get the price up there, and the fellow  
7 can truck it 300 miles.

8 Q You cite on page 8, National Piggyback support  
9 for your trackage right proposal. National Piggyback is  
10 a major TOFC shipper, isn't it?

11 A Yes, it is.

12 Q Does it ship in other corridors such as  
13 Chicago, Los Angeles, the Bay Area, and Houston?

14 A Yes, it does.

15 Q That's fairly common for the major third party  
16 TOFC shippers, isn't it, to ship on a fairly extensive  
17 basis in many corridors?

18 A Yes.

19 Q I have a couple of questions on how carefully  
20 drawn your trackage rights applications have been. Now,  
21 your basic argument here is that you're seeking trackage  
22 rights that are only designed to ensure the retention of  
23 competition. That's correct, isn't it?

24 A Yes, sir.

25 Q And any advantage or enhancement to the Union

1 Pacific system would just be a fallout or a byproduct of  
2 that; is that correct?

3 A Substantially.

4 Q I would like you to turn to the footnote at  
5 the bottom of page 14 of your statement. In that  
6 footnote, you say that the rights that you seek between  
7 Sacramento and Oakland would improve the competitiveness  
8 of your Central Corridor route by reducing it by about  
9 45 miles. Do you see that?

10 A Yes.

11 Q Am I correct that you want these rights to  
12 serve Richmond and the Martinez-Antioch area?

13 A Yes.

14 Q I'd like to have counsel refer you to a map  
15 which appears in UP/MP-11. And it's a map of  
16 California, and if yours is folded the same way mine is,  
17 you won't have to unfold it.

18 Mr. Craig, you have this map in front of you.  
19 Does it show between Stockton and Antioch a red line  
20 which is a line of the Western Pacific Railroad?

21 A Yes. Oh, excuse me; between what?

22 Q Between Stockton and Antioch.

23 A That there's a line of what railroad?

24 Q There's a red line between Stockton and  
25 Antioch.



1 A Yes.

2 Q Which is a line of the Western Pacific  
3 Railroad?

4 A They have trackage rights.

5 Q Is that a trackage rights line over the Santa  
6 Fe?

7 A Yes, sir.

8 Q How about the little line that gets almost to  
9 Martinez?

10 A Yes. We have trackage rights over the SP and  
11 get down to -- I guess it used to be the Sacramento  
12 Northern, with trackage down in that part of the  
13 country.

14 Q Now, it would be possible to then accomplish  
15 your objective of serving the Martinez-Antioch area. As  
16 a matter of fact, don't you serve the Martinez-Antioch  
17 area today?

18 A No. We do not serve Martinez and Antioch  
19 today.

20 Q You do not?

21 A They are served by the Southern Pacific and  
22 the Santa Fe.

23 Q But you do have trackage rights which puts you  
24 in that vicinity?

25 A We have trackage rights to Pittsburgh. We

1 can't even serve East Pittsburgh.

2 Q But you already have trackage rights between  
3 Antioch and Stockton; is that correct? Do I understand  
4 you correctly?

5 A Between Pittsburgh and Stockton.

6 Q Okay. Where is Pittsburgh on this map?

7 A Well, it's not on your map.

8 Q I don't want to drag this out too long.

9 A Well, we have a system map here, Milt, and  
10 maybe it will show exactly what ours is.

11 Q This red line might be a mistake, but it looks  
12 like a Western Pacific line between Stockton and  
13 Antioch.

14 A This is a trackage rights line, but we do not  
15 have the right to serve Antioch.

16 Q But you could accomplish the objective of  
17 serving Richmond, Martinez, and Antioch utilizing that  
18 particular trackage right, and then extending to  
19 Richmond, could you not?

20 A Yes, if the Santa Fe was not going to abandon  
21 it, we could. We have already been notified that they  
22 are going to abandon the railroad, and we are out.

23 Q You could serve Richmond, Martinez, and  
24 Antioch via that route if it weren't abandoned?

25 A Well, we would need an extension from where we



1 are at Port Chicago over to Richmond. We have already  
2 been notified that the railroad is going to be abandoned  
3 on which we have trackage rights on the Santa Fe.

4 Q Between Antioch and Stockton.

5 A Between Pittsburgh and Stockton.

6 Q Okay. This is sufficiently clarified for me.

7 If you utilized that route, Mr. Craig, of course, it  
8 wouldn't shorten your Oakland Central Corridor route by  
9 45 miles.

10 A No, it would not.

11 Q Mr. Craig, I wonder if you could just glance  
12 for a moment at SFSP-C-112. This is an excerpt of a  
13 couple of articles taken out of InfoNews. That is the  
14 Union Pacific and Missouri Pacific Railroad monthly  
15 magazine, is it not?

16 A Yes.

17 Q I don't know if you have seen this before or  
18 not, but if you look at the first article, it's entitled  
19 "Competing in a Buyer's Market." Are you able to tell  
20 us whether this article correctly appraises the buyer's  
21 market or competitive situation as it exists today?

22 A I haven't read the article so I can't tell  
23 you; I'm sorry.

24 Q And would the same thing be true then with  
25 respect to the second article which is "Chemical

F.D. 30400

1/22/85

-

Pgs.

8063-8122



1 Traffic: A Bright Spot"? You haven't read that one  
2 either?

3 A I'm afraid not.

4 Q I would just like to read to you one sentence  
5 out of it which I find very interesting, and ask you if  
6 it sounds about right.

7 "If Union Pacific's chemical traffic alone was  
8 compared to the business results of the Fortune 500  
9 companies, it would be ranked among the top 300  
10 businesses in the country."

11 Does that sound about right to you?

12 A I don't know what the top number would be.  
13 Our chemical business grosses \$700-plus million  
14 annually.

15 Q Well, at the top it says "Chemical traffic  
16 means nearly \$1 billion annually," so I guess that is in  
17 the ballpark.

18 A I think there's a little poetic license in  
19 that article in the dollar number.

20 Q Thank you.

21 I would like to ask just a couple of questions  
22 about the important products and markets discussion  
23 which begins at page 10 of your verified statement, Mr.  
24 Craig.

25 Do you see that discussion? It begins right

1 about the middle of the page. Among the more important  
2 types of traffic, you mentioned chemicals, hazardous  
3 materials, automobiles and oversized loads.

4 Now, oversized loads don't account for much  
5 percentagewise of traffic moving in the Southern  
6 Corridor, do they?

7 A No.

8 Q Hazardous materials are usually chemicals that  
9 are produced by the firms that produce the other  
10 chemical products, isn't that correct?

11 A Yes.

12 Q Outfits like Dow and Union Carbide. And we  
13 know who ships the automobiles.

14 In your experience as a traffic officer, have  
15 you ever heard or used the term "national accounts"?

16 A Yes.

17 Q And firms like Dow, Union Carbide, General  
18 Motors, U.S. Steel would qualify as national accounts?

19 A Yes.

20 Q These national accounts move traffic at high  
21 volumes throughout the United States generally, isn't  
22 that true?

23 A Yes.

24 Q You described the market for the  
25 transportation of fresh fruits and vegetables as a



1 critical market at the bottom of page 11 of your  
2 statement, and you state over on page 12 that this  
3 entire critical market in recent years has been  
4 dominated by motor carriers.

5 Do you see that in the second line?

6 A Yes.

7 Q In point of fact, the motor carriers still  
8 dominate that critical market, do they not?

9 A Yes, but we are making inroads there.

10 Q In Mr. Kenefick's speech which is SFSP-C-110,  
11 he suggests that the rail share of that market has gone  
12 from 10 to 15 percent. Does that sound about right? He  
13 is speaking in March of 1984.

14 A Yes. Certain destinations, Milt, are very  
15 heavily rail-oriented. When you get beyond Chicago, get  
16 up into the Northeast, you get up into eastern Canada,  
17 these are heavy rail movements.

18 The truck movements tend to be the shorter  
19 distances, the intermediate places, the stop-offs.  
20 Trucks are extremely competitive between California and  
21 Chicago as an example, but into New England and eastern  
22 Canada and the northeastern states, we are becoming more  
23 competitive all the time.

24 Q You indicate at Chicago, that the trucks are  
25 strong in Chicago.

1 A Yes.

2 Q Do you still run the Salad Bowl Express?

3 A If we do, I'm not aware of it.

4 Q That was before your time, I guess, Mr.  
5 Craig? I won't ask you about that.

6 Now, Mr. Craig, a couple of questions about  
7 this Union Pacific options paper, SFSP-C-108. You  
8 signed the cover memorandum, did you not, along with, I  
9 believe, Mr. Barrett and Mr. Schaeffer?

10 A Yes.

11 Q Incidentally, what is Mr. Schaeffer's title  
12 these days?

13 A He is now Senior Vice President of Planning  
14 and something for the corporation.

15 Q As has already been indicated, this memorandum  
16 was prepared or these memoranda were prepared at Mr.  
17 Kenefick's request.

18 A Yes.

19 Q And it was transmitted to him on May 4, 1984  
20 in response to a request of April 24, 1984.

21 A Yes.

22 Q Do the representations, conclusions in this  
23 memc, represent your views today, your appraisal of the  
24 impact of the Santa Fe Southern Pacific merger on Union  
25 Pacific?



1           A       In a general sense, yes. I don't know about  
2 all the specifics in that many pages. But generally,  
3 yes.

4           Q       I would just like to ask you about a few  
5 particular passages, and I will try to be as brief as  
6 possible. At page 5 of the cover memo to Mr. Kenefick  
7 -- I guess that is 601593 in the UP document depository,  
8 and I hope it wasn't actually that many pages -- you  
9 talk about the efficiencies, in the middle of the page,  
10 of the Santa Fe Southern Pacific.

11                   And you say at the bottom of that middle  
12 paragraph: "These efficiencies, to the extent that they  
13 are realized, can be used to further increase price  
14 competition on traffic between California, Kansas City,  
15 Chicago, St. Louis, and Memphis Gateways."

16                   Does that represent your view today?

17           A       Yes.

18           Q       And over on page 6 of that cover memo:  
19 "Overall, from a head-to-head competitive perspective,  
20 we see the combined ATSF/SP continuing to be an  
21 aggressive price and service competitor with a  
22 substantial ability to reduce costs and thus maintain or  
23 reduce relative price levels as a strategy for  
24 increasing market share."

25                   Is that a correct statement?

1 A Yes.

2 Q Now, if you could flip over to the next  
3 memorandum, and that is a marketing and sales memo, page  
4 601609. You talk about long-run commercial impact and  
5 you talk about the projected savings, that is, the  
6 projection made by the Applicants.

7 You state there: "We believe the SFSP's  
8 operating plan is conservative and the long-term cost  
9 savings will be larger." Do you see that?

10 A Yes.

11 Q Of course, this came out, I guess, before our  
12 witnesses were cross-examined. Is this still your view,  
13 that you think the operating plan is conservative and  
14 that the savings will be larger?

15 A Yes.

16 Q And just to complete that one: "These savings  
17 will be in addition to the efficiencies, the combined  
18 ATSF/SP routes will create in certain corridors; for  
19 example, Kansas City - California, due to reduction in  
20 mileage, curves, and grades. If the projected or larger  
21 savings are utilized to reduce prices, additional  
22 competitive pressure will result."

23 Is that still an appropriate statement?

24 A Yes.

25 Q Thank you. Those are all the questions I have



1 on that. I do have just a few more questions on your  
2 verified statement.

3 At page 9, just before the new shipper  
4 location passage, you say that "SPSF will have no  
5 incentive to cooperate with us in quoting competitive  
6 joint line rates across the Southern Corridor."

7 And then again over on page 11, right in the  
8 middle of the page, you say: "SPSF cannot be expected  
9 to quote competitive joint line rates with us."

10 My question is, if it were possible for Union  
11 Pacific to handle traffic to and from Santa Fe Southern  
12 Pacific common points in joint service with the Union  
13 Pacific, let's say at Sweetwater, and at comparable  
14 service, would you be in a position to compete for such  
15 traffic then via the Sweetwater Gateway?

16 A I think that's kind of academic, because your  
17 witness, Jack Edwards, has testified that they're not  
18 going to publish joint rates competitive with single  
19 line rates. He's already stated that for the record.

20 Q Well, let's go back to your assumption in your  
21 traffic study. Let's suppose hypothetically, Mr. Craig,  
22 if you will, that existing joint rates and routes remain  
23 in effect, let's say over the Sweetwater Gateway, but  
24 that the Santa Fe Southern Pacific merged carrier, while  
25 maintaining existing routes, joint routes and rates,

1 would not agree to quoting rates that according to the  
2 assumption in your traffic study, that would lower its  
3 revenues on joint line traffic.

4 Now, how would you be foreclosed, under that  
5 hypothetical circumstance, from competing for traffic  
6 via the joint line route? How would you be foreclosed,  
7 under that hypothetical circumstance, from competing for  
8 traffic via the joint line route?

9 A I'm not real sure I understand everything  
10 you're saying, but if I do, what you are saying is we  
11 would continue to have the existing joint rate and  
12 route.

13 Q Correct.

14 A Well, that would not cover contracts. As an  
15 example, the Southern Pacific has a public statement to  
16 the effect that I think Mr. McNear said he wanted 70  
17 percent of his business under contract. That would be  
18 out the window.

19 Really, all you would be talking about is that  
20 which is in a tariff. If you are, you know, this is a  
21 long way to get back to the SP agreement that we have  
22 made. That is only in a general routing guide. It  
23 doesn't even have application to the specific routes and  
24 specific tariffs.

25 That actually only applies to business that is



1 from and to the SP to the Union Pacific System. It  
2 doesn't even consider business that goes beyond. You  
3 were looking at a very small percentage of the total  
4 business involved, particularly in the Southern Corridor  
5 that we are talking about, that would be covered by that  
6 SP agreement.

7 Q Suppose hypothetically, Mr. Craig, that the  
8 contract traffic would include it by some mechanism, so  
9 that the existing rates and routes were preserved.

10 Isn't the only way the Southern Pacific and  
11 Santa Fe Railway at that point would foreclose you from  
12 competing would be by lowering its single line rate and  
13 not agreeing to lowering of its joint line rate?

14 A Well, they could also not handle our business  
15 and if somebody wants to go into the long track record  
16 of what has happened to us at El Paso, our El Paso  
17 Gateway was dried up because our business was not  
18 handled equally with that of the SF.

19 Q We were speaking hypothetically here, Mr.  
20 Craig.

21 A Well, I am speaking matter of fact.

22 Q I want you to assume with me that the Santa Fe  
23 or the Southern Pacific and Santa Fe Railway Company  
24 would provide comparable service as well.

25 What I'm saying is if the circumstances

1 outlined in the assumption in your traffic study were  
2 reality from a hypothetical standpoint, and if service  
3 were comparable, wouldn't the maintenance of the  
4 existing joint line rates and routes, applying it again  
5 to contract traffic by some method, establish a cap on  
6 the merged carrier ability to increase its single line  
7 rates, competitive single line rates?

8 A I suppose it would; yes.

9 MR. NELSON: Thank you, Mr. Craig. That's all  
10 I have.

11 JUDGE HOPKINS: Ms. Budeiri.

12 BY MR. BUDEIRI:

13 Q Good morning, Mr. Craig. My name is Priscilla  
14 Budeiri. I represent the United States Department of  
15 Justice.

16 In reference to the soda ash example of source  
17 competition that you discussed with Mr. Nelson, how  
18 would you characterize the effectiveness of the  
19 constraint imposed by this kind of competition on UP's  
20 rates?

21 A It is a constraint. Obviously, when we are  
22 competing with a similiar product at Trona, California,  
23 our rates have to reflect the market circumstances and  
24 the competition in the marketplace. And they do. And  
25 we have, in fact, reduced our rates from Green River in



1 order to keep our customers competitive with Trona,  
2 California.

3 Q Are you familiar with any situations in which  
4 the UP/MP system lost traffic it had been carrying  
5 because the shipper was able to get a lower rate by  
6 shipping his goods to a different buyer?

7 A Are we talking about a swap-out arrangement?

8 Q I don't know what you mean by that.

9 A The chemical people, as an example, will swap  
10 product. Rather than Shipper A at Origin A moving it to  
11 C, he might let somebody who was closer at Origin B move  
12 it to C. And then he will move some product for the  
13 fellow at B going someplace else where it is closer.  
14 That's a swap-out.

15 Q Now about when it's the same shipper of goods  
16 who is moving it by UP to destination, and then the  
17 shipper is dissatisfied with UP's rates or service, and  
18 moves it to Destination B by some other means besides  
19 UP?

20 A I suppose that goes on every day.

21 Q Can you give me any specific example of that?

22 A No, I can't.

23 Q Is the possibility of that happening a  
24 restraint on the rates that the UP System can quote to  
25 shippers?

1 A Yes.

2 Q On page 7, you state that railroads offering  
3 TOFC service --

4 A Excuse me. Let me catch up with you. Where  
5 are we?

6 Q Page 7.

7 A Where on page 7?

8 Q This is the middle of the second paragraph.  
9 Railroads offering TOFC service have demonstrated their  
10 superiority to trucks and boxcar service in a number of  
11 markets.

12 A And you say, thus, that they have succeeded in  
13 capturing traffic that had moved either by long haul  
14 truck or in rail cars.

15 Q What markets are you referring to in this  
16 statement?

17 A Well, Santa Fe is the dominant carrier between  
18 Los Angeles and Chicago, as an example. The Santa Fe  
19 has increased their market share and their volume year  
20 after year after year.

21 Q Can you give me an example of the products?

22 A You name the product, and they're moving it.  
23 You name any product that is made in the State of  
24 California, and they are moving a chunk of it.

25 Q You state that UP's TOFC service cannot



1           practicably -- and those are your words -- cannot  
2           practicably reach into most of the San Joaquin Valley.  
3           That is also on page 7.

4           A       Yes.

5           Q       Why is that?

6           A       Because our closest ramp is Stockton,  
7           California which is at the northern end of the valley.

8           Q       Is that the only reason?

9           A       That's about as good a reason as I know,  
10          because you can't dray. You can only dray so far.

11          MS. BUDEIRI: Thank you very much.

12          JUDGE HOPKINS: Ms. Reed.

13          BY MS. REED:

14          Q       Good morning, Mr. Craig. My name is Mary  
15          Reed, and I'm appearing on behalf of the U.S. Department  
16          of Transportation.

17                 At page 3 of your verified statement, in the  
18          second paragraph, you refer to common point service  
19          under item No. 1. Do you see that?

20          A       Yes.

21          Q       What do you mean by the term "common point"?

22          A       Well, two railroads serving the same  
23          location. Fresno, Bakersfield.

24          Q       It refers to a city or does it refer to a  
25          plant site?

1           A     Normally, a city. And it could be plant site  
2 as well.

3           Q     If a shipper is served by the Santa Fe in a  
4 city and it is, say, a mile to reach the SP tracks,  
5 would you say that they are at common points?

6           A     Only if he had reciprocal switching or some  
7 other arrangements for interchange.

8           Q     Do shippers in that situation have the option  
9 of bringing their traffic to team tracks?

10          A     Yes.

11          Q     Would that be true for all commodities or on  
12 some commodities?

13          A     Well, some commodities don't lend themselves  
14 very well to team tracks.

15          Q     What types of commodities would those be?

16          A     Well, anything that is particularly  
17 labor-intensive, as an example. Anything that could be  
18 damaged in transloading. There are a lot of commodities  
19 where a man only wants to load it one time. He wants to  
20 load it in a controlled environment. Bulk commodities,  
21 as an example, you are not going to handle very many  
22 bulk commodities over a team track.

23                     Hazardous materials you're not going to handle  
24 over a team track.

25          Q     What about chemicals in general?



1           A     Well, not very many chemicals move over team  
2 tracks. They can in some instances, but it's a  
3 relatively small percentage.

4           Q     Do you know how much traffic currently  
5 originates at common points on SP Santa Fe?

6           A     Well, my understanding is between them, they  
7 would originate 90 percent of the business in the State  
8 of California and 54 percent of the business in the  
9 State of Texas.

10          Q     Do you know how much traffic they originated  
11 at commonly served points, as you have defined it?

12          A     No, I do not.

13          Q     Now, do you intend on serving shippers who do  
14 not take advantage or cannot use TOFC service, do you  
15 anticipate serving them from common points?

16          A     Yes.

17          Q     And how would you do that?

18          A     Well, we would initially -- we will start out,  
19 I think -- Mr. Davis has testified that initially, we  
20 will assume the same reciprocal switching and joint  
21 facility agreements that currently exist between the  
22 Southern Pacific and the Santa Fe. And I suppose at  
23 such time as direct service with their own crews and  
24 engines is appropriate, we would certainly be willing to  
25 do that as well.

1 Q But if you couldn't reach them via reciprocal  
2 switching, you would not be able to serve them; is that  
3 correct?

4 A Well, if you can't get them by reciprocal  
5 switching, then really by our standards they are not a  
6 common point; they are a local point. And it would be a  
7 local industry on one railroad or the other, and we are  
8 not proposing to serve those.

9 Q Now, in item No. 2, you refer to competitive  
10 discipline that is imposed at non-common points. What  
11 do you mean by competitive discipline?

12 A Well, if the other railroad is close enough,  
13 and the first railroad who has the local industry loses  
14 his discipline in the pricing end of it and runs his  
15 prices up too high, then it would encourage this fellow  
16 to go ahead and truck over to the closest railroad.

17 Q So even though he is not directly served by  
18 the other railroad, a shipper has the option of trucking  
19 it?

20 A That is correct.

21 Q And that would be true, even of the  
22 commodities that you mentioned earlier, that they are  
23 not susceptible to be taken to a team track?

24 A Well, some commodities, no. Some commodities  
25 are not susceptible to that kind of competition on a



1 direct basis of being able to go over and load on the  
2 other fellow's railroad.

3 Q In writing the statement, how much mileage  
4 were you thinking about? How far would one have to take  
5 it to another railroad for it to be a competitive --

6 A I'm afraid I really wasn't getting down to  
7 specific mileage.

8 Q But it is an option to shippers to do that  
9 today?

10 A Yes.

11 Q Am I correct that the UP is seeking to serve a  
12 point 12 miles outside of Tolson? Are you familiar with  
13 that?

14 A No, I am not.

15 Q At the bottom of page 7, you said that you  
16 cannot practically reach into most of the San Joaquin  
17 Valley. Do you feel that you can reach into some parts  
18 of the San Joaquin Valley?

19 A Yes. We can get down to Turlock, just  
20 slightly south of Turlock.

21 Q How far is that from Stockton?

22 A Turlock is roughly 40 miles. The major  
23 produce area is substantially below that. You are down  
24 into the Fresno-Bakersfield area and we are out of the  
25 marketplace there. It is too far.

1 Q At the bottom of page 8, you referred to  
2 minilandbridge traffic. Does the UP presently handle  
3 minilandbridge traffic from Los Angeles and the Bay Area  
4 to Chicago?

5 A Oh, yes.

6 Q Are the railroad rates from Los Angeles and  
7 the Bay Area to Chicago equalized?

8 A Are the railroad rates? Well, it's moving  
9 under contracts, so they're not all the same.

10 Q They're not the same between both points?

11 A No.

12 Q Do you know which contract rates would be  
13 higher, those from L.A. or San Francisco?

14 A No.

15 Q You just don't know?

16 A No, I don't know.

17 Q Has the UP ever solicited minilandbridge  
18 traffic from ocean liners calling at Oakland for a haul  
19 to the Gulf?

20 A I don't think so. We've got a 45 percent  
21 circuitry in there.

22 Q Has the UP ever solicited minilandbridge  
23 traffic out of the Port of Portland to the Gulf or  
24 southeastern points?

25 A Oh, I would hope so.



1 Q You have?

2 A Yes.

3 Q Do you know whether those bids were  
4 comparative with the Burlington Northern bids?

5 A No, I do not.

6 Q Have you ever -- do you move traffic,  
7 minilandbridge traffic from the Port of Portland to the  
8 Gulf?

9 A I'm not aware of any. There probably is some,  
10 but it would be very, very small. Very small.

11 Q But you have bid on volume movements of that  
12 traffic?

13 A I think we have, but here again, we're talking  
14 about something that -- we're talking about  
15 minilandbridge and Portland. It would have to be a very  
16 unusual circumstance that somebody would want to do  
17 that, because the cost to move from Portland to the Gulf  
18 is so much higher than anything out of the Bay Area,  
19 particularly Los Angeles, which is the cheapest.

20 So it would have to be some extremely unusual  
21 circumstances where somebody really didn't have a  
22 choice.

23 Q But you have bid on traffic from those  
24 points?

25 A I think we have. I wouldn't want to swear to

0004 0006

1 that. We move business from the Pacific Northwest to  
2 Texas and that area. Whether we specifically had  
3 handled minilandbridge coming into Seattle/Portland  
4 going down there, it wouldn't make a lot of economic  
5 sense. It is too expensive.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



1 Q Now, the UP presently handles TOFC traffic,  
2 isn't that correct?

3 A Oh, yes.

4 Q Would you say that the rates charged on this  
5 traffic are marginally compensatory as compared to other  
6 traffic?

7 A It is marginally compensatory compared to  
8 chemicals. It's doing pretty good when you compare it  
9 with fresh fruits and vegetables. It's a comparative  
10 thing. Obviously, we think there is net in it, all of  
11 us do, or we wouldn't be as aggressive in pursuing it as  
12 we are.

13 Q In responding to my answer, you distinguished  
14 between TOFC and fresh fruits and vegetable traffic, and  
15 indicated that it had a better return on it, TOFC  
16 traffic had a better return on it, than fresh fruits and  
17 vegetables?

18 A Than some of our fresh fruits and vegetables,  
19 yes.

20 Q Is fresh fruit and vegetable traffic moving  
21 TOFC?

22 A It moves TOFC, it moves boxcar -- excuse me,  
23 refrigerated boxcars.

24 Q So when you were referring to fresh fruits and  
25 vegetables, you're talking about moving in boxcars, is

1 that right?

2 A Yes.

3 Q And that has a lower return on it than TCFC?

4 A And the TOFC net is not uniform. It varies by  
5 corridor and one railroad's particular effectiveness in  
6 a corridor and costs. No two of us are identical in our  
7 costs.

8 Q For those TOFC or fresh fruit and vegetable  
9 movements which are not earning a very high rate of  
10 return, why is the railroad unable to extract a higher  
11 rate of return?

12 A Well, on the fresh fruits and vegetables there  
13 is. depending on the marketplace, there is considerable  
14 competition with the motor carriers. In the TOFC area  
15 the biggest competitor is ourselves. We are competing,  
16 one railroad competing with the other. Long haul TOFC,  
17 the major competition for the railroad is another  
18 railroad. That's why motor carriers ship a lot of their  
19 trailers on rail TOFC.

20 Q Now, for non-fresh fruit and vegetable TCFC  
21 traffic, what other commodities move in TOFC?

22 A About everything you can think of: lumber,  
23 wine, you name it, electronics, household appliances.

24 Q Referring to footnote 2 on page 14, on the  
25 Sacramento and Oakland line that you were seeking



1 trackage rights over, how far away is this line from the  
2 Union Pacific's line?

3 A We connect with them at Sacramento, with the  
4 Southern Pacific line at Sacramento.

5 Q Am I correct that the former WP line swings  
6 south?

7 A Yes.

8 Q What is the distance between the SP's line and  
9 the former WP's line, do you know?

10 A From where to where? Say from Sacramento to  
11 Oakland is 45 miles difference.

12 Q I'm talking about say the distance between the  
13 two lines at midpoint.

14 A The distance between the WP line going to  
15 Oakland and the Southern Pacific line going to --

16 Q They're almost parallel lines, aren't they,  
17 going between the two points?

18 A No. The Southern Pacific line comes out of  
19 Sacramento and is going in a southwesterly direction,  
20 more west than south, and the WP line is coming straight  
21 south until you get down past Stockton, and then it  
22 begins to make the hook and go west. So there's quite a  
23 difference in cross-country mileage.

24 Q Does the UP compete for traffic now moving on  
25 the -- or that could -- that is located on the SP line

1 between Oakland and Sacramento?

2 A Do we compete for traffic --

3 Q From your former WP line, do you TOFC any of  
4 that traffic, to your knowledge?

5 A I'm sorry, I don't know.

6 Q WP's line also goes between Oakland and  
7 Sacramento, correct?

8 A Yes.

9 Q Do you compete for any traffic that is located  
10 on the Southern Pacific's line which also goes between  
11 those two points? Do you ever TOFC any of it to your  
12 railroad and then take it across the central corridor?

13 A I don't know, but I would assume -- I would  
14 hope that we are competing for business within drayage  
15 of our Oakland terminal, and we are competing for  
16 business that would be on their railroad that was within  
17 drayage distance of our Stockton terminal.

18 Q But you don't know how much traffic --

19 A No, I do not.

20 MS. REED: Thank you very much. That's all I  
21 have.

22 JUDGE HOPKINS: How many questions do you  
23 have? Just a few, Mr. MacKenzie?

24 MR. VINCENT MacKENZIE: Yes.

25 JUDGE HOPKINS: Mr Dowd, how many would you



1 have?

2 MR. DOWD: Ten minutes worth, perhaps.

3 JUDGE HOPKINS: It might be wise, why don't we  
4 take a recess now and Mr. MacKenzie can be up next. We  
5 will take a 15-minute recess.

6 (Recess.)

7 JUDGE HOPKINS: Let's get back on the record.  
8 Mr. MacKenzie.

9 BY MR. VINCENT MacKENZIE:

10 Q Good morning, Mr. Craig. My name is Vincent  
11 MacKenzie and I represent the State of California.

12 I'd like for you to refer, if you will, to the  
13 statement that Mr. Kenefick gave to the Transportation  
14 Club of Houston. Were you present in the hearing room  
15 when Mr. Kenefick testified this morning?

16 A Yes, I was.

17 Q In regard to a statement that he made in that  
18 speech which I questioned him on --

19 A What page are you on, please?

20 Q On page 400112, in the lower right-hand  
21 corner. It's the top paragraph:

22 "We feel that carriers should be able to  
23 cancel unprofitable or unefficient joint rates. At the  
24 same time, we are taking steps to ensure that shippers'  
25 competitive interests are protected. In January we came

1 to an agreement with SP which keeps many of the former  
2 UP system-SP routings active for future use, and we are  
3 working out similar arrangements with other carriers."

4 Let me ask you first of all, since Mr.  
5 Kenefick I think referred to you in regard to several of  
6 the questions, number one, do you expect that agreement  
7 with the SP to remain viable in the future, assuming an  
8 unconditioned grant of your application?

9 A I think we'd have to go back to what I said a  
10 little bit earlier. The agreement with the SP is a very  
11 restrictive agreement. It handles a relatively small  
12 percentage of the total business that is involved in  
13 what we're talking about here. It is purely a routing  
14 and it only applies to routes in the general routing  
15 tariff.

16 It does not include the specifics. Certainly  
17 it would not include any contractual areas, and there  
18 isn't any rate protection involved for the customer in  
19 this thing at all.

20 Whether it will continue in the future I  
21 really can't say. There's a 60-day cancellation clause  
22 in it by either party. But for the amount of business  
23 that's involved, that is, shall we say, protected under  
24 it, it's relatively small, probably 25 percent of the  
25 total.



1                   And remember, go back to what I said, that  
2 only covers business that is interchanged between the SF  
3 on the one hand and the Union Pacific system on the  
4 other hand, but does not include any other business that  
5 would be handled as a bridge carrier or to any other  
6 railroad.

7                   Q     Okay, thank you. The last part of that  
8 paragraph and that sentence refers to "we" -- that is,  
9 UP -- "working out similar arrangements with other  
10 carriers." Has UP made any arrangements with other  
11 carriers to ensure shippers who have competitive  
12 interests that their competitive interests are  
13 protected, in anticipation of an unconditioned granting  
14 of the application?

15                  A     We have been working with other railroads, but  
16 not as a result of this merger application. We have  
17 been working with the Norfolk Southern. We have an  
18 agreement with the Santa Fe. We have been working with  
19 the Norfolk Southern and we intend as quickly as we can  
20 get to it to effect similar arrangements with other  
21 railroads.

22                  Q     What other arrangements have you made or can  
23 you make that will respond to the ramifications of the  
24 granting of an unconditioned application?

25                  A     If you are asking me, without conditions what

1 protection the customer will have, I'm afraid our  
2 position is little or none.

3 MR. VINCENT MacKENZIE: Thank you.

4 JUDGE HOPKINS: Is that all, Mr. MacKenzie?

5 MR. VINCENT MacKENZIE: Yes.

6 JUDGE HOPKINS: Thank you.

7 Mr. Dowd.

8 BY MR. DOWD:

9 Q Mr. Craig, good morning. My name is Kelvin  
10 Dowd. I'm representing the Arizona Electric Power  
11 Cooperative.

12 Throughout your statement you focus almost  
13 exclusively on traffic moving between points in  
14 California and then along the southern corridor to  
15 Texas, with regard to your conclusions on competition  
16 and the need for trackage rights, et cetera. Would your  
17 analysis and your conclusions on those subjects also  
18 apply equally to traffic that originates outside of the  
19 southern corridor, but may be delivered within the  
20 corridor by either Santa Fe and/or Southern Pacific?

21 A Could you give me an example of what you have  
22 in mind?

23 Q Well, for example, your conclusions regarding  
24 the benefits of the indirect competition, common point  
25 competition, TOFC, COFC, et cetera, coal moving from



1 Colorado for delivery within the southern corridor.  
2 Would your analysis and your conclusions on the  
3 different types of competition and the need for trackage  
4 rights apply equally to a commodity like that, that is  
5 delivered within the corridor by both Santa Fe and  
6 Southern Pacific?

7 A Well, I would say that if we're talking about  
8 a movement within the corridor from a common point to a  
9 common point, then our theory and our philosophy would  
10 apply.

11 Q On page 2 of your statement you discuss the  
12 parameters of your analysis. You indicate that in  
13 analyzing the prospective scope of your trackage rights  
14 request that you relied on established commercial  
15 practices and shipper input.

16 Did any of the input that you received in that  
17 area come from so-called captive shippers?

18 A Yes.

19 Q What was the general thrust of their input?

20 A Well, some of the captive shippers felt that  
21 they would like to have competitive service and they  
22 were asking us to include that in our application.

23 Q Now, you in your statement at several places,  
24 you confirm that in fact you have not included that in  
25 your application and that you are not asking for the

1 right to directly serve shippers that are presently  
2 captive to either Santa Fe or SP.

3 A That's correct.

4 Q Why has UP not sought that right?

5 A I suppose the number one reason is that we  
6 were more or less responding to the Commission's  
7 concerns that they were exhibiting early on as to the  
8 loss of competition as a result of that merger. Our  
9 applications were designed to, we think, meet those  
10 concerns.

11 There wasn't anything said about local  
12 so-called captive shippers.

13 Q Well then, can we assume that your restraint  
14 with respect to captive shippers was not motivated by  
15 either disinterest in that traffic or by limitations on  
16 your ability to serve captive shippers, if in fact you  
17 did have the rights?

18 A I don't think we have an inability to serve.  
19 It does not fit the theory of our case, which is that  
20 our presence is needed in order to restore competition  
21 that was there and will be lost as a result of the  
22 merger. We think that's a fairly simple theory and  
23 philosophy.

24 Q But my question is, is that philosophy shaped  
25 by your perception of the Commission's policy with



1 respect to trackage rights?

2 A Yes, and also, you know, we would choose not  
3 to be viewed as somebody who is out trying to grab  
4 everything we could get our hands on. The idea was to  
5 try to show as much restraint as we could and still meet  
6 what we viewed as the concerns of the Commission.

7 Q Are you familiar with the comments that were  
8 submitted by Arizona Electric in this proceeding?

9 A In a general way, yes.

10 Q So you are generally familiar with the  
11 modification to the UP application that Arizona Electric  
12 has requested?

13 A Yes.

14 Q Assuming and accepting all of the bases for  
15 your restraint, assuming that the ICC nevertheless  
16 granted Arizona Electric's request for expansion of UP's  
17 rights, in your opinion would the Union Pacific be  
18 capable in terms of equipment facilities, scheduling,  
19 what have you, of providing direct delivery service of,  
20 let's say, one million tons of coal per year from  
21 sources in Utah or Wyoming or via a carrier such as the  
22 D&RGW from northwest Colorado to Cochise, Arizona,  
23 without substantial new capital investment, additional  
24 equipment purchases, et cetera?

25 A Yes, I believe we can handle a million tons.

1 Q Would UP be likely to compete for that  
2 traffic, assuming again that the Commission, against  
3 your wishes, granted the rights?

4 A We would sure take a hard look at it.

5 Q So it could not be said that UP wouldn't be  
6 interested in this traffic if in fact it had the right  
7 to serve the shipper?

8 A We really haven't investigated it to a point  
9 to say that we would or would not. That's why I prefer  
10 to say that we would study anything that was proposed,  
11 and anything that the Commission said take a look at we  
12 would take a look at.

13 Q So you wouldn't rule that out out of hand?

14 A No, we would not.

15 Q Okay. Now, on pages 9 and 10 of your  
16 statement and again on 16 and 17, you refer to the  
17 subject of new shipper locations and indicate that in  
18 your trackage rights proposal you would be able to serve  
19 new shipper locations on the line.

20 A Yes.

21 Q What is your definition of a new shipper  
22 location?

23 A Well, I think basically we were trying to  
24 simplify that as well and say that if a new switch and a  
25 new lead were constructed that would be a new shipper



1 location.

2 Q Would then you consider a second facility or  
3 plant opened up by a shipper that presently has an  
4 existing facility that is captive to either Santa Fe or  
5 SP to be a new shipper location so long as a separate  
6 turnout was required?

7 A No, and if the only purpose in that was to  
8 avoid what we were saying before. if you're talking  
9 about adding units on a facility, as an example, that  
10 could just as well be served by the existing trackage,  
11 our response to that would be no, that would not be a  
12 new one.

13 Q And then how about a reopened facility that  
14 has been shut down for a considerable period of time?

15 A Probably the answer is no. If there is a  
16 switch lead in place now for the Santa Fe or the  
17 Southern Pacific to serve this, then our inclination  
18 would be to say that is a facility that voluntarily  
19 located on that railroad. You know, we're not taking  
20 any competition away from that fellow. He knew what he  
21 was doing when he got there.

22 But somebody else is going to follow along,  
23 and we're saying the next man who comes along should  
24 have the option of determining whether he wants to be on  
25 one railroad or two railroads or which of the several

1 railroads he wants to serve him. But again, that is our  
2 philosophy.

3 Q And you would draw a distinction between that  
4 shipper and the first shipper who, because of his  
5 business expansion, demands of his market, what have  
6 you, is going to erect a new facility and now has seen  
7 the light and has decided to try and assure himself some  
8 competition?

9 A We'd have to look at the exact circumstances  
10 of the lead that is coming out. Why is the lead being  
11 built? Is it being built just to circumvent what he did  
12 before, or is it in fact basically a new location? If  
13 it's a new location with a new switch lead, then we  
14 would feel that we should be involved in serving it,  
15 yes.

16 MR. DOWD: Thank you, Mr. Craig.

17 JUDGE HOPKINS: Anything further, Mr. Roach?

18 MR. ROACH: No, Your Honor.

19 We would move the admission of Mr. Craig's  
20 statement.

21 JUDGE HOPKINS: Any objection?

22 MR. NELSON: No objection.

23 JUDGE HOPKINS: It will be received in  
24 evidence.

25 MR. NELSON: We move the admission of the



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

other two exhibits, SFSP-C-111 and 112.

JUDGE HOPKINS: Any objection?

MR. ROACH: No objection.

JUDGE HOPKINS: They will be received in evidence.

(The documents previously marked Exhibit Nos. SFSP-C-111 and 112 for identification were received in evidence.)

MR. REMES: The next witness, Your Honor, is Thomas M. Caron, C-a-r-o-n.

JUDGE HOPKINS: Off the record a minute.

(Discussion off the record.)

MR. REMES: Your Honor, I have just handed out copies of Mr. Caron's statement with the errata indicated. I will ask Mr. Caron to introduce himself and then read the errata.

Whereupon,

THOMAS M. CARON

was called as a witness by counsel for Union Pacific-Missouri Pacific Railroad and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. REMES:

0004-0022

1 Q Mr. Caron, would you state your full name and  
2 title?

3 A My name is Thomas M. Caron. I am group  
4 marketing manager of grain and grain products for Union  
5 Pacific System.

6 Q And do you have any corrections to make on  
7 your verified statement?

8 A Yes, I do. Beginning with page 2, line 20,  
9 where it presently reads "UP-Santa Fe route," "Santa Fe  
10 route" should be deleted and it's "UP interline  
11 routes."

12 Q Without the hyphen?

13 A Yes.

14 Then page 5, there are a number of changes.  
15 On line 3 the number "58" should be deleted; it should  
16 be "59.6". Line 4, the end of the sentence, "UP would  
17 have to," that should be deleted. And it continues on  
18 line 5, "increase its present rate to"; that should also  
19 be deleted, and it should read: "A shipper would have  
20 to absorb a cost of," and the number within the  
21 parentheses, "\$1.16," should read "\$1.61." The last  
22 word in that sentence, "in," should be deleted, crossed  
23 out, and it should read "unless".

24 Line 6, it continues by deleting "order to  
25 accommodate" and then in its place it should read "UP



1 reduced its rates to offset."

2 Skipping to line 8, the number "\$1.16" again  
3 should read "\$1.61."

4 Then, moving to line 12, "UP's \$2.206 per  
5 hundredweight should be 37 percent higher," that should  
6 be crossed out and it should read "The shipper would  
7 have to pay 37 percent more."

8 Line 25, second from the bottom, rather than  
9 "on" that should be "one".

10 Q And with those corrections made, is this  
11 statement true and correct to the best of your knowledge  
12 and belief?

13 A Yes, it is.

14 CROSS EXAMINATION

15 BY MR. HYNES:

16 Q Good morning. My name is Harry Hynes. I'm  
17 appearing on behalf of the primary Applicants.

18 Would you turn, please, to page 2 of your  
19 verified statement. I'd like to direct your attention  
20 to the top line on that page where you set forth the  
21 various types of grain which moved in the San Joaquin  
22 Valley for feeder purposes.

23 Am I correct, Mr. Caron, that corn is the most  
24 frequently used grain for feeder purposes in the San  
25 Joaquin Valley?

1 A I think it is the primary grain, yes.

2 Q And am I also correct that one of the reasons  
3 why corn is the primary grain is that the market price  
4 of corn is lower than other grains, such as barley or  
5 milo?

6 A Not necessarily. I think the primary reason  
7 for corn being used is perhaps, one, it's  
8 accessibility. But generally in a poultry ration barley  
9 is an unacceptable feed.

10 Q Is it also true that it takes less corn than  
11 one of these other grains to fatten a chicken for the  
12 harvest, or another type of livestock?

13 A No, I don't think that that's necessarily the  
14 case. I think corn and milo are quite interchangeable.  
15 It's a matter of price relationship. Barley is the same  
16 -- it has the same relationship when it is used in  
17 cattle feeding, but that would pertain only to cattle  
18 feeding. And certainly barley is the natural preference  
19 for dairy.

20 Q Now, as between corn and milo, you said that  
21 they're interchangeable as far as agricultural factors  
22 are concerned, but the reason why corn would be  
23 preferred over milo, that would be primarily on a cost  
24 basis?

25 A Well, it's a price relationship, yes.



1 Q Where does the corn that moves into the San  
2 Joaquin Valley originating on the UP originate, what  
3 geographic locations?

4 A Generally Midwestern, Nebraska.

5 Q That would be Nebraska, Iowa?

6 A Peripherally Iowa, but generally at this point  
7 from the UP system it would be generally Nebraska.

8 Q Does Santa Fe serve Nebraska?

9 A Yes, Superior.

10 Q Does Santa Fe originate much corn moving to  
11 the San Joaquin Valley from that location?

12 A I would say that it's a little difficult for  
13 me to respond specifically to that, because I'm not  
14 privy to the Santa Fe's records. I'm not sure what they  
15 would move from where. I do know that they originate a  
16 large volume of grain out of Superior. Which part of it  
17 is corn --

18 Q But you don't know whether or not that corn  
19 moves to the San Joaquin Valley?

20 A I would believe that some does. I don't know  
21 how much.

22 Q Does Santa Fe also originate corn in west  
23 Texas for movement to the San Joaquin Valley?

24 A They have in the past, yes.

25 Q Do you know if they do today?

1           A     I couldn't say for sure if they are doing it  
2 right today.

3           Q     So today Santa Fe does itself have the ability  
4 to offer single line service on corn shipments to the  
5 San Joaquin Valley; is that correct?

6           A     That's correct.

7           Q     And the transaction before the Commission in  
8 this proceeding is not going to enhance that ability  
9 any, is it?

10          A     Say that again, please?

11          Q     The transaction that is before the Commission  
12 in this proceeding, a merger with Southern Pacific, from  
13 the Santa Fe's perspective is not going to give Santa Fe  
14 the ability to originate corn moving in the San Joaquin  
15 Valley that it doesn't have today; is that correct?

16          A     The transaction will not enhance the  
17 originating ability. It will sure enhance their  
18 termination ability. They're vigorously competing today  
19 with the SP for destination movements. That certainly  
20 isn't going to be the case in the future.

21          Q     Let's discuss barley for a moment. Where is  
22 that produced?

23          A     Barley is generally produced in Idaho and  
24 Montana.

25          Q     Do either Santa Fe or Southern Pacific serve



1 those points -- serve those states, excuse me?

2 A Not on an origin basis, no.

3 Q Do you know whether either Santa Fe or  
4 Southern Pacific have access to any significant amount  
5 of barley for origination?

6 A On a joint basis, yes, not on a direct basis.  
7 Santa Fe does have some direct basis in Colorado, but  
8 that would be the only place that I'm aware of.

9 Q And on a joint basis, what sources are you  
10 referring to?

11 A Primarily Montana, SP and BN.

12 Q I notice at the top of page 2 you say "and  
13 occasionally wheat moving to the San Joaquin Valley." I  
14 take it you'd agree with me that wheat isn't a  
15 significant feed grain, at least insofar as the San  
16 Joaquin Valley is concerned?

17 A I would agree that it is not a significant  
18 factor when moved from the outside. It is a significant  
19 component within the valley because of its being  
20 produced there, but it's not a significant factor when  
21 considered moving from outside, from other states.

22 Q Let me direct your attention to the next  
23 paragraph on page 2, where you discuss the various rail  
24 routings for the feed grains that move into the San  
25 Joaquin Valley. And you list there two routings

1 involving UP, UP to Stockton and thence to Santa Fe, and  
2 the UP to Ogden, thence to the Southern Pacific.

3 Am I correct that the Stockton routing  
4 provides UP a longer haul than the Ogden routing?

5 A Yes.

6 Q And you state in your verified statement that  
7 the routing for Ogden has the same tariff rate attached  
8 to it as the routing via Stockton?

9 A That's correct.

10 Q Do you know approximately what the division  
11 for Santa Fe is on a movement over Stockton?

12 A Not right offhand, I don't.

13 Q If I suggested a figure around 20 percent,  
14 would I be out of the ballpark?

15 A You would be reasonably close, maybe a little  
16 on the high side.

17 Q With respect to the routing over Ogden on the  
18 Southern Pacific, do you know what the division is that  
19 Southern Pacific generally receives on that particular  
20 routing?

21 A It's over half.

22 Q So the Southern Pacific's is over half.

23 Are these movements which UP participates in  
24 today, either over Stockton or over Ogden, profitable to  
25 the UP?



1 A Yes.

2 Q Let's focus on the Sp routings now that are  
3 listed on page 2. First of all, let's look at the joint  
4 routing with the UP. Specifically what grain products  
5 move over that route?

6 A Via Ogden?

7 Q Yes.

8 A Primarily corn and to a somewhat limited  
9 extent some barley.

10 Q And these are grains which originate in states  
11 that are not served by SP today; is that correct?

12 A That's correct.

13 Q And I notice you also have listed here on page  
14 2 the so-called Tucumcari route, Cotton Belt-SP.

15 A Right.

16 Q Can you tell me how much, if any, grain  
17 currently moves over the Tucumcari route to the San  
18 Joaquin Valley?

19 A I can't tell you specifically, but I know  
20 there is a high level of interest by the SP to route the  
21 grain over there, and it would come either out of Kansas  
22 or over Kansas City. In terms of volume, I couldn't be  
23 sure, but I would say that it's certainly a factor.

24 Q Would you say that the SP route over Tucumcari  
25 is more or less efficient than a routing via the central

1 corridor?

2 A Well, I would say it's less efficient, but  
3 that hasn't been a major deterrent from doing it in the  
4 past.

5 Q Doing what in the past?

6 A For the SP to prefer their Tucumcari route and  
7 to price it to make themselves competitive by that way.

8 Q But you can't tell me whether or not this  
9 pricing has been successful insofar as grain movements  
10 into San Joaquin is concerned, is that right?

11 A Well, what do you mean by "successful"?

12 Q Well, I asked you a few moments ago whether or  
13 not you could tell me if any significant amount of grain  
14 in fact moves.

15 A Maybe you could define, what do you classify  
16 as "significant"? I'm not sure.

17 Q Let's say 500 carloads a year.

18 A I would say there is that much.

19 Q But you don't know?

20 A I don't know for sure.

21 Q Now, when feed grain is moved by rail over one  
22 of these routes, let's say to a point such as Fresno,  
23 how does it reach the ultimate consumer?

24 A When it's moving to Fresno today, I think it's  
25 terminating right at the consumer's facility.



1           Q     You're telling me that the railroads serve all  
2 of these consuming facilities directly?

3           A     Between the SP and the Santa Fe, yes, I think  
4 they do. There may be some exception I'm not aware of  
5 right offhand, but they certainly can.

6           Q     Well, if a farm is not located right on a rail  
7 line, how would it move? It would move by truck,  
8 wouldn't it?

9           A     If what?

10          Q     If a farm, a poultry farm -- let's take a  
11 poultry farm. If it were not located right on a  
12 railhead, what would happen once the shipment arrived by  
13 rail? It would have to be loaded onto a truck and  
14 delivered down the road to the farm, wouldn't it?

15          A     That's correct.

16          Q     Do you know if in fact such movements take  
17 place down in the San Joaquin Valley today?

18          A     Sure, they do.

19          Q     Do you know what the truck rate would be on a  
20 movement, let's say from Fresno, a movement terminated  
21 by Santa Fe in Fresno and there's a farm 30 miles away?  
22 Do you know what truck rate would apply to that  
23 trans-load operation?

24          A     Well, basically in the discussions that we had  
25 as a matter of trying to maintain our market

1 information, the people that we deal with in California  
2 tell us that it is roughly \$1.15 a mile.

3 Q Farther down on page 2 in that same paragraph,  
4 you state: "Once the SP and Santa Fe merge, it seems  
5 likely that the UP interline routes would be closed or  
6 priced in a manner so as not to be competitive with the  
7 new system, leaving the San Joaquin grain receivers with  
8 no competitive alternative to the merged SP-Santa Fe."

9 I take it from the correction that you put  
10 into the record this morning that it is your belief that  
11 it seems likely that both the Stockton routing involving  
12 Santa Fe and the Ogden routing involving SP will be  
13 closed?

14 A I think that is a pretty good likelihood, yes,  
15 or certainly priced in a manner that accomplishes the  
16 same thing.

17 Q Well, assuming both of those routes were  
18 closed, where will Santa Fe and Southern Pacific find  
19 barley to deliver to the San Joaquin Valley?

20 A As far as barley is concerned, they can come  
21 out of Montana.

22 Q And what rail routing would be involved  
23 there?

24 A BN-SP.

25 Q Could you trace for me the route that that



1 might take?

2 A It would come out of probably Great Falls,  
3 Montana, generally over Portland with the SP.

4 Q Is that routing more or less efficient than  
5 the current routing, UP-Ogden-SP?

6 A I think it's less efficient, but that's where  
7 the predominant barley movement is today.

8 Q And it's your opinion that after this merger  
9 that Southern Pacific or the merged carrier wishes to  
10 work with a different carrier over a less efficient  
11 routing than the routing which it participates in today  
12 over Ogden?

13 A It probably depends on the personnel more than  
14 anything else.

15 Q On the --

16 A Personnel, whether it is Santa Fe people  
17 involved or SP people.

18 Q Could you explain that answer a little bit?

19 A Well, if it's SP personnel, currently I would  
20 say that the people who are managing the grain affairs  
21 for the SP, their inclination would be to do anything  
22 other than work with the UP. They have demonstrated  
23 that.

24 Q That's the SP people?

25 A Yes.

1 Q And why aren't they working with BN over  
2 Portland today?

3 A They are.

4 Q But they are also working with the UP over  
5 Ogden, are they not?

6 A Only when they have to.

7 Q Are you moving a significant volume of traffic  
8 over that route?

9 A Not with them, no.

10 Q You said only when they have to. When does SP  
11 have to work with UP over Ogden? Let's take a barley  
12 move again, since we were talking about barley.

13 A If we set up -- basically, it's a function, I  
14 guess, of when grain is available and where it's  
15 available. If grain is available in Ogden, they don't  
16 have to. If it's not available in Ogden, which is not a  
17 large producing area of barley, it has to come,  
18 generally the majority of the barley has to come, from  
19 somewhere else, principally Idaho.

20 When the barley tonnage is used up out of  
21 Ogden, then generally it probably becomes a more  
22 economic alternative to work in conjunction with us on a  
23 joint line basis.

24 Q I'd like to ask you some questions about the  
25 rail-truck option which you analyze in your verified



1 statement. In performing this analysis, you assumed the  
2 construction of an elevator at Stockton, California; is  
3 that correct?

4 A That's correct.

5 Q Doesn't UP serve points south of Stockton  
6 which are closer into the San Joaquin Valley?

7 A Turlock.

8 Q And Modesto isn't as close as Turlock, but  
9 Modesto is another point that is closer than Stockton,  
10 isn't that right?

11 A I guess it would be.

12 Q If in fact UP were actually to implement the  
13 option that you discuss in your testimony, wouldn't you  
14 locate that elevator at Turlock in order to cut down the  
15 truck costs?

16 A We already have a facility in Turlock.

17 JUDGE HOPKINS: Would you speak up, please.

18 THE WITNESS: We currently have a facility in  
19 Turlock that we serve. I think in my analysis I am  
20 responding to a statement that was made by Mr. Anderson  
21 suggesting that UP could move the grain to Stockton and  
22 compete into the San Joaquin Valley.

23 BY MR. HYNES: (Resuming)

24 Q Could you tell me specifically where Mr.  
25 Anderson suggested an elevator at Stockton?

1           A     He specifically did not suggest an elevator.  
2     However, I'm responding in terms of the statement that  
3     he did make, and that is we basically have an  
4     alternative of going to Stockton, continuing into the  
5     consumption area, which is basically in the Fresno area  
6     a little further south, on a joint line basis either  
7     through trackage rights or by a truck transfer option.

8           Q     Let me return to your statement about  
9     Turlock. You said you already serve a facility at  
10    Turlock?

11          A     That's correct.

12          Q     Does UP itself have a grain storage facility  
13    there?

14          A     No, UP does not. It's not owned by UP.

15          Q     Who owns the facility?

16          A     Foster.

17          Q     Foster Farms?

18          A     (Nods affirmatively.)

19          Q     We'll talk about them a little more in a  
20    minute.

21                If UP were to institute a truck-rail service  
22    and were to find it necessary to construct an elevator  
23    of its own, wouldn't it make far more sense for you, for  
24    the movements you're talking about in your testimony, to  
25    locate that elevator at Turlock?



1           A     It makes sense to get as close to the  
2 consumption area as you can, sure.

3           Q     And that would be Turlock rather than  
4 Stockton?

5           A     Well, yes, I think as far as you want to be as  
6 close to the area of consumption as you can. The UP is  
7 not considering building a facility.

8           Q     I understand that.

9                     I'd like to direct your attention to page 3,  
10 where you calculate the various costs involved. Let me  
11 first ask, am I correct that there were no work papers  
12 underlying any of the figures or calculations that you  
13 have on pages 3 to 6?

14          A     That's correct.

15          Q     Did you obtain any bids or estimates from a  
16 construction firm to help you arrive at the figure of  
17 \$2.5 million for an elevator?

18          A     Not formal bids, but I did talk to  
19 construction firms about it, yes.

20          Q     Did you take any notes of your conversations  
21 with them?

22          A     In my conversations with them, I worked from  
23 the standpoint of, I had worked up numbers in advance of  
24 that in terms of trying to make an assessment of what we  
25 believed through our contacts with grain companies and

1 construction people what a reasonable estimate would be  
2 in terms of the cost of the facility.

3 Q You said you worked up this estimate yourself  
4 first. Did you then speak to one or more construction  
5 firms about what they thought the price would be?

6 A Yes.

7 Q And I believe I asked you, did you take any  
8 notes, write down what they told you?

9 A Sure.

10 Q Why were they not provided to us as work  
11 papers?

12 A Were they asked for?

13 Q Well, there is a standing regulation in these  
14 proceedings that anything that is a work paper that  
15 underlies a figure has to be produced along with your  
16 verified statement.

17 A I think this is a construction, a  
18 reconstruction of the numbers.

19 Q Yes.

20 MR. ROACH: Your Honor, if there are any work  
21 papers that weren't located, we'll be glad to provide  
22 them. We requested that the work papers be submitted  
23 and we handed over to the Applicants all the work papers  
24 that every witness submitted. We'll be glad to take  
25 another look.



1 JUDGE HOPKINS: Thank you. That will save us  
2 time. We won't waste time, then, on that particular  
3 point.

4 BY MR. HYNES (Resuming)

5 Q With respect to the elevator you discuss, I  
6 notice you selected a 10,000 ton capacity.

7 A That's correct.

8 Q Which you equate to 1.36 unit grain trains.  
9 About how many cars is that?

10 A Roughly 100.

11 Q It's a rather large elevator, is it not?

12 A No, it is not. As a matter of fact, it is  
13 rather small.

14 Q Is it your testimony that an elevator of this  
15 size would absolutely be required in order to handle the  
16 grain which you currently handle with Santa Fe over  
17 Stockton?

18 A I think in order to compete in an area such as  
19 the San Joaquin Valley, this is the minimum size of  
20 facility that would be required.

21 Q Isn't it true, Mr. Caron, that grain is  
22 currently trans-loaded at certain points directly from  
23 the railroad to motor carriers for final delivery  
24 without the use of an elevator at all in the San Joaquin  
25 Valley?

1           A     I know in the past there have been some  
2 instances, but I'm not sure that that is happening  
3 today. At least I'm not aware of where they are.

4           Q     But you're not certain that it is not being  
5 done today?

6           A     Not absolutely certain.

7           Q     If UP were to construct the elevator that you  
8 talk about in your testimony, what would the useful life  
9 of that elevator be?

10          A     Probably 15 to 20 years.

11          Q     In your opinion, would such an elevator need  
12 to be replaced in 15 or 20 years?

13          A     Major modifications would be very likely  
14 during that process yes, not physically replaced of and  
15 by itself.

16          Q     When you refer to major modifications, what do  
17 you have in mind there, heavy repairs?

18          A     Yes.

19          Q     And if a project, any type of project on the  
20 UP, has a useful life of 20 years, is it customary that  
21 that sort of capital project is going to be financed  
22 over a ten-year period rather than the period of its  
23 useful life?

24          A     Well, again, UP is not going to be building  
25 it. In our experiences with the grain company that is



1 looking at doing the construction, based on the  
2 experience we have, this is the format that they would  
3 look at. We're looking at basically a ten-year  
4 schedule, and if it doesn't represent a viable  
5 alternative, an economic alternative within that time  
6 frame, then they're not very interested in doing it.

7 Q Well, my question was more general. I was  
8 discussing capital projects in general on the Union  
9 Pacific, and where the Union Pacific has a capital  
10 project -- it doesn't necessarily have to be a grain  
11 elevator -- a project that has a 20-year useful life, is  
12 it the Union Pacific's practice to finance that or  
13 amortize it over a period of ten years rather than the  
14 20-year useful life?

15 A I'm not sure that I can answer that. I don't  
16 know the answer to that.

17 Q In any event, if in fact this elevator, this  
18 hypothetical elevator, were constructed and financed  
19 over ten years and had a useful life of somewhat longer,  
20 then in year eleven the costs associated with the  
21 elevator would disappear, is that right?

22 A That's correct.

23 Q And if you constructed this elevator at  
24 Stockton or Turlock or some other location, it would be  
25 available not only to serve customers which UP currently

1 serves in connection with the Santa Fe, but to serve  
2 other UP customers in the area as well, would it not?

3 A No, I wouldn't agree with that. Again, UP is  
4 not constructing the elevator. It's a private  
5 facility. It's not very common for people to share  
6 their facility around.

7 Let me give you an example. Let's say Cargill  
8 constructs that facility. Cargill is not very likely to  
9 -- it has to represent a viable economic alternative for  
10 them. There is a reason for making that investment.  
11 Cargill is not about to go around offering that facility  
12 to its competitors.

13 Q Let's turn to page 4 of your verified  
14 statement. I'd like to direct your attention to the  
15 third line on the page, where you state that your  
16 analysis assumes trucking costs of \$1.15 per running  
17 mile. Do you see the reference there?

18 A Yes.

19 Q Did you contact or solicit bids from any  
20 trucking firms to arrive at this price?

21 A Not directly from any trucking firms, no.

22 Q Who did you contact?

23 A Grain companies, grain companies who are in  
24 the business of working on truck-related matters, who  
25 are involved in moving truck grain from various points,



1 primarily the State of California.

2 Q Can you tell me what companies you contacted?

3 A I have talked with Foster, Scoular, Cargill.

4 Q Did you take any notes of your conversations  
5 with these individuals?

6 A No.

7 Q Did you conduct any independent study of truck  
8 costs for this movement?

9 A No.

10 Q Is it your testimony that trucking for the  
11 types of grain movements we're discussing here is not  
12 available in the San Joaquin Valley for anything less  
13 than \$1.15 a running mile?

14 A Would you please repeat that?

15 Q Is it your testimony, based on your analysis  
16 and the contacts that you have described, that trucking  
17 for the movements that we are discussing here, movements  
18 from say Stockton to a point in the San Joaquin Valley,  
19 is not available at a rate less than \$1.15 per running  
20 mile?

21 A No, my testimony is based on the example that  
22 I have given, that that is what the projected cost of  
23 truck transportation would be.

24 Q So this is just one example?

25 A This is an example.

1 Q I'd like to look at that example, sample  
2 movement, a little more carefully with you. I notice  
3 that you selected a round trip movement from Stockton to  
4 Fresno.

5 A That's correct.

6 Q Does all of the grain which you handle in  
7 connection with the Santa Fe today over Stockton go to  
8 Fresno?

9 A No, some of it goes further south than  
10 Fresno.

11 Q Some of it also goes further north, terminates  
12 further north?

13 A Yes, I believe it would.

14 Q But in your testimony you have applied the  
15 truck costs for a Fresno movement to the total tonnage  
16 which UP and Santa Fe handle together today, is that  
17 right?

18 A I used Fresno as a base because it represents  
19 probably the center of the consumption area.

20 Q In your opinion, then, sir, the primary feed  
21 grain consuming counties in California are located about  
22 as far away from Stockton as Fresno?

23 A I would say the center of the consumption area  
24 is in the Fresno area, yes.

25 Q I'd like to direct your attention two lines



1 below you reference to Fresno. You have selected a  
2 volume of 200,000 tons per year.

3 A Right.

4 Q Has UP handled 200,000 tons per year of grain  
5 in connection with the Santa Fe over Stockton?

6 A I can't tell you exactly, but I would say that  
7 we must be approaching all of that this year, yes. We  
8 certainly do handle more than that in conjunction with  
9 the SP.

10 Q So your figure of 200,000 tons is your  
11 projection of tonnage that would be trucked, assuming  
12 both the Ogden-SP routing and the Santa Fe-UP routing  
13 over Stockton were cancelled, right?

14 A No.

15 Q No?

16 A No. The 200,000 represents, in order to  
17 construct a facility, the minimum volume to make the  
18 facility even worth considering.

19 Q So it's not tied in any way to the volume you  
20 are handling today with the primary Applicants?

21 A That's correct, it is not.

22 Q I'd like to direct your attention to page 5,  
23 please. You answered my first question by correcting  
24 the \$1.16 to \$1.61.

25 Is the \$1.16 rate which you quote on page 5 a

1 tariff rate?

2 A Yes, it is.

3 Q Is it a single car rate or a multiple car  
4 rate?

5 A It's a multiple car rate, 75-car rate.

6 Q 75-car unit train rate?

7 A Yes.

8 Q Do the movements which you currently handle in  
9 conjunction with Santa Fe and/or SP move under  
10 contract?

11 A Some do, yes.

12 Q A significant portion of the total?

13 A I would say significant, yes.

14 Q And to larger customers like Foster Farms that  
15 you mentioned, those types of movements would move under  
16 contract rather than the tariff rate, would they not?

17 A Yes, they are at the present time.

18 Q Am I correct that the contract rate is lower  
19 than the tariff rate?

20 A Yes.

21 Q Would you tell us how much lower?

22 A I couldn't tell you specifically what it is.  
23 Probably ten percent lower.

24 Q You mentioned Foster Farms. Where is Foster  
25 Farms located?



F.D. 30400 - Pgs. 8123 - 8128 - 1/22/85

1 A Livingston, California.

2 Q And you mentioned Turlock before in connection  
3 with Foster Farms.

4 A That's right.

5 Q Is that the facility to which you deliver unit  
6 trains to Foster Farms?

7 A Yes, we deliver some there.

8 Q And this facility is what, about 50 miles  
9 south of Stockton?

10 A It seems to me it is less than that, maybe 30,  
11 35. It's not a great distance.

12 Q Am I correct, sir, that Foster Farms  
13 merchandises some of the grain which is delivered to it  
14 to other consumers from that facility at Turlock?

15 A That's correct.

16 Q And are they delivering that grain which they  
17 merchandise to other facilities by truck?

18 A Yes.

19 Q Are you aware that Foster Farms has sold feed  
20 grains from that facility to consumers as far away as  
21 Corcoran?

22 A No, I'm not aware of that. I'm not privy to  
23 what their distribution pattern might be. I know the  
24 majority of the grain that they move through there goes  
25 to their own facility in Livingston.



1 Q How about Fresno? Are you aware that they  
2 merchandise grain as far away as Fresno?

3 A No, I would think that would be very, very  
4 unusual.

5 Q But you can't state that it has not happened?  
6 You don't know?

7 A Not as a matter of fact, I can't, no.

8 Q Turn to page 6, please. I'd like to direct  
9 your attention to the last sentence on the carryover  
10 paragraph from page 5, which is close to the middle of  
11 the page, which states: "This would mean increased  
12 highway congestion and costs for highway maintenance and  
13 full consumption." Do you see that?

14 A Yes.

15 Q Isn't the fuel consumption involved in a  
16 trucking operation described in your testimony taken  
17 into account in the \$1.15 truck cost which you discussed  
18 earlier at page 4 and 5?

19 A Yes.

20 MR. HYNES: Thank you. I have no further  
21 questions.

22 MR. REMES: I have a couple on redirect.

23 JUDGE HCPKINS: Mr. MacKenzie, do you have any  
24 questions?

25 MR. VINCENT MacKENZIE: No questions.

1 MR. REMES: Oh, I apologize to Mr. MacKenzie.

2 REDIRECT EXAMINATION

3 BY MR. REMES:

4 Q Just so the record is clear, can I ask you to  
5 identify the place in Mr. Anderson's verified statement  
6 where he makes the statement to which your verified  
7 statement responds?

8 A Mr. Anderson's verified statement is in  
9 SFSP-C-16, Appendix 7 at page 13.

10 Q Is that the second full paragraph on the  
11 page?

12 A Yes, it is.

13 Q My second question is, Mr. Hynes asked you  
14 whether the cost of an elevator would disappear after  
15 ten years and you said yes. Am I correct in assuming  
16 that you were referring to the original capital cost  
17 that had been amortized over the ten-year period?

18 A The amortized construction cost, yes.

19 Q Thank you.

20 Are there logistical problems in transferring  
21 grain from train to truck that led you to infer from Mr.  
22 Anderson's statement that an intermodal arrangement  
23 would require the use of an elevator facility?

24 A Yes, there are. A facility in itself is more  
25 than just a transfer point. In the case of California,

ALDERSON REPORTING COMPANY, INC.

20 F ST., N.W., WASHINGTON, D.C. 20001 (202) 628-9300

8888-8858



1 where you're quite a distance from the origin base  
2 market, the buyer and the seller are not always in  
3 complete accord in terms of the seller may have grain to  
4 sell at a specific time and the buyer isn't exactly  
5 ready to take that grain at that time, or vice versa.

6 So the facility represents a focal point to  
7 bring the buyer and seller together.

8 Q And many questions that Mr. Hynes had asked  
9 had been predicated on the assumption that the UP would  
10 construct this facility. In your experience, is the  
11 construction of an elevator in this kind of  
12 circumstances a function that's undertaken by the rail  
13 carrier or by the shipper?

14 A It's by the shipper.

15 Q And can you give us any explanation for this?

16 A Basically, the shipper -- in a situation like  
17 this, I think the shipper would have to look at what his  
18 alternatives are, and if he found himself in a pricing  
19 situation where he had no practical alternative to the  
20 proposed system, Santa Fe-SP, I think that at that point  
21 he would look at constructing a facility to protect his  
22 own interests.

23 But our experience to date has suggested that  
24 has not been a very viable alternative.

25 Q But UP itself is not in the business of

1 building elevators?

2 A No, we are not. We have no elevators.

3 Q And finally, you indicated that some of Union  
4 Pacific's contract rates with receivers may be ten  
5 percent below the tariff rate. What percentage increase  
6 in cost does your verified statement say that the truck  
7 elevator option would impose upon a shipper?

8 A 37 percent.

9 Q Could UP in your opinion absorb a 37 percent  
10 cut in its rates to offset these increased shipper  
11 costs?

12 A No.

13 MR. REMES: I have no further questions on  
14 redirect.

15 JUDGE HOPKINS: Anything further?

16 MR. HYNES: No, Your Honor.

17 JUDGE HOPKINS: You're excused, sir.

18 (Witness excused.)

19 MR. REMES: I'd like to move the introduction  
20 of Mr. Caron's verified statement.

21 JUDGE HOPKINS: Any objection?

22 (No response.)

23 JUDGE HOPKINS: That will be received in  
24 evidence.

25 Off the record a minute.



1 (Discussion off the record.)

2 JUDGE HOPKINS: We'll be in recess until 9:00  
3 o'clock tomorrow morning.

4 (Whereupon, at 12:20 p.m., the hearing in the  
5 above-entitled matter was recessed, to reconvene at 9:00  
6 a.m. on Wednesday, January 23, 1985.)

7 \* \* \*

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
ALDERSON REPORTING COMPANY, INC.

20 F ST., N.W., WASHINGTON, D.C. 20001 (202) 628-9300

0004 0053