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1900

ANNUAL REPORT

TO THE

STOCKHOLDERS

OF

THE COLORADO & SOUTHERN RAILWAY COMPANY

FOR

The Fiscal Year Ended June 30, 1900

INCLUDING

A Report for the Period January 1 to June 30, 1899.

1900
THE SMITH-BROOKS PRINTING CO.
DENVER, COLO.

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ANNUAL REPORT

TO THE

STOCKHOLDERS

OF

THE COLORADO & SOUTHERN RAILWAY COMPANY

FOR

1899/1900 - [illegible]

The Fiscal Year Ended June 30, 1900

INCLUDING

A Report for the Period January 1
to June 30, 1899.

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OFFICERS.

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CARY & WHITRIDGE	General Counsel	NEW YORK CITY, N. Y.
E. E. WHITTED	General Solicitor	DENVER, COLO.
A. D. PARKER	General Auditor	DENVER, COLO.
CHARLES DYER	General Superintendent	DENVER, COLO.
H. A. JOHNSON	General Freight Agent	DENVER, COLO.
T. E. FISHER	General Passenger Agent	DENVER, COLO.

MILEAGE.

NORTH AND WEST OF DENVER.	Standard Gauge.	Narrow Gauge.	Total.
Fort Collins District	148.97	.....	148.97
Clear Creek District	13.40	52.09	65.49
Platte Canon District	6.23	91.85	98.08
Leadville District	.....	71.26	71.26
Gunnison District	.....	164.51	164.51
Wyoming District	153.68	.....	153.68
Total	322.28	379.71	701.99
SOUTH OF DENVER.			
Pueblo District	134.05	.....	134.05
Trinidad District	55.00	.....	55.00
New Mexico District	191.86	.....	191.86
Total	380.91	.....	380.91
Leased from the D. & R. G. R. R. Co.	58.65	.....	58.65
Total Mileage	761.84	379.71	1,141.55
Mileage in Colorado	494.29	379.71	874.00
Mileage in Wyoming	153.68	.....	153.68
Mileage in New Mexico	113.87	.....	113.87
Total Mileage	761.84	379.71	1,141.55

Exchange

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983666

Denver, Colorado, September 1st, 1900.

To the Stockholders of the Colorado & Southern Railway Company:

This Company took possession and commenced operation of, the following properties at midnight, January 11th, 1899:

THE UNION PACIFIC, DENVER & GULF RAILWAY;

Minus the Julesburg branch sold by the Purchasing Committee to the Union Pacific Railroad Company.

THE DENVER, LEADVILLE & GUNNISON RAILWAY;

embracing 1,141.55 miles of road theretofore operated for about five years by Frank Trumbull, Receiver. To simplify accounting, the income commencing with January 1st, 1899, was recorded on this Company's books, thus avoiding a complicated separation of accounts in the month of January. The Company's by-laws provide that the fiscal year shall end on June 30th, and as the first full fiscal year was therefore not completed until June 30th, 1900, and as settlement of the accounts of the Re-organization Committees was somewhat delayed, this is the first printed report issued by the Company.

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The following available assets,—in addition to the road itself, the appurtenant property, and various items, covered by the First Mortgage,—were received from the Purchasing Committees and the Receiver:

Cash and other assets in excess of liabilities		$1,050,687.71
Material and supplies		291,991.24
C. & S. 1st Mtg. 4% Bonds, par value,	$346,175.45	
C. & S. 1st Preferred Stock, " "	9,250.90	
C. & S. 2nd " " " "	581,450.90	
C. & S. Common " " "	570,018.00	
The market value of which on June 30th, 1900, was		423,451.84
		$1,766,130.79
The Company's interest in telegraph lines was sold January 1st, 1900, to the Western Union Telegraph Company, for		125,000.00
A car trust maturing at the rate of $3,300.19 per month until May 25th, 1905, was arranged as hereinafter stated, for		198,011.40
The net income for the 18 months ended June 30th, 1900, as shown on page 12, was		369,798.63
		$2,458,940.82

The amounts expended during the 18 months ended June 30th, 1900, for improvements and new equipment, as shown on pages 26 and 27, were as follows:

Improvements	$	268,001.09
New equipment		455,072.69
Other property		29,157.80
Miscellaneous assets added during the period, and included in "Other Securities" on Balance Sheet, amounted to		88,935.33
Carried Forward	$	841,166.91

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Brought Forward	$ 841,166.91
The Company's funded debt was reduced in January, 1900, by the purchase of bonds of the par value of $147,000.00, said purchase having been made out of the proceeds of sale of telegraph lines and in accordance with the terms of the Company's Mortgage. Amount paid	124,698.75
Dividend of 2% on First Preferred Stock, paid February 14th, 1900	170,000.00
Excess of current assets (including Material and Supplies) over current and "deferred" liabilities, on June 30th, 1900, was	1,323,075.16
	$2,458,940.82

The gross earnings for the year ended June 30th, 1900, were	$4,237,742.99
The operating expenses, *including Insurance and Rentals*, were	3,132,851.71
The net earnings over expenses, were	$1,104,891.28
The taxes, including war revenue tax, were	201,773.22
The surplus over expenses and taxes, was	$ 903,118.06
The miscellaneous income, was	38,423.02
Total income for the year	**$941,541.08**

Comparison with previous years cannot be made on account of the transfer of the Julesburg branch of The Union Pacific, Denver & Gulf Railway to the Union Pacific Railroad Company, as before stated.

The net earnings for the year were unfavorably affected by increased prices of all kinds of material, and by interruption of traffic caused by the breaking of the Goose Creek dam of the Denver Union Water Company on the 3rd of May, 1900. This

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disaster wrecked a large part of six miles of road between Platte Canon and South Platte stations (twenty and twenty-nine miles, respectively, from Denver) causing suspension until May 28th, of most of the traffic of the Leadville and Gunnison divisions. The immediate and subsequent loss of earnings caused by this suspension was very unfortunate, coming as it did, just at a time when the mines at Leadville and other places were at a maximum of activity.

The following additions to equipment were made during the 18 months ended June 30th, 1900:

160 narrow-gauge coal cars, 40 narrow-gauge box cars. Contracted for by Receiver and paid for January 13th, 1899.

287 standard-gauge coal cars, 50 narrow-gauge stock cars. Received in May and June, 1900.

3 cafe cars (combination dining car and coach).

2 standard-gauge consolidation freight locomotives, 20x26 cylinders, 126,700 lbs. on drivers.

1 standard-gauge consolidation freight locomotive, 20x26 cylinders, 123,000 lbs. on drivers.

3 standard-gauge passenger locomotives, 20x26 cylinders, 119,500 lbs. on drivers.

1 rotary snow-plow.

It has seemed inexpedient thus far to dispose of any of the securities in the treasury, and as it was desirable, for prudential reasons, to maintain the cash resources of the Company at as high a level as possible, a car trust was arranged for the 287 standard-gauge coal cars and the 50 narrow-gauge stock cars above referred to. As these cars were received so late in the fiscal year, the whole amount of the deferred payments, as well

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as the cash payment, (20% of principal) was charged to New Equipment Account. That portion of the deferred payments which represents interest, will be charged off from year to year hereafter, against Income, until the maturity of the last car trust note, May 25th, 1905.

The locomotives were paid for in cash, two of the six having been paid for out of Equipment Renewal Fund. In addition to the above items, other equipment was contracted for during the fiscal year, as follows:

5 standard-gauge consolidation freight locomotives, 21x28 cylinders, 148,000 lbs. on drivers.
2 standard-gauge first class coaches.
8 standard-gauge excursion coaches.
3 narrow-gauge first class coaches.

This equipment has all been received and settled for since the close of the fiscal year, the locomotives in cash and the passenger coaches by car trust similar to that above mentioned.

All the locomotives and cars taken over by the Company from the Receiver, were carefully inventoried January 11th, 1899, and the value thus ascertained was spread upon the books by the General Auditor. Since that time, equipment destroyed, or otherwise retired from service, has been charged to Operating Expenses at the inventory value, and "Equipment Renewal Fund" has been correspondingly credited. Replacements of vacant equipment are charged against this fund, thus keeping values intact in the accounts.

Statements showing number of locomotives and cars, also capacity of freight cars on June 30th, 1900, will be found on pages 23, 24 and 25.

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The requirements of the Interstate Commerce Act, concerning automatic couplers and air-brakes, have been complied with, and the cost of this work has been charged to Operating Expenses.

The Company has had no general shops of its own, but thought it wise to continue the arrangement previously made by the Receiver for use of the Denver shops of the Union Pacific Railroad Company. Under the terms of the lease either company could cancel the same by giving nine months' notice. On December 26th, 1899, the Union Pacific Company having arranged a lease to The Pullman Company of the plant referred to, served notice upon this Company to vacate not later than January 1st, 1901. The erection of complete new general shops by this Company was thus made imperative, and construction was commenced in the spring of 1900. It is expected that the new plant will be ready for occupation by November 15th, 1900, and as it will be admirably located upon ground previously owned by the Company adjacent to the Denver freight yards, and not far from the freight station, Union Depot, and transfers to connecting lines, considerable economies in repairs and other operations are confidently expected. The amount appropriated by the Board of Directors for this work is $350,000.00, and while the necessity for this construction came at an inopportune time, so far as prices of material and machinery were concerned, yet it is a matter for congratulation that The Pullman Company is to inaugurate extensive work in Denver, and the return on this Company's new investment should prove very satisfactory on account of the saving in rental, as well as on account of the economy of modern machinery and favorably located buildings and tracks.

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For more detailed information, reference is made to the exhibits of the General Auditor, annexed.

The accounts of the Company have been verified by the Audit Company of New York, whose certificate appears on page 29, and whose representatives have particularly examined into the correctness of all charges to Capital Accounts.

Acknowledgment is made with pleasure of the very satisfactory relations between your officers and employes.

FRANK TRUMBULL,
President.

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REPORT OF THE GENERAL AUDITOR.

DENVER, COLORADO, August 31, 1900.

MR. FRANK TRUMBULL,
President.

DEAR SIR:—I present herewith my report of the financial condition of the Company, June 30th, 1900, Statements of the Earnings and Expenses and the Income Account for the period January 1st to June 30th, 1899, and for the fiscal year ended June 30th, 1900, the General Balance Sheet, June 30th, 1900, and various tabular statements exhibiting in detail statistical information for the same periods.

Very respectfully,
A. D. PARKER,
General Auditor.

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EARNINGS AND EXPENSES.

Earnings.	1899-1900.	Per cent. of Total Earnings.	January 1 to June 30, 1899.	Per cent. of Total Earnings.
Freight	$3,216,917 51	75.91	$1,432,955 55	79.40
Passenger	811,835 05	19.16	269,794 06	14.95
Express, Mail and Miscellaneous	208,990 43	4.93	101,757 18	5.65
Total Earnings	$4,237,742 99	100 00	$1,804,506 79	100.00
Expenses.				
Maintenance of Way and Structures	$ 532,205 49	12.56	$ 238,121 33	13.20
Maintenance of Equipment	605,871 54	14.30	258,329 70	14.31
Conducting Transportation	1,838,492 42	43.38	730,462 73	40.48
General	156,282 26	3.69	76,894 53	4.26
Total Expenses	$3,132,851 71	73.93	$1,303,808 29	72.25
Net Earnings	$1,104,891 28	26.07	$ 500,698 50	27.75
Taxes	197,923 00	4.67	98,450 29	5.46
Surplus over Expenses and Taxes	$ 906,968 28	21.40	$ 402,248 21	22.29

	1899-1900.	January 1 to June 30, 1899.
Average Number of Miles of Road Operated (including lease from D. & R. G.)	1,141.55	1,141.55
Gross Earnings per Mile of Road	3,712.27	1,580.74
Operating Expenses per Mile of Road	2,744.39	1,142.13
Net Earnings (not deducting Taxes) per Mile of Road	967.88	438.61
Taxes per Mile of Road	173.38	86.24
Surplus over Expenses and Taxes per Mile of Road	794.50	352.37

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INCOME ACCOUNT

For the Period January 1 to June 30, 1899.

Gross Earnings		$1,804,506 79	
Operating Expenses		1,303,808 29	
Net Earnings		$ 500,698 50	
Add			
Income from Investments	$ 9,000 00		
Interest on Deposits	6,354 08		
Insurance Commissions	622 08	15,976 16	
Total		$ 516,674 66	
Less			
Interest on Bonds	$291,666 66		
Taxes	98,450 29		
War Revenue Tax	2,103 49	392,220 44	
Net Income to June 30, 1899			$124,454 22

For the Fiscal Year Ended June 30, 1900.

Gross Earnings		$4,237,742 99	
Operating Expenses		3,132,851 71	
Net Earnings		$1,104,891 28	
Add			
Income from Investments	$ 22,834 00		
Interest on Deposits	14,047 34		
Insurance Commissions	1,541 68	38,423 02	
Total		$1,143,314 30	
Less			
Interest on Bonds	$696,196 67		
Taxes	197,923 00		
War Revenue Tax	3,850 22	897,969 89	
Net Income Year Ending June 30, 1900			245,344 41
Total Net Income January 1, 1899, to June 30, 1900			$369,798 63
Less			
Dividend on the First Preferred Capital Stock (2%)			170,000 00
Surplus carried to credit of Profit and Loss			$199,798 63

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BALANCE SHEET JUNE 30, 1900.

Assets.			
Cost of Road and Equipment			$63,571,405 76
Improvements			268,001 09
New Equipment			455,072 69
Current Assets.			
Cash	$1,500,362 24		
Individuals and Companies	168,495 91		
Agents and Conductors	67,403 17		
U. S. Government	19,041 30		
Colorado State Warrants	706 45		
Insurance Paid in Advance	6,098 46		
C. & S. 1st Mortgage Bonds	292,518 26		
C. & S. 1st Preferred Stock	3,700 36		
C. & S. 2nd Preferred Stock	93,032 14		
C. & S. Common Stock	34,201 08	$2,185,559 37	
Material and Supplies		338,576 40	2,524,135 77
Other Assets.			
Denver U. D. & Ry. Co. Capital Stock		80,000 00	
Pueblo U. D. & R. R. Co. Capital Stock		8,120 00	
Pueblo U. D. & R. R. Co. Sinking Fund		8,000 00	
Other Securities		287,135 33	383,255 33
			$67,201,870 64

Liabilities.			
Capital Stock, Common		$31,000,000 00	
Capital Stock, 1st Preferred		8,500,000 00	
Capital Stock, 2nd Preferred		8,500,000 00	$48,000,000 00
First Mortgage Bonds			17,603,000 00
Car Trust Notes			198,011 40
Current Liabilities.			
Vouchers	$306,496 47		
Pay Rolls	202,713 23		
Foreign Roads	178,134 97		
Employees Deposits	1,509 55		
Coupons 1st Mort. Bonds	6,960 00		
Dividends Unpaid	592 00	$ 696,406 22	
Deferred Liabilities.			
Accrued Taxes	$186,481 77		
Accrued Interest not yet due	287,683 33		
Insurance on Property not yet replaced	4,162 02		
Rails Released not Relaid	5,531 84		
Equipment Renewal Fund	20,795 43	504,654 39	1,201,060 61
Balance to Credit of Profit and Loss			199,798 63
			$67,201,870 64

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DETAILED STATEMENT OF EXPENSES

For the Fiscal Year Ended June 30, 1900, and for the Period January 1 to June 30, 1899.

Maintenance of Way and Structures.	1899-1900.	January 1 to June 30, 1899.
Superintendence	$ 20,145 99	$ 7,024 99
Frogs and Switches	7,461 11	2,520 97
Protection of River Banks	2,424 09	1,993 23
Repairs Road Bed and Tracks, Tools, etc.	246,531 95	97,337 69
Repairs of Snow Sheds and Fences	1,096 91	616 62
Spikes and Track Fastenings	9,853 45	4,037 47
Expense Washouts, Removing Snow and Ice	34,895 50	35,716 61
Renewal of Rail	9,820 89	1,882 73
Renewal of Ties	97,588 23	53,987 47
Repairs and Renewals of Bridges and Culverts	36,028 58	16,239 45
Repairs and Renewals of Fences, Crossings, Cattle Guards	12,915 46	2,357 49
Repairs and Renewals of Buildings and Fixtures	46,525 34	11,360 02
Repairs and Renewals of Telegraph	6,041 59	2,569 10
Stationery and Printing	876 40	477 49
Total	$ 532,205 49	$ 238,121 33

Maintenance of Equipment.	1899-1900.	January 1 to June 30, 1899.
Superintendence	$ 19,709 47	$ 9,380 26
Repairs and Renewals of Locomotives	299,690 48	120,596 29
Repairs and Renewals of Passenger Cars	34,282 96	16,420 75
Repairs and Renewals of Sleeping Cars...Credit	**562 35**	**29 79**
Repairs and Renewals of Freight Cars	148,813 05	66,200 93
Inspection of Freight Cars	28,885 96	13,202 33
Repairs and Renewals of Work Cars	10,828 69	6,268 86
Repairs and Renewals of Shop Machinery and Tools	26,361 94	9,867 98
Stationery and Printing	1,426 74	885 76
Other Expenses	36,434 60	15,536 33
Total	$ 605,871 54	$ 258,329 70

Conducting Transportation. Transportation.	1899-1900.	January 1 to June 30, 1899.
Superintendence	$ 36,968 83	$ 18,828 51
Engineers and Firemen	355,688 42	134,331 32
Hostlers and Round-House Men	70,661 09	33,146 14
Fuel for Locomotives	316,028 77	119,579 85
Water for Locomotives	29,753 69	11,615 94
Oil, Tallow and Waste for Locomotives	16,527 82	8,166 73
All Other Supplies for Locomotives	8,754 36	3,001 79
Train Service	248,284 75	92,612 95
Oil, Tallow and Waste for Trains	7,238 57	4,181 59
Cleaning Cars	12,240 92	5,209 23
Contingent Expenses Account Washouts, etc.	2,269 02	361 96
All Other Train Supplies	15,193 32	4,737 75
Carried Forward	$1,119,009 56	$ 435,773 76

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DETAILED STATEMENT OF EXPENSES—CONTINUED.

CONDUCTING TRANSPORTATION. Transportation—Continued.	1899-1900.	January 1 to June 30, 1899.
Brought Forward	$1,119,609 56	$ 435,773 76
Switchmen, Flagmen and Watchmen	112,472 22	47,640 99
Telegraph Expense	62,717 54	25,941 91
Station Service	154,071 80	62,177 52
Station Supplies	8,479 32	3,616 17
Switching Charges	13,366 49	821 24
Car Mileage	61,968 40	20,747 76
Hire of Equipment	23,068 89	1,710 79
Loss and Damage—Baggage	52 74	----------
Loss and Damage—Freight	11,664 09	4,251 91
Loss and Damage—Property	2,155 65	2,105 25
Loss and Damage—Stock Killed	10,484 75	1,624 60
Injury to Persons	3,512 91	2,588 32
Clearing Wrecks	8,527 54	2,449 59
Rents for Tracks, Yards and Terminals	85,844 43	34,493 91
Rents for Buildings and Other Property	6,376 72	2,716 91
Stationery and Printing	10,340 03	6,694 41
TOTAL	$1,694,713 08	$ 655,355 04

CONDUCTING TRANSPORTATION. Traffic.	1899-1900.	January 1 to June 30, 1899.
Superintendence—Freight	$ 30,753 91	$ 16,633 20
Superintendence—Passenger	12,043 70	6,074 33
Advertising—Passenger	34,052 77	16,495 88
Outside Agencies—Freight	22,035 35	11,852 76
Outside Agencies—Passenger	18,024 99	7,615 29
Traffic Associations—Freight	14,913 22	6,905 15
Traffic Associations—Passenger	770 50	172 00
Commissions—Passenger	2,466 08	1,528 33
Stationery and Printing—Freight	4,850 87	2,595 97
Stationery and Printing—Passenger	3,867 95	5,234 78
TOTAL	$ 143,779 34	$ 75,107 69
TOTAL CONDUCTING TRANSPORTATION	$1,838,492 42	$ 730,462 73

GENERAL EXPENSES.	1899-1900.	January 1 to June 30, 1899.
Salaries of General Officers	$ 41,249 76	$ 20,999 88
Salaries of Clerks and Attendants	54,217 16	26,629 43
General Office Expenses and Supplies	13,610 48	8,333 42
Insurance	11,986 82	4,817 70
Law Expenses	26,002 69	12,197 26
Stationery and Printing	3,494 97	2,604 84
Other Expenses	5,720 38	1,312 00
TOTAL	$ 156,282 26	$ 76,894 53
TOTAL OF OPERATING EXPENSES	$3,132,851 71	$1,303,808 29

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STATEMENT OF BETTERMENTS

Charged to Operating Expenses,

FOR THE PERIOD JANUARY 1 TO JUNE 30, 1899.

Description.	Amount.	Total.
NEW SPURS AND SIDINGS AND REARRANGEMENT OF YARDS (items under $1,000.00 each)		$ 5,991 66
REPLACING RAIL.		
Total charged to Account Renewal of Rail	$ 1,882 73	
Less amount for Rail in New Spurs and Sidings	614 60	1,268 13
NEW FENCING.		
Fort Collins District, 3.49 track miles		763 06
STRUCTURES.		
New Buildings, Stock Yards, etc.		520 79
BETTERMENTS TO EQUIPMENT AND MACHINERY.		
Locomotives	$ 3,560 45	
Freight Cars	7,959 32	
Passenger Cars	1,158 14	
Machinery	590 43	13,268 34
Total		$21,811 98

FOR THE YEAR ENDED JUNE 30, 1900.

Description.	Amount.	Total.
NEW SPURS AND SIDINGS AND REARRANGEMENT OF YARDS (items under $1,000.00 each)		$ 6,422 40
REPLACING RAIL.		
Total charged to Account Renewal of Rail	$ 9,820 89	
Less amount for Rail in New Spurs and Sidings	892 30	8,928 59
NEW FENCING.		
New Mexico District, 8.36 track miles		1,968 79
STRUCTURES.		
New Buildings, Stock Yards, etc.	$ 3,533 18	
Water Stations	2,024 61	5,557 79
BETTERMENTS TO EQUIPMENT.		
Locomotives	$14,039 93	
Freight Cars	9,344 64	
Passenger Cars	777 73	24,162 30
Total		$47,039 87

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OPERATING AND TRAFFIC STATISTICS.

FREIGHT.	1899-1900.	January 1 to June 30, 1899.
Number of Revenue Tons of Freight Carried	2,564,547	1,092,791
Number of Revenue Tons Carried One Mile	258,943,438	112,207,129
Tons One Mile per Mile of Road (Density)	226,835	98,294
Average Miles Hauled	101	103
Freight Train Mileage	1,697,731	723,696
Freight Car Mileage	27,551,174	12,609,381
Loaded Freight Car Mileage, Per Cent	66.18	66.60
Empty Freight Car Mileage, Per Cent	33.82	33.40
Revenue Tons per Car	9.40	8.90
Revenue Tons per Loaded Car	14.20	13.36
Revenue Tons per Freight Train—		
Standard Gauge Average	175.35	----------
Narrow Gauge Average	76.54	----------
Total Average	152.52	155.05
Freight Rate per Ton per Mile	Cts. 1.242	Cts. 1.277
Freight Earnings per Freight Train Mile	$1.89	$1.98
PASSENGER.		
Number of Revenue Passengers Carried	605,065	213,834
Number of Revenue Passengers Carried One Mile	27,102,650	9,329,955
Passengers One Mile Per Mile of Road (Density)	23,742	8,173
Average Miles Hauled	45	44
Passenger Train Mileage	861,496	359,732
Passenger Car Mileage	4,044,215	1,456,235
Cars per Passenger Train	4.69	4.05
Revenue Passengers per Train	31.46	25.94
Average Rate per Passenger per Mile	Cts. 2.995	Cts. 2.881
Passenger Earnings per Passenger Train Mile	$0.94	$0.75
Passenger Earnings including Mail and Express per Passenger Train Mile	1.13	0.94

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TRAFFIC STATISTICS

For the Period January 1 to June 30, 1899.

Commodity.		Freight Originating on Colorado & Southern Ry.		Freight Originating on Other Roads.		Total.		Total.	
		Tons.	Revenue.	Tons.	Revenue.	Tons.	Per Cent.	Revenue.	Per Cent.
Products of Agriculture.	Grain	27,627	$ 49,770 62	16,399	$ 28,812 89	44,026	4.03	$ 78,583 51	5.48
	Flour	24,078	57,459 10	523	1,055 01	24,601	2.25	58,514 11	4.08
	Other Mill Products	5,294	10,516 99	359	556 15	5,653	.52	11,073 14	.77
	Hay	8,887	21,869 66	703	829 95	9,590	.88	22,699 61	1.58
	Tobacco	.....	.....	.....	.....	.....	....	.....	.....
	Cotton	.....	.....	.....	.....	.....	....	.....	.....
	Fruits and Vegetables	1,481	5,025 26	601	1,420 27	2,082	.19	6,445 53	.45
	Potatoes	11,612	35,295 86	2,600	6,849 85	14,212	1.30	42,145 71	2.94
Products of Animals.	Live Stock	16,184	15,750 96	20,327	62,613 35	36,511	3.34	78,364 31	5.47
	Dressed Meats	121	402 62	24	54 32	145	.01	456 94	.03
	Other Packing House Products	138	419 44	38	30 58	176	.02	450 02	.03
	Poultry, Game and Fish	34	121 31	35	148 40	69	.01	269 71	.02
	Wool	792	3,729 91	1,809	1,353 42	2,601	.24	5,083 33	.35
	Hides and Leather	254	1,185 64	.....	.....	254	.02	1,185 64	.08
	Anthracite Coal	.....	.....	.....	.....	.....	....	.....	.....
Products of Mines.	Bituminous Coal	284,349	313,214 14	4,541	5,599 94	288,890	26.43	318,814 08	22.25
	Lignite Coal	197,422	165,588 27	2,812	3,924 97	200,234	18.32	169,513 24	11.83
	Coke	85,970	76,278 71	5,789	2,981 46	91,759	8.40	79,260 17	5.53
	Ore	63,548	101,147 78	112,088	66,878 80	175,636	16.07	168,026 58	11.73
	Stone	29,896	19,106 61	448	479 98	30,344	2.78	19,586 59	1.37
Products of Forest.	Lumber	39,596	59,877 58	10,027	14,116 92	49,623	4.54	73,994 50	5.16
	Charcoal	49	116 27	.....	.....	49	.01	116 27	.01

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TRAFFIC STATISTICS—Continued

For the Period January 1 to June 30, 1899.

Commodity.		Freight Originating on Colorado & Southern Ry.		Freight Originating on Other Roads.		Total.		Total.	
		Tons.	Revenue.	Tons.	Revenue.	Tons.	Per Cent.	Revenue.	Per Cent.
Manufacture.	Petroleum and Other Oils	633	$ 2,329 12	333	$ 749 05	966	.09	$ 3,078 17	.22
	Sugar	149	656 22	535	1,207 85	684	.06	1,864 07	.13
	Naval Stores	------	------	------	------	------	----	------	----
	Iron, Pig and Bloom	472	510 93	337	635 77	809	.07	1 146 70	.08
	Iron and Steel Rails	6,857	7,308 65	------	18 12	6,857	.63	7,326 77	.51
	Other Castings and Machinery	2,989	8,932 04	3.668	10,720 10	6,657	.61	19,652 14	1.37
	Bar and Sheet Metal	820	2,449 04	1,770	4,745 12	2,590	.24	7,194 16	.50
	Cement, Brick and Lime	6,827	6,951 57	2,268	2,905 79	9,095	.83	9,857 36	.69
	Agricultural Impl'nts	104	309 07	1,451	3,411 51	1,555	.14	3,720 58	.26
	Wagons, Carriages, Tools, &c.	31	83 78	472	679 27	503	.05	763 05	.05
	Wines, Liquors and Beer	4,649	12,533 58	713	1,471 60	5,362	.49	14,005 18	.98
	Household Goods and Furniture	603	1,975 45	533	1,667 76	1,136	.10	3,643 21	.26
	Bullion and Lead	10.967	13.263 30	------	------	10,967	1.00	13,263 30	.93
Merchandise		20,398	115,787 75	5,151	33,061 96	25,549	2.34	148.849 71	10.39
Miscellaneous		28,727	32,956 48	14,879	31.051 68	43,606	3.99	64.008 16	4.47
Totals		881,558	$1,142,923 71	211,233	$290,031 84	1,092,791	100%	$1,432,955 55	100%
Percentages		80.67	79.76	19.33	20.24	100.00		100.00	

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TRAFFIC STATISTICS

For Year Ended June 30, 1900.

Commodity.		Freight Originating on Colorado & Southern Ry.		Freight Originating on Other Roads.		Total.		Total.	
		Tons.	Revenue.	Tons.	Revenue.	Tons.	Per Cent.	Revenue.	Per Cent.
Products of Agriculture.	Grain	51,774	$ 114,312 77	30,706	$ 44,366 57	82,480	3.22	$ 158,679 34	4.93
	Flour	43,765	116,859 35	1,372	1,849 24	45,137	1.76	118,708 59	3.69
	Other Mill Products	13,870	26,416 73	731	934 82	14,601	.57	27,351 55	.83
	Hay	27,235	62,029 13	3,482	4,308 62	30,717	1.20	66,337 75	2.06
	Tobacco	-------	-------	-------	-------	-------	---	-------	---
	Cotton	-------	-------	1,287	692 87	1,287	.05	692 87	.02
	Fruits and Vegetables	7,877	29,660 29	7,236	12,014 37	15,113	.59	41,674 66	1.30
	Potatoes	34,129	105,763 83	9,626	20,986 79	43,755	1.71	126,750 62	3.94
Products of Animals.	Live Stock	39,889	99,573 51	28,061	76,620 18	67,950	2.65	176,193 69	5.48
	Dressed Meats	52	196 55	279	460 94	331	.01	657 49	.02
	Other Packing House Products	582	2,251 25	419	789 71	1,001	.04	3,040 96	.09
	Poultry, Game and Fish	171	478 84	55	70 64	226	.01	549 48	.02
	Wool	2,511	7,976 53	2,993	2,554 45	5,504	.21	10,530 98	.33
	Hides and Leather	570	3,063 20	113	101 24	683	.03	3,164 44	.10
Products of Mines.	Anthracite Coal	652	1,285 71	52	59 20	704	.03	1,344 91	.04
	Bituminous Coal	723,434	663,584 88	42,470	33,310 09	765,904	29.86	696,894 97	21.67
	Lignite Coal	393,944	256,614 44	14,123	19,737 24	408,067	15.90	276,381 68	8.59
	Coke	178,241	146,769 63	12,008	5,063 48	190,249	7.42	151,833 11	4.72
	Ore	203,594	323,666 89	191,330	118,275 06	394,924	15.39	441,941 95	13.75
	Stone	70,604	37,559 76	720	727 01	71,324	2.78	38,286 77	1.19
Products of Forest.	Lumber	82,363	116,698 54	23,830	30,400 75	106,193	4.14	147,099 29	4.57
	Charcoal	121	292 56	-------	----------	121	.01	292 56	.01

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TRAFFIC STATISTICS—Continued

For Year Ended June 30, 1900.

Commodity.		Freight Originating on Colorado & Southern Ry.		Freight Originating on Other Roads.		Total.		Total.	
		Tons.	Revenue.	Tons.	Revenue.	Tons.	Per Cent.	Revenue.	Per Cent.
Manufacture.	Petroleum and other Oils	1,187	$ 4,628 97	612	$ 1,914 75	1,799	.07	$ 6,543 72	.20
	Sugar	496	1,887 91	2,479	4,684 44	2,975	.12	6,572 35	.21
	Naval Stores	------	------	------	------	------	------	------	------
	Iron, Pig and Bloom	1,553	1,546 21	747	824 67	2,300	.09	2,370 88	.08
	Iron and Steel Rails	10,983	13,368 82	166	174 78	11,149	.43	13,543 60	.42
	Other Castings and Machinery	6,275	22,950 75	6,257	15,145 49	12,532	.49	38,096 24	1.18
	Bar and Sheet Metal	1,793	4,591 99	3,527	7,390 41	5,320	.21	11,982 40	.37
	Cement, Brick and Lime	29,993	30,364 08	9,906	11,693 36	39,899	1.56	42,057 44	1.31
	Agricultural Impl'nts	190	484 64	994	3,230 69	1,184	.05	3,715 33	.12
	Wagons, Carriages, Tools, etc.	146	587 01	700	2,243 83	846	.03	2,830 84	.09
	Wines, Liquors and Beer	10,968	24,804 37	1,600	2,962 36	12,568	.49	27,766 73	.86
	Household Goods and Furniture	1,168	3,056 37	2,101	4,885 73	3,269	.13	7,942 10	.25
	Bullion and Lead	36,885	23,627 20	2,659	1,510 17	39,544	1.54	25,137 37	.78
Merchandise		50,838	307,245 45	13,745	80,718 26	64,583	2.52	387,963 71	12.06
Miscellaneous		65,866	75,441 91	54,442	76,545 23	120,308	4.69	151,987 14	4.72
Totals		2,093,719	$2,629,670 07	470,828	$587,247 44	2,564,547	100%	$3,216,917 51	100%
Percentages		81.64	81.74	18.36	18.26	100.00		100.00	

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MAINTENANCE AND PERFORMANCE OF LOCOMOTIVES.

	1899-1900.	January 1 to June 30 1899.
MAINTENANCE OF LOCOMOTIVES:		
Repairs	$ 299,630 48	$ 120,596 29
Fuel	316,028 77	119,579 85
Service	355,688 42	134,331 32
Expenses	125,696 96	55,930 60
Total	$1,097,104 63	$430,438 06
MILEAGE OF LOCOMOTIVES:		
Freight	2,310,226	918,888
Switching	889,624	351,444
Work	91,312	89,975
Passenger	929,359	369,349
Total	4,220,521	1,729,656
MAINTENANCE PER MILE (in cents):		
Repairs	7.10	6.97
Fuel	7.49	6.91
Service	8.43	7.77
Expenses	2.98	3.23
Total	26.00	24.88
Miles Run to Ton of Coal	18.12	19.23
Miles Run to Quart of Lubricating Oil	29.71	25.13

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STATEMENT OF LOCOMOTIVES.

JUNE 30, 1900.

No.	Weight in Pounds Without Tender.	Gauge.	Service.
4	60,300	Narrow	Freight
10	61,300	"	Passenger
3	61,750	"	Freight
20	62,900	"	"
6	71,000	"	"
8	76,000	"	"
3	80,500	"	"
1	60,100	Standard	Switch
1	67,100	"	Passenger
1	74,000	"	"
1	74,500	"	"
1	75,600	"	"
3	76,000	"	"
2	77,400	"	"
7	81,000	"	"
1	82,800	"	Switch
4	86,300	"	Freight
4	88,000	"	Switch
4	93,400	"	Freight
7	94,000	"	Switch
3	96,200	"	"
5	96,200	"	Freight
1	99,000	"	Passenger
1	101,300	"	"
1	105,000	"	"
2	105,000	"	Freight
2	107,000	"	"
10	122,000	"	"
7	123,000	"	"
6	131,200	"	Passenger
5	131,200	"	Freight
1	138,000	"	"
3	138,300	"	"
7	141,800	"	"
3	152,000	"	Passenger
148			

RECAPITULATION.

Kind.	Standard.	Narrow.	Total.
Passenger	28	10	38
Freight	50	44	94
Switch	16	.....	16
Total	94	54	148

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PASSENGER CARS

JUNE 30, 1900.

STANDARD GAUGE.

Coaches	22	
Chair	3	
Cafe	3	
Coach and Mail	5	
Coach and Baggage	2	
Baggage	6	
Baggage and Mail	5	
Officers	1	
Total		47

NARROW GAUGE.

Coaches	32	
Excursion Coaches	14	
Coach and Baggage	9	
Baggage	4	
Baggage and Mail	6	
Officers	3	
Total		68
Grand Total		115

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FREIGHT CARS

JUNE 30, 1900.

STANDARD GAUGE CARS.

KIND OF CAR.	CAPACITY.				
	32,000.	40,000.	50,000.	60,000.	Total.
Box	100	302	197	658	1,257
Coal	92	516	228	369	1,205
Stock	-------	--------	283	21	304
Flat	75	14	--------	10	99
Refrigerator	-------	19	50	--------	69
Furniture	-------	--------	--------	25	25
Charcoal	17	3	--------	--------	20
Totals	284	854	758	1,083	2,979
Total Capacity	9,088,000	34,160,000	37,900,000	64,980,000	146,128,000
Percentage	6.21	23.38	25.94	44.47	100 00

NARROW GAUGE CARS.

KIND OF CAR.	CAPACITY.				
	24,000.	28,000.	40,000.	50,000.	Total.
Box	105	251	101	64	521
Coal	12	158	196	244	610
Stock	13	--------	--------	50	63
Flat	36	--------	19	--------	55
Refrigerator	12	13	--------	6	31
Totals	178	422	316	364	1,280
Total Capacity	4,272,000	11,816,000	12,640,000	18,200,000	46,928,000
Percentage	9.10	25.18	26.94	38.78	100.00

Kind of Car.	Standard Gauge.	Narrow Gauge.	Total.
Cars as above for freight traffic	2,979	1,280	4,259
Cabooses	41	15	56
Cinder	6	----------	6
Work Outfit	7	10	17
Wrecking Truck	4	5	9
Wrecking Tool	3	4	7
Flanger	2	4	6
Pile Driver	1	1	2
Jull Snow Plow	1	----------	1
Rotary Snow Plow	----------	2	2
Derrick	2	----------	2
Steam Shovel	1	----------	1
Total	3,047	1,321	4,368

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ANALYSIS OF IMPROVEMENT ACCOUNT.

JUNE 30, 1900.

Description.	Location.	Amount.	Total.
NEW BUILDINGS AND MACHINERY.			
Depot	Ft. Collins	$ 4,163 16	
Depot	Central City	3,394 92	
Depot	Slaghts	740 00	
Hotels	Platte Canon	28,222 57	
Pavilion	Silver Plume	4,179 58	
Water Station	Watervale	829 45	
Machinery for Shops	Denver	43,271 61	
Shop Buildings	Denver	17,756 54	$102,557 83
TERMINALS.			
Freight Depot	Denver	$ 759 42	
Yard Master and Switchmen's Office	Denver	130 47	
Machinery Platform	Denver	1,742 86	
Sand and Oil House	Denver	735 58	
Coal Chutes	Denver	5,506 50	
Water Station	Denver	4,061 44	
Interlocking Signal Plant	Denver	2,047 64	
Track Scales	Denver	1,733 44	
Registering Station	Denver	78 75	
New Tracks	Denver	23,535 15	
Shop Yard Tracks	Denver	13,417 08	
Crossing Gates	Denver	1,775 68	
Tracks to Globe Smelter	Denver	126 60	55,650 61
TRACKS.			
New Tracks	Ft. Collins	$ 2,588 36	
Passing Tracks	Frijoli	1,157 83	
Passing Tracks	Abeyta	1,074 23	
Side Tracks	Badger	1,437 31	
Tracks to Coal Mines	Forbes Jct.	5,516 90	
Tracks to Coal Mines	Bowen	6,271 26	
Tracks to Coal Mines	Rugby	6,588 29	
Tracks to Coal Mines	Lafayette	663 87	
Tracks to Coal Mines	Walsenburg	1,489 72	
Extension of Tracks to Mines	Kokomo	1,773 95	
Extension of Tracks to Mines	Leadville	40,446 56	
Extension of Tracks	South Platte	40,784 37	109,792 65
Total			$ 268,001 09

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ANALYSIS OF NEW EQUIPMENT ACCOUNT.

JUNE 30, 1900.

Description.	Capacity.	Amount.
287 Standard Gauge Coal Cars with air brakes and automatic couplers	60,000	$227,575 52
160 Narrow Gauge Coal Cars with air brakes and automatic couplers	50,000	64,962 74
50 Narrow Gauge Stock Cars with air brakes and automatic couplers	50,000	34,936 46
40 Narrow Gauge Box Cars with air brakes and automatic couplers	50,000	20,136 80
3 Standard Gauge Cafe Cars		28,690 29
3 Standard Gauge Ten Wheel Passenger Locomotives		49,303 51
1 Standard Gauge Consolidation Locomotive		12,507 51
1 Narrow Gauge Rotary Snow Plow		16,959 86
Total		$455,072 69

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ANALYSIS OF MATERIAL AND SUPPLIES

On hand June 30, 1900, and June 30, 1899.

CLASSIFICATION.	June 30, 1900.	June 30, 1899.
Steel Rails	$ 20,742 77	$ 34,638 77
Iron Rails	715 41	3,143 06
Scrap Rails	1,095 52	2,529 51
Cross Ties	57,356 55	57,070 08
Switch Ties	5,896 22	3,318 43
Frogs and Switch Fixtures	14,625 31	9,404 01
Spikes and Track Fastenings	13,094 73	11,225 42
Bar and Sheet Iron, Steel, etc.	16,243 64	7,065 33
Copper, Tin, Brass and Other Metals	15,640 50	13,285 29
Car and Engine Castings and Forgings	17,123 75	26,852 91
Wheels and Axles	18,895 87	20,954 92
Tires and Springs	10,798 69	9,816 74
Couplers, Knuckles and Fittings	4,714 87	3,973 67
Links and Pins	1,586 31	1,097 06
Engine Flues and Flue Ends	12,445 90	4,247 23
Air-Brake Equipment	8,167 87	14,067 40
Heating and Lighting Equipment	1,150 66	1,497 29
Pipe and Pipe Fittings	2,569 45	2,873 97
Oil, Tallow and Waste	3,845 30	5,186 93
Engine Fixtures and Fittings	7,666 34	4,771 70
Coach Fixtures and Fittings	1,710 08	1,660 28
Car Fixtures and Fittings	2,750 71	3,777 76
Engine Supplies	411 47	324 93
Train Supplies	1,140 49	1,336 61
Ice	15 96	.....
Bolts, Nuts and Washers	5,700 87	7,230 36
Nails, Screws, Staples, Rivets, etc.	3,338 17	2,640 93
Rubber, Rope, Leather, Packing, etc.	2,138 02	1,856 51
Glass, Paints, Oils and Varnishes	3,563 84	4,045 47
Tools, Belting, etc.	2,721 82	2,034 07
Lumber	37,977 13	31,923 00
Posts and Piling	1,839 69	2,753 35
Wire—Barbed, Steel, Iron, Copper, etc.	542 86	324 46
Builders' Hardware and Material	529 38	434 88
Station Fixtures and Supplies	436 84	620 26
Pumps, Wind Mills, Water Tanks and Fittings	1,647 37	631 14
Stone	264 40	264 40
Coal	26,413 58	17,166 69
Wood and Fuel Oil	425 56	206 02
Stationery, Books and Blanks	4,219 08	5,335 94
Scrap	6,413 42	5,757 56
Total	$338,576 40	$327,844 34

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THE AUDIT COMPANY

OF NEW YORK.

GRENVILLE M. DODGE, ESQ.,

Chairman of the Board of Directors,
Colorado & Southern Railway Company,
New York.

DEAR SIR:—We have made an audit of the books and accounts of The Colorado & Southern Railway Company for the six months ending June 30th, 1899, and for the fiscal year ending June 30th, 1900, and, in accordance therewith, certify that the attached Statements of Income Account, Profit and Loss Account, and the General Balance Sheet, are true exhibits of the results of the operation of the Company for the eighteen months, and of its condition as of June 30th, 1900, as shown by said books and accounts.

THE AUDIT COMPANY OF NEW YORK,

A. W. DUNNING,
Western Manager.

Approved:

THOMAS L. GREEN,
Manager, New York City.

Attest:

F. J. HOWELL,
Western Secretary.

CHICAGO, September 6th, 1900.

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TERMINAL TRACKAGE.

MAIN TRACK

NAME	MILEAGE.
Pueblo district	4.40
" " 2nd track,	4.00
Como district,	6.26
Joint with D.&R.G.	0.70
Main Freight Como dist,	1.15
Belt line,	4.85
Chestnut St. mainline,	1.60
C.C. main line	2.57
C.C. doub or 2nd track	2.03
Jersey Cut-Off	3.08
Total mileage main lines	30.64

SIDE TRACK.

NAME	MILEAGE.
South Park Yard	6.80
West Denver	6.10
Seventh St Yard	7.30
Fifteenth St Freight Yd	4.60
D.M.&B. Yard Industries	0.80
Coach yard	2.60
Argo yard	2.50
Ft. Collins. dist.	3.80
Jersey Cut-off	9.30
Belt line, industries,	2.20
South Park Junction, Griffen Wheel Works	2.40
South Denver C.&S. tracks,	1.00
" " Santa Fe. Yard	4.20
Total mileage of sidings inside switching limits, corrected to Sept. 1st 1900 including new work in 7th St Yard.	53.60

A Sketch Map OF DENVER TERMINALS

CHIEF ENGINEERS OFFICE
DENVER

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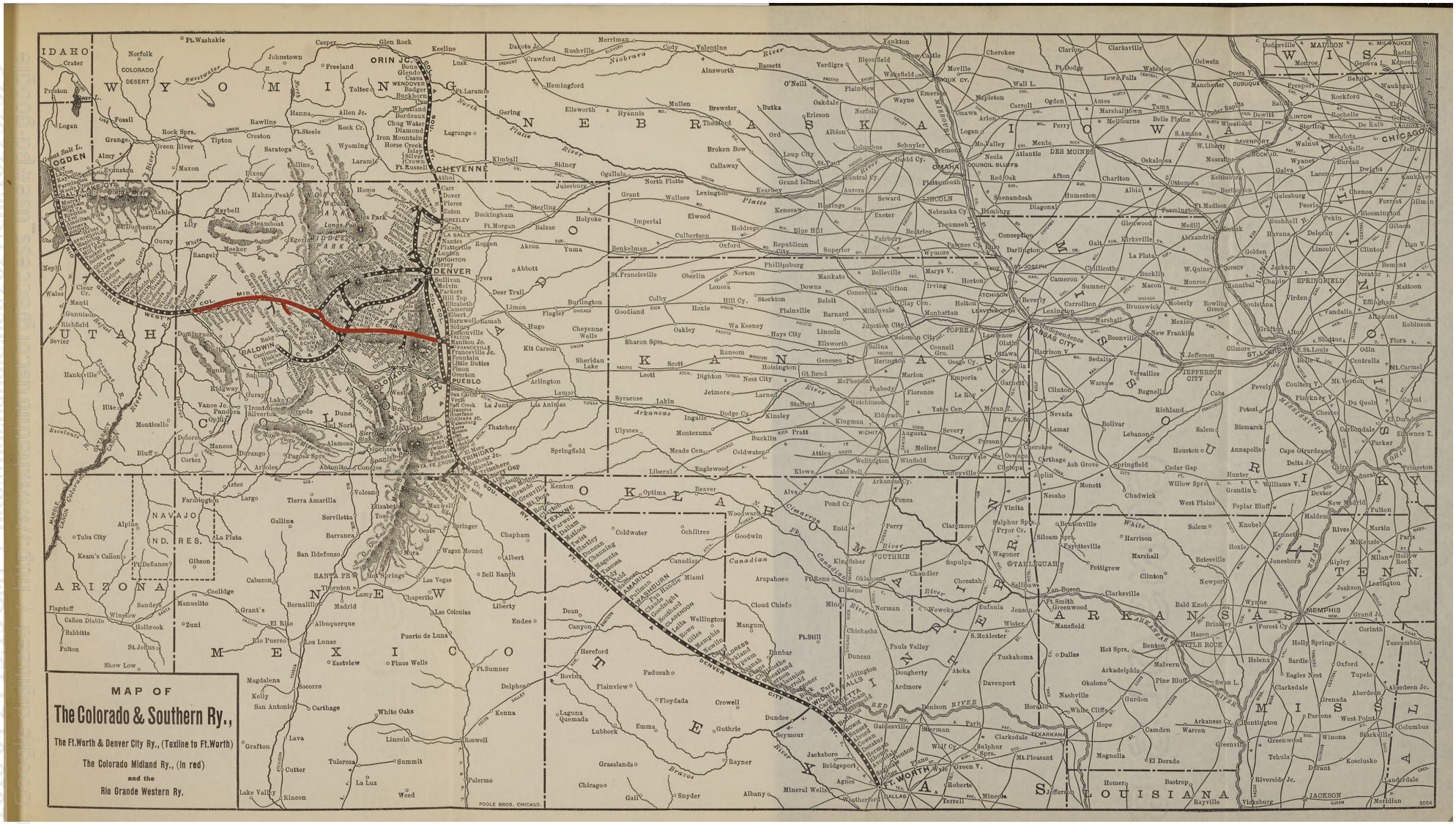

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THE COLORADO AND SOUTHERN RAILWAY COMPANY

CHARTER DECEMBER 19TH, 1898.

ORGANIZED TO PURCHASE THE UNION PACIFIC, DENVER & GULF RY. CO. AND THE DENVER, LEADVILLE AND GUNNISON RY. CO.

U.P.D.&G. RY. MILEAGE DEC. 28TH, 1898

Denver to Greeley	98.71 Mls.
Jersey to Cut-Off Jct	2.84 "
Loveland to Arkins	8.34 "
Fort Collins to Stout	14.94 "
D & I Jct. to Boulder Jct.	11.44 "
Louisville to Lafayette	3.79 "
Boulder to D.B. & W.R.R. Conn.	0.64 "
Allen Bond Mine Spur	3.24 "
Denver West Side Line	4.85 "
Argo Jct. to Silver Plume	52.06 "
Forks Creek to Central City	11.74 "
Golden to Church's Brick Yard	1.70 "
Denver to Pueblo Jct.	124.71 "
Manitou Jct. to Colorado Springs	9.12 "
Pueblo Freight House Track	0.56 "
Pueblo Jct. to Bessemer Jct.	3.39 "
Walsenburg Jct. to Trinidad	41.45 "
Acme Jct. to Aquilar	2.51 "
Ludlow to Hastings	2.98 "
Ludlow to Berwind	3.20 "
Chicosa Jct. to Forbes Jct.	1.17 "
Trinidad to New Mexico-Texas State Line	134.82 "
Beshoar Jct. to Grey Creek	7.85 "
Trinidad to Vasquez	39.39 "
Sopris to Sopris Mine	0.69 "
Catskill to Newton	9.25 "
Cheyenne to Orin Jct.	153.62 "
Long's Jct. to Thompson Mine	1.28 "
TOTAL U.P.D.&G. RY. into C.&S. Ry. Dec. 28th, 1898	750.27 Mls.

D.L.&G. RY. MILEAGE DEC. 28TH, 1898

Denver to Leadville	151.25 Mls.
Como to Baldwin	131.30 "
Sheridan Jct. to Morrison	9.97 "
Como to King	2.97 "
Dickey to Keystone	7.01 "
Kokomo to Wilfley's Mill	1.14 "
Garos to Alma	15.41 "
Schwanders to Buena Vista	3.98 "
Castleton - up Ohio Creek	2.49 "
Hill Top Jct. to Leavick	11.33 "
TOTAL D.L.&G. RY. INTO C.&S. RY. DEC. 28TH, 1898	336.55 "

C.&S. RY. - ORGANIZATION MILEAGE DEC. 28TH, 1898.

Union Pacific, Denver & Gulf Ry. Co.	750.27 "
Denver, Leadville & Gunnison Ry. Co.	336.55 "
TOTAL MILEAGE DEC. 28TH, 1898	1086.82 "

C.&S. RY. - MILEAGE JUNE 30TH, 1918.

December 28th, 1898	1086.82	
Purchased from Leadville Mineral Belt Ry.	2.99	1089.81 "
Total Decrease 1898 to 1918	99.18	
Total Increase " " "	23.79	
Net Decrease		75.39 "
TOTAL MILEAGE JUNE 30TH, 1918		1014.42 Mls.

INCREASES IN MILEAGE DEC. 28TH, 1898 TO JUNE 30TH, 1918.

Construction Commenced	Placed in Operation		
1900	1900	Leadville Mineral Belt Ry. - Extension	0.10 Mls.
1901	1901	Como to Leadville - Extension	0.03 "
		Fort Collins to Stout - Change of Initial Pt. Ft. Collins	0.21 "
1902	1902	No. 4 Jct. to Beacon Mine - New Branch	0.76 "
1902	1902	South Platte to Night Hawk - New Branch	4.11 "
7-10-02	1903	Minnequa Jc. to Southern Jc.	2.02 "
1903	1903	Argo Jct. to Silver Plume - Extension	0.45 "
9-5-03	Nov. 03	No. 4 Jct. to Beacon Mine - New Branch	0.48 "
1904	1904	South Platte to Night Hawk - Extension	0.17 "
Jun. 04	Sep. 04	Lowery Quarry Branch	2.81 "
Mar. 07	1908	Semper to Louisville Jct. - New Main Line	7.40 "
Aug. 08	1908	Macune to Trout Creek - New Main Line	1.55 "
		Clear Creek Jct. to Silver Plume - Change of In. Pt. from Argo Jc. to Cl. Cr. Jc.	0.12 "
May 11	Jun. 11	Sheridan Jct. to Morrison - Extension	0.20 "
		Boulder to D.B.&W.R.R. Conn. - Change of Initial Point	0.17 "
		Pueblo Jct. to Conn. A.T.&S.F. Ry. - Originally Side Track	0.06 "
		Berwind to Toller Mine - Purchased from C.H.C. Co.	0.93 "
		Waterton to Conn. with Silica Branch - Originally Side Track	0.13 "
1915	1915	Cheyenne to Orin Jct., Wendover Conn. with C.B.&Q.R.R. Guernsey Line	0.12 "
May 15	Aug. 15	Ludlow to Bear Canon Mine - Extension	0.95 "
5-1-17	11-15-17	" " " " "	0.72 "
1918	1918	Denver to Greeley - Conn. with C.B.&Q.R.R. Depot Jct., Denver	0.06 "
		Walsenburg Jct. to Trinidad - Change of Initial Point - Trinidad	0.19 "
		Denver to Como - Change of Initial Point, Como	0.05 "
		TOTAL INCREASES	23.79 Mls.

DECREASES IN MILEAGE DEC. 28TH, 1898 TO JUNE 30TH, 1918.

Date		
1899	Como to King - Taken up	2.71 Mls.
1901	Longs Jct. to Thompson Mine - Sold to C.&W. Ry.	1.28 "
1902	Jersey Cut-Off - Taken up	0.48 "
1902	Allen Bond Mine Spur - Taken up	3.24 "
1902	Colorado Central Transfer Track, Ft. Collins, Taken up	0.21 "
1902	Colorado Central Transfer Track - Put in Side Track	0.06 "
1902	Acme Jct. to Brodhead Jct. Part put in Sidetrack	0.36 "
1902	Pels to Vasquez - Taken up	16.31 "
1902	Catskill to Newton - Taken up	9.25 "
1903	Jersey Cut-Off - Taken up	0.09 "
1903	No. 4 Jct. to Beacon Mine - Part put in Side Track	0.19 "
1904	Minnequa Jct. to Bessemer Jct. Taken up	0.78 "
1904	Ludlow to Hastings - Part Sold to C.&S.E. Ry.	1.69 "
1905	Kokomo to Wilfleys Mill - Taken up	0.04 "
1905	Ft. Collins to Stout " "	2.90 "
1908	Longs Jc. to Pels " "	15.70 "
1908	Schwanders to Trout Creek - Washed Out	1.09 "
1909	Ft. Collins to Stout - Taken up	4.01 "
1909	Longs Canon Branch - Taken up	3.42 "
1910	Como to Baldwin - Taken up	1.02 "
1912	Louisville to Lafayette - Taken up	0.77 "
1912	Pueblo Jct. to Southern Jct. Conn. with Colo. R.R.	0.02 "
	CARRIED FORWARD	62.62 Mls.

Date		
	BROUGHT FORWARD	62.62 Mls.
1912	Dickey to Keystone - Taken up	0.17 "
1912	Como to King - Put in Side Track	0.26 "
1913	Pueblo Freight House Track - Put in Side Track	0.56 "
1914	Lowery Quarry Spur - Taken up	2.43 "
1914	Lowery Quarry Spur - Put in Side Track	0.38 "
1914	Denver to Pueblo Jct. Change of Initial Point - Denver	0.18 "
1915	Denver to Como - Change of Initial Point, Denver	0.17 "
1916	South Platte to Night Hawk - Taken up	4.08 "
1916	South Platte to Night Hawk - Put in Side Track	0.20 "
1917	Loveland to Arkins - Taken up	0.55 "
1917	Denver to Pueblo Jct. - Taken up	1.61 "
1918	Louisville to Lafayette - Taken up	0.02 "
1918	Boulder to Conn. D.B.&W.R.R. - Change of In. & Term. Pts.	0.04 "
1918	Fort Collins to Stout - Taken up	2.79 "
1918	Fort Collins to Stout - Put in Side Track	0.18 "
1918	Denver to Pueblo Jct. - Taken up	22.70 "
1918	Trinidad to N.M.-Tex. State Line, Change of Init. Pt. Trinidad	0.19 "
1918	Como to Baldwin - Change of Initial Point - Como	0.05 "
	TOTAL DECREASES	99.18 Mls.

THE COLORADO AND SOUTHERN RAILWAY COMPANY

CHARTER DECEMBER 19TH, 1898.

CHARTER AMENDED NOVEMBER 18TH, 1899 AND [illegible]

ACQUIRED THE U.P.D.&G. RY. CO. AND THE D.L.&G. RY. CO. DECEMBER 28TH, 1898

MILEAGE STATEMENT AS OF JUNE 30TH, 1918

Cheyenne to Orin Jct.	153.14 Mls.
Denver to Greeley	98.60 "
Denver West Side Line	4.85 "
Jersey Cut Off	2.27 "
D.&I. Jct. to Boulder Jct.	11.44 "
Louisville to Lafayette	2.99 "
Boulder to Conn. D.B.&W.R.R.	0.77 "
Loveland to Arkins	7.79 "
Semper to Louisville Jct.	7.40 "
Fort Collins to Bellevue Jct.	5.27 "
Denver to Pueblo Jct.	100.32 "
Manitou Jct. to Colorado Springs	9.12 "
Pueblo Jc. to Southern Jc.	4.67 "
Walsenburg Jct. to Trinidad	41.64 "
Acme Jct. to Brodhead Jct.	2.15 "
No. 4 Jct. to Beacon Mine	1.05 "
Ludlow to Bear Canon Mine	5.80 "
Ludlow to Barnes Jct.	1.28 "
Forbes Jct. to Chicosa Jct.	1.17 "
Trinidad to New Mex. Tex. State Line	134.63 "
Carried Forward	596.16 Mls.

Brought Forward	[illegible] Mls.
Beshoar Jct. to Grey Creek	[illegible]
Trinidad to [illegible] Jct.	[illegible]
Sopris to Sopris Mine	0.69 "
Clear Creek Jct. to Silver Plume	51.40 "
Forks Creek to Central City	11.74 "
Golden to Church's Brick Yard	1.70 "
Denver to Como	88.39 "
Sheridan Jct. to Morrison	10.17 "
Waterton to Conn. Silica Branch - [illegible]	[illegible]
Como to Leadville	[illegible]
Dickey to Keystone	6.84 "
Kokomo to Wilfley's Mill	1.10 "
Leadville Mineral Belt Ry.	2.44 "
Como to Baldwin	[illegible]
Garos to Alma	15.41 "
Hill Top Jct. to Leavick	11.33 "
Macune to Buena Vista	[illegible]
Castleton to Conn. Kubler Mine Track	[illegible]
TOTAL MILEAGE C.&S. RY. JUNE 30, 1918	1014.42 Mls.

THE DENVER, LEADVILLE & GUNNISON RY. CO.

CHARTER JULY 17TH, 1889

RECEIVER APPOINTED AUGUST 4TH, 1894

DECREE OF FORECLOSURE AND SALE AUG. 6TH, 1898

SOLD UNDER FORECLOSURE NOV. 18TH, 1898

SPECIAL MASTERS DEED TO D.L.&G. PURCHAS. COMM. DEC. 9TH, 1898

PURCHAS. COMM. DEED TO THE C.&S. RY. DEC. 28TH, 1898

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
9-21-95	1895 -	Kokomo to Wilfley's Mill	1.14 Mls.

Date Acquired	TRACKS ACQUIRED BY PURCHASE	
8-29-89	The Denver South Park & Pacific R.R. Co.	324.54 "
	The Denver South Park & Hill Top Ry. Co.	11.33
		337.01 Mls.

Date	DEDUCTIONS	
1897	Castleton up Ohio Creek, Taken up	0.46 "
	TOTAL MILEAGE DEC. 28TH, 1898	336.55 Mls.

THE LEADVILLE MINERAL BELT RY. CO.

CHARTER OCTOBER 29TH, 1898

PURCHASED BY C.&S. RY. CO. JUNE 25TH, 1900

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
10-10-98	Apr. 1899	Leadville Mineral Belt Ry.	2.34 Mls.
1900	1900	Ext. C.&S. Ry. Main Line	0.65
		TOTAL CONSTRUCTED	2.99 Mls.

[illegible] & BOULDER RY. CO.

[illegible] 1885.

[illegible] CONSOLIDATION APR. 1, 1890

[illegible] CONSTRUCTION

[illegible] Boulder		13.62 Mls.
[illegible] Lafayette		3.28 "
[illegible] CONSTRUCTION		16.90 "
[illegible] BY PURCHASE		
[illegible] & Pacific Ry. Co.		36.02 "
		52.92 "
[illegible] DEDUCTIONS		
[illegible] Taken up	2.59	
[illegible] " "	4.36	
" "	1.75	
" "	1.75	
[illegible] " "	2.00	11.95
[illegible] April 1st, 1890		40.97

THE DENVER, TEXAS & GULF R.R. CO.

CHARTER MAY 28TH, 1885.

BECAME PART OF THE U.P.D.&G. CONSOLIDATION APRIL 1ST, 1890

ACQUIRED BY PURCHASE

The Denver and New Orleans R.R. Co. .... 138.04 Mls.

THE DENVER AND NEW ORLEANS R.R. CO.

CHARTER JANUARY 25TH, 1881.

CHARTER AMENDED JUNE 1ST, 1881, SEPTEMBER 13TH, 1881, AND AUGUST 30TH, 1882

DECREE OF FORECLOSURE AND SALE FEBRUARY 15TH, 1886.

SOLD UNDER FORECLOSURE MARCH 18TH, 1886

SPECIAL MASTERS DEED TO TRUSTEE APRIL 26TH, 1886.

TRUSTEES DEED TO D.T.&G. R.R. CO. SEPTEMBER 21ST, 1886

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
Aug. 1881	1-1-83	Denver to M.P. 35	35.00 Mls.
1882	"	M.P. 35 to Gulf Jct., Pueblo	89.37 "
1882	"	Franceville Jct. to Franceville	4.55 "
1882	"	Manitou Jc. to Colorado Springs	9.12 "
		TOTAL MILEAGE MARCH 20TH, 1886	138.04 Mls.

[illegible] AND PACIFIC RY. CO.

[illegible] 8TH, 1880.

[illegible] OCTOBER 3RD, 1882

[illegible] SALE JULY 2ND, 1883.

[illegible] APRIL 18TH, 1885

[illegible] RY. CO. SEPT. 9TH, 1885.

[illegible] RY. CO. JAN. 19TH, 1889

[illegible] CONSTRUCTION

[illegible] Jct.	15.66 Mls.
[illegible] Denver	4.36 "
[illegible]	11.00 "
[illegible]	1.25
[illegible]	1.75
[illegible]	2.00
[illegible] MILEAGE	36.02

THE ROAD CANON R.R. CO.

CHARTER AUGUST 2ND, 1889.

BECAME PART OF THE U.P.D.&G. CONSOLIDATION APRIL 1ST, 1890

ORIGINAL CONSTRUCTION - Grading Only (See U.P.D.&G. Ry. Co.)

THE CHICOSA CANON RY. CO.

CHARTER JANUARY 15TH, 1889

BECAME PART OF THE U.P.D.&G. CONSOLIDATION APRIL 1ST, 1890

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
1888	4-1-89	Chicosa Jct. to Forbes Mine	4.06 Mls.

THE GREELEY SALT LAKE & PACIFIC RY. CO.

CHARTER JANUARY 17TH, 1881

AMENDED JANUARY 24TH AND JUNE 27TH, 1881

BECAME PART OF THE U.P.D.&G. CONSOLIDATION APRIL 1ST, 1890

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
Jan. 81	[illegible]	Greeley to Stout	39.86 Mls.
July 81	10-1-83	Boulder to Sunset	14.43 "
Nov. 86	4-11-87	Loveland to Arkins	8.34 "
		TOTAL MILEAGE - APRIL 1ST, 1890	62.63 Mls.

THE DENVER, TEXAS & FT. WORTH R.R. CO.

CHARTER APRIL 12TH, 1887

AMENDED MAY 2ND, 1888

BECAME PART OF THE U.P.D.&G. CONSOLIDATION, APR. 1, 1890

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
Sept. 1887	4-1-88	Old Line Jct. Pueblo to Bessemer Jct.	4.84 Mls.
1888	"	Pueblo Freight House Track	0.56 "
"	"	Wye at Gulf Jct.	0.17 "
"	"	Forbes Jct. to Ludlow	4.29 "
"	"	Trinidad to Martinsen	14.21 "
"	"	Trinidad to New Mex.-Tex. State Line	135.93 "
"	"	Beshoar Jct. to Grey Creek	8.52 "
"	"	Long's Jct. to Thompson Mine	1.78 "
		TOTAL MILEAGE APRIL 1st, 1890	168.80 Mls.

CHEYENNE & NORTHERN RY. CO.

CHARTER MARCH 1ST, 1886.

BECAME PART OF THE U.P.D.&G. CONSOLIDATION, APRIL 1ST, 1890.

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
Jan. 1887	11-11-87	Cheyenne to Wendover	125.18 Mls.

THE DENVER, CRIPPLE CREEK & SOUTHWESTERN R.R. CO.

CHARTER JANUARY 10TH, 1896.

Franchise (South Platte to Night Hawk) Purchased by The C.&S. Ry. Co. September 13th, 1899

THE CANON DE AGUA R.R. CO.

CHARTER JANUARY 15TH, 1889

BECAME PART OF THE U.P.D.&G. CONSOLIDATION, APRIL 1ST, 1890

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
1889	Apr. 89	Ludlow to Hastings	3.30 Mls.

THE MT. CARBON, GUNNISON & LAKE CITY R.R. & C.T. CO.

CHARTER NOVEMBER 17TH, 1877

All Rights, Titles and Franchises Transferred to D.S.P.&P. R.R. July 18th, 1881

DENVER, SOUTH PARK & PACIFIC RY. CO.

CHARTER SEPTEMBER 30TH, 1872.

REORGANIZED JUNE 14TH, 1873 AS

THE DENVER, SOUTH PARK & PACIFIC R.R. CO.

ACCEPTANCE OF LAWS AUGUST 11TH, 1873

CHARTER AMENDED: AUGUST 12TH, 1879; FEBRUARY 7TH, 1880; SEPTEMBER 20TH, 1880

DECREE OF FORECLOSURE AND SALE MAY 21ST, 1889

SOLD UNDER FORECLOSURE JULY 17TH, 1889.

SPECIAL MASTERS DEED TO D.S.P.&P. PURCHASING COMM. AUG. 28, 1889

D.S.P.&P. PURCH'G COMM. DEED TO D.L.&G. RY. CO. AUG. 29TH, 1889

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
1874	7-1-74	Denver to Morrison	17.39 Mls.
1878	Jan. 79	Sheridan Jct. to Webster	62.00 "
1879	Apr. 80	Webster to McGee's	57.13 "
1880	1880	McGee's to Buena Vista	8.82 "
"	"	Macune to Conn. D.&R.G.R.R.	1.00 "
"	"	Nathrop to St. Elmo	14.63 "
"	"	Como to King Coal Mines	3.27 "
1881	1881	St. Elmo to Alpine Tunnel	10.47 "
"	"	Garos to Fairplay	9.96 "
"	"	Como to Boreas	10.60 "
1882	1882	Alpine Tunnel to Gunnison	40.13 "
"	1-8-83	Boreas to Keystone	24.60 "
"	1882	Fairplay to Alma	5.45 "
1883	1883	Gunnison to Old Baldwin Mine	17.39 "
"	"	Castleton up Ohio Creek	7.95 "
July '83	"	Dickey to Kokomo	14.97
Dec. '83	Mch. 84	Buena Vista to Conn. Old Line	1.56 "
1884	1884	Kokomo to Leadville	19.97 "
"	"	Macune to Nathrop	5.35 "
"	"	Schwanders to Trout Creek Conn.	1.09 "
1885	1885	Nathrop - New Main Line	0.48 "
		TOTAL CONSTRUCTED	329.21 Mls.

Date Taken Up	DEDUCTIONS		
1884	Macune to Conn. D.&R.G.R.R. Taken up	1.00	
1884	Buena Vista to Conn. D.&R.G.R.R. " "	1.06	
1884	Macune to Trout Cr. Conn. " "	1.48	
1884	Como to King Coal Mines	0.30	
1885	Nathrop to Conn. D.&R.G.R.R. " "	0.83	
	TOTAL DEDUCTIONS		4.67 "
	TOTAL MILEAGE JULY 17TH, 1889		324.54 Mls.

THE DENVER, SOUTH PARK & HILL TOP RY. CO.

CHARTER SEPTEMBER 1ST, 1896

BUILT BY THE RECEIVER OF THE DENVER, LEADVILLE & GUNNISON RY. CO.

SOLD UNDER FORECLOSURE WITH THE D.L.&G. RY. CO.

PURCHASED BY THE C.&S. RY. CO. DEC. 28, 1898

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
Oct. 1896	Dec. 1896	Hill Top Jct. to Leavick	11.33 Mls.

THE COLORADO & SOUTHERN RAILWAY COMPANY

GENESIS

AS OF JUNE 30, 1918

COMPILED IN VALUATION ENGINEER'S OFFICE

DENVER, COLORADO

AUGUST 1921

UPRRIG-000251

TOTAL MILEAGE

DENVER, SOUTH PARK & PACIFIC RY. CO.

CHARTER SEPTEMBER 30TH, 1872.
REORGANIZED JUNE 14TH 1873 AS
THE DENVER, SOUTH PARK & PACIFIC R.R. CO.
ACCEPTANCE OF LAWS, AUGUST 11TH, 1873.
CHARTER AMENDED { AUGUST 12TH, 1879 / FEBRUARY 7TH, 1880 / SEPTEMBER 20TH, 1880

DECREE OF FORECLOSURE AND SALE MAY 21ST, 1889.
SOLD UNDER FORECLOSURE JULY 17TH, 1889.
SPECIAL MASTER'S DEED TO D.S.P. & P. PURCHASING COMM. AUG. 28, 1889.
D.S.P. & P. PURCH'G COMM. DEED TO D.L. & G. RY. CO. AUG 29TH, 1889.

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
1874	7-1-74	Denver to Morrison	17.39 Mls.
1878	Jan. 79	Sheridan Jct. to Webster	62.00 "
1879	Apr. '80	Webster to McGee's	57.13 "
1880	1880	McGee's to Buena Vista	8.82 "
"	"	Macune to Conn. D.& R.G. R.R.	1.00 "
"	"	Nathrop to St. Elmo	14.63 "
"	"	Como to King Coal Mines	3.27 "
1881	1881	St. Elmo to Alpine Tunnel	10.47 "
"	"	Garos to Fairplay	9.96 "
"	"	Como to Boreas	10.60 "
1882	1882	Alpine Tunnel to Gunnison	40.13 "
"	1-8-83	Boreas to Keystone	24.60 "
"	1882	Fairplay to Alma	5.45 "
1883	1883	Gunnison to Old Baldwin Mine	17.39 "
"	"	Castleton up Ohio Creek	2.95 "
July-'83	"	Dickey to Kokomo	14.97
Dec '83	Mch. '84	Buena Vista to Conn. Old Line	1.56 "
1884	1884	Kokomo to Leadville	19.97 "
"	"	Macune to Nathrop	5.35 "
"	"	Schwanders to Trout Creek Conn.	1.09 "
1885	1885	Nathrop-New Main Line	0.48 "
		TOTAL CONSTRUCTED	329.21 Mls

Date Taken Up	DEDUCTIONS		
1884	Macune to Conn. D.& R.G. R.R. Taken up	1.00	
1884	Buena Vista to Conn. D.& R.G.R.R. " -	1.06	
1884	Macune to Trout Cr. Conn. " -	1.48	
1884	Como to King Coal Mines	0.30	
1885	Nathrop to Conn. D.& R.G. R.R. " -	0.83	
	TOTAL DEDUCTIONS		4.67 "
	TOTAL MILEAGE JULY 17TH, 1889		324.54 Mls.

THE DENVER, SOUTH PARK & HILL TOP RY. CO.

CHARTER SEPTEMBER 1ST, 1896.
BUILT BY THE RECEIVER OF
THE DENVER, LEADVILLE & GUNNISON RY. CO.
SOLD UNDER FORECLOSURE WITH THE D.L. & G. RY. CO.
PURCHASED BY THE C.& S. RY. CO. DEC. 28, 1898.

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
Oct. 1896	Dec. 1896	Hill Top Jct. to Leavick	11.33 Mls.

THE COLORADO & SOUTHERN RAILWAY COMPANY

GENESIS

AS OF JUNE 30, 1918

COMPILED IN VALUATION ENGINEER'S OFFICE
DENVER, COLORADO
AUGUST 1921

UPRRIG-000252

9.25	
0.09	
ide Track	0.19
p	0.78
S.E. Ry	1.69
	0.04
	2.90
	15.70
Out	1.09
	4.01
	0.42
	1.02
	0.77
olo. R. R.	0.02
	62.62 Mls.

1916	South Platte to Night Hawk - Put in Side Track	0.20
1916	Loveland to Arkins - Taken up	0.55
1917	Denver to Pueblo Jct - Taken up	1.61
1917	Louisville to Lafayette - Taken up	0.02
1918	Boulder to Conn. D.B.&W.R.R. - Change of In. & Term. Pts	0.04
1918	Fort Collins to Stout - Taken up	2.79
1918	Fort Collins to Stout - Put in Side Track	0.18
1918	Denver to Pueblo Jct. - Taken up	22.70
1918	Trinidad to N.M.-Tex. State Line Change of Init. Pt. Trinidad	0.19
1918	Como to Baldwin - Change of Initial Point - Como	0.05
	TOTAL DECREASES	99.18 Mls.

Pueblo Jct. to Trinidad	41.64
Walsenburg Jct. to Brodhead Jct	2.15
Acme Jct. to Brodhead Jct	1.05
No 4 Jct. to Beacon Mine	5.80
Ludlow to Bear Canon Mine	1.29
Ludlow to Barnes Jct.	1.17
Forbes Jct. to Chicosa Jct.	134.63
Trinidad to New Mex.-Tex. State Line	
Carried Forward	596.76 Mls.

Leadville Mineral Belt Ry	
Como to Baldwin	132.83
Garos to Alma	15.41
Hill Top Jct. to Leavick	11.33
Macune to Buena Vista	2.47
Castleton to Conn. Kubler Mine Track	1.56
TOTAL MILEAGE C.&S. RY. JUNE 30 1918.	1014.42 Mls.

THE DENVER, LEADVILLE & GUNNISON RY. CO.

CHARTER JULY 17TH, 1889.
RECEIVER APPOINTED AUGUST 4TH, 1894
DECREE OF FORECLOSURE AND SALE AUG. 6TH, 1898.
SOLD UNDER FORECLOSURE NOV. 18TH, 1898.
SPECIAL MASTER'S DEED TO D.L.& G. PURCHAS. COMM. DEC. 9TH, 1898.
PURCHAS. COMM. DEED TO THE C.&S. RY. DEC. 28TH, 1898.

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
9-21-95	1895 -	Kokomo to Wilfley's Mill	1.14 Mls.

Date Acquired	TRACKS ACQUIRED BY PURCHASE	
8-29-89	The Denver South Park & Pacific R.R. Co.	324.54
	The Denver South Park & Hill Top Ry. Co.	11.33
		337.01 Mls.

Date	DEDUCTIONS	
1897	Castleton up Ohio Creek, Taken up	0.46
	TOTAL MILEAGE DEC. 28TH, 1898	336.55 Mls.

THE LEADVILLE MINERAL BELT RY. CO.

CHARTER OCTOBER 29TH, 1898
PURCHASED BY C.&S. RY. CO., JUNE 26TH, 1900

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
10-10-98	Apr. 1900	Leadville Mineral Belt Ry	2.34 Mls.
1900	1900	Ext. C.&S. Ry. Main Line	0.65
		TOTAL CONSTRUCTED	2.99 Mls.

DENVER, SOUTH PARK & PACIFIC RY. CO.

CHARTER SEPTEMBER 30TH, 1872.
REORGANIZED JUNE 14TH 1873 AS
THE DENVER, SOUTH PARK & PACIFIC R.R. CO.
ACCEPTANCE OF LAWS, AUGUST 11TH, 1873.
CHARTER AMENDED { AUGUST 12TH, 1879 / FEBRUARY 7TH, 1880 / SEPTEMBER 20TH, 1880 }

DECREE OF FORECLOSURE AND SALE MAY 21ST, 1889.
SOLD UNDER FORECLOSURE JULY 17TH, 1889.
SPECIAL MASTER'S DEED TO D.S.P. & P. PURCHASING COMM. AUG. 28, 1889.
D.S.P.& P. PURCH'G COMM. DEED TO D.L & G. RY. CO. AUG 29TH, 1889.

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
1874	7-1-74	Denver to Morrison	17.39 Mls.
1878	Jan. 79	Sheridan Jct. to Webster	62.00
1879	Apr. '80	Webster to McGee's	57.13

THE DENVER, SOUTH PARK & HILL TOP RY. CO.

CHARTER SEPTEMBER 1ST, 1896.
BUILT BY THE RECEIVER OF
THE DENVER, LEADVILLE & GUNNISON RY. CO.
SOLD UNDER FORECLOSURE WITH THE D.L.& G. RY. CO.
PURCHASED BY THE C.&S. RY. CO. DEC. 28, 1898.

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
Oct. 1896	Dec. 1896	Hill Top Jct. to Leavick	11.33 Mls.

UPRRIG-000253

AND GUNNISON RY. CO.

DECREASES IN MILEAGE DEC 28TH, 1898 TO JUNE 30TH, 1918.

Taken up	2.71 Mls.
mpson Mine - Sold to C & W. Ry.	1.28 -
Taken up	0.48 -
Spur - Taken up	3.24 -
al Transfer Track, Ft. Collins, Taken up	0.21 -
al Tranfer Track - Put in Side Track	0.06 -
dhead Jct. Part put in Sidetrack	0.36 -
Taken up	16.31 -
on - Taken up	9.25 -
Taken up	0.09 -
con Mine - Part put in Side Track	0.19 -
Bessemer Jct. Taken up	0.78 -
gs - Part Sold to C & S. E. Ry.	1.69 -
ys Mill - Taken up	0.04 -
" "	2.90 -
" "	15.70 -
out Creek - Washed Out	1.09 -
aken up	4.01 -
ch - Taken up	0.42 -
Taken up	1.02 -
tte - Taken up	0.77 -
ern Jct. Conn. with Colo. R. R.	0.02 -
FORWARD	62.62 Mls

Date	Brought Forward	62.62 Mls
1912	Dickey to Keystone - Taken up	0.17 -
1912	Como to King - Put in Side Track	0.26 -
1913	Pueblo Freight House Track - Put in Side Track	0.56 -
1914	Lowery Quarry Spur - Taken up	2.43 -
1914	Lowery Quarry Spur - Put in Side Track	0.38 -
1914	Denver to Pueblo Jct. Change of Initial Point - Denver	0.18 -
1915	Denver to Como - Change of Initial Point, Denver	0.17 -
1916	South Platte to Night Hawk - Taken up	4.08 -
1916	South Platte to Night Hawk - Put in Side Track	0.20 -
1917	Loveland to Arkins - Taken up	0.55 -
1917	Denver to Pueblo Jct. - Taken up	1.61 -
1918	Louisville to Lafayette - Taken up	0.02 -
1918	Boulder to Conn. D. B. & W. R. R. - Change of In. & Term. Pts	0.04 -
1918	Fort Collins to Stout - Taken up	2.79 -
1918	Fort Collins to Stout - Put in Side Track	0.18 -
1918	Denver to Pueblo Jct. - Taken up	22.70 -
1918	Trinidad to N. M.-Tex. State Line Change of Init Pt. Trinidad	0.19 -
1918	Como to Baldwin - Change of Initial Point - Como	0.05
	TOTAL DECREASES	93.18 Mls.

THE COLORADO AND SOUTHERN RAILWAY COMPANY

CHARTER DECEMBER 19TH, 1898.

CHARTER AMENDED NOVEMBER 18TH, 1899 AND JANUARY 6TH, 1902

ACQUIRED THE U.P.D & G RY. CO AND THE D. L & G. RY. CO. DECEMBER 28TH, 1898

MILEAGE STATEMENT AS OF JUNE 30TH, 1918.

Cheyenne to Orin Jct.	153.74 Mls.
Denver to Greeley	98.50 -
Denver West Side Line	4.85 -
Jersey Cut-Off	2.27 -
D & I. Jct. to Boulder Jct.	11.44 -
Louisville to Lafayette	2.99 -
Boulder to Conn. D.B. & W. R. R.	0.77 -
Loveland to Arkins	7.79 -
Semper to Louisville Jct.	7.40 -
Fort Collins to Bellevue Jct.	5.27 -
Denver to Pueblo Jct.	100.22 -
Manitou Jct. to Colorado Springs	9.12 -
Pueblo Jc. to Southern Jc.	4.67 -
Walsenburg Jct. to Trinidad	41.64 -
Acme Jct. to Brodhead Jct.	2.15 -
No. 4 Jct. to Beacon Mine	1.05 -
Ludlow to Bear Canon Mine	5.80 -
Ludlow to Barnes Jct.	1.29 -
Forbes Jct. to Chicosa Jct.	1.17 -
Trinidad to New Mex.-Tex. State Line	134.63 -
Carried Forward	596.76 Mls.

Brought Forward	596.76 Mls.
Beshoar Jct. to Grey Creek	1.85 -
Trinidad to Longs Jct.	6.96 -
Sopris to Sopris Mine	0.69 -
Clear Creek Jct. to Silver Plume	52.63 -
Forks Creek to Central City	11.74 -
Golden to Church's Brick Yard	1.70 -
Denver to Como	88.00 -
Sheridan Jct. to Morrison	10.17 -
Waterton to Conn. Silica Branch - C.R.R.	0.13 -
Como to Leadville	63.81 -
Dickey to Keystone	6.84 -
Kokomo to Wilfley's Mill	1.10 -
Leadville Mineral Belt Ry.	2.44 -
Como to Baldwin	132.83 -
Garos to Alma	15.41 -
Hill Top Jct. to Leavick	11.33 -
Macune to Buena Vista	2.47 -
Castleton to Conn. Kubler Mine Track	1.56 -
TOTAL MILEAGE C & S. RY. JUNE 30 1918.	1014.42 Mls

THE DENVER, LEADVILLE & GUNNISON RY. CO.

CHARTER JULY 17TH, 1889.

RECEIVER APPOINTED AUGUST 4TH, 1894

DECREE OF FORECLOSURE AND SALE AUG. 6TH, 1898.

SOLD UNDER FORECLOSURE NOV. 18TH, 1898.

SPECIAL MASTER'S DEED TO D.L.& G. PURCHAS. COMM. DEC. 9TH, 1898.

PURCHAS. COMM. DEED TO THE C.&S. RY. DEC. 28TH, 1898.

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
9-21-95	1895 -	Kokomo to Wilfley's Mill	1.14 Mls.

Date Acquired	TRACKS ACQUIRED BY PURCHASE	
8-29-89	The Denver South Park & Pacific R. R. Co.	324.54 -
	The Denver South Park & Hill Top Ry. Co.	11.33
		337.01 Mls.

Date	DEDUCTIONS	
1897	Castleton up Ohio Creek, Taken up	0.46 -
	TOTAL MILEAGE DEC. 28TH, 1898	336.55 Mls.

THE LEADVILLE MINERAL BELT RY. CO.

CHARTER OCTOBER 29TH, 1898

PURCHASED BY C.&S. RY. CO. JUNE 26TH, 1900

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
10-10-98	Apr. 1900	Leadville Mineral Belt Ry	2.34 Mls.
1900	1900	Ext. C.&S. Ry. Main Line	0.65
		TOTAL CONSTRUCTED	2.99 Mls.

UPRRIG-000254

THE COLORADO AND SOUTHERN RAILWAY COMPANY

CHARTER DECEMBER 19TH, 1898.

ORGANIZED TO PURCHASE THE UNION PACIFIC, DENVER & GULF RY. CO., AND THE DENVER, LEADVILLE AND GUNNISON RY. CO.

U.P.D.&G. RY. MILEAGE DEC. 28TH 1898

Denver to Greeley	98.71 Mls.
Jersey to Cut-Off Jct.	2.84 "
Loveland to Arkins	8.34 "
Fort Collins to Stout	14.94 "
D. & I. Jct. to Boulder Jct.	11.44 "
Louisville to Lafayette	3.78 "
Boulder to D.B.&W.R.R. Conn.	0.64 "
Allen Bond Mine Spur	3.24 "
Denver West Side Line	4.85 "
Argo Jct. to Silver Plume	52.06 "
Parks Creek to Central City	11.74 "
Golden to Church's Brick Yard	1.70 "
Denver to Pueblo Jct.	124.71 "
Manitou Jct. to Colorado Springs	9.12 "
Pueblo Freight House Track	0.56 "
Pueblo Jct. to Bessemer Jct.	3.39 "
Walsenburg Jct. to Trinidad	41.45 "
Acme Jct. to Aquilar	2.51 "
Ludlow to Hastings	2.98 "
Ludlow to Berwind	3.20 "
Chicosa Jct. to Forbes Jct.	1.17 "
Trinidad to New Mexico-Texas State Line	134.82 "
Beshoar Jct. to Grey Creek	7.85 "
Trinidad to Vasquez	39.39 "
Sopris to Sopris Mine	0.69 "
Catskill to Newton	9.25 "
Cheyenne to Orin Jct.	153.62 "
Long's Jct. to Thompson Mine	1.28 "
TOTAL U.P.D.&G. RY. into C.&S. RY. Dec. 28th, 1898.	750.27 Mls.

D.L.&G. RY. MILEAGE DEC. 28TH, 1898.

Denver to Leadville	151.25 Mls.
Como to Baldwin	131.30 "
Sheridan Jct. to Morrison	9.97 "
Como to King	2.97 "
Dickey to Keystone	7.01 "
Kokomo to Wilfleys Mill	1.14 "
Garos to Alma	15.41 "
Schwanders to Buena Vista	3.98 "
Castleton - up Ohio Creek	2.49 "
Hill Top Jct. to Leavick	11.33 "
TOTAL D.L.&G. RY. into C.&S. RY. Dec. 28TH, 1898.	336.55 "

C.&S. RY - ORGANIZATION MILEAGE DEC. 28TH, 1898.

UNION PACIFIC, DENVER & GULF RY. CO.	750.27 "
DENVER, LEADVILLE & GUNNISON RY. CO.	336.55 "
TOTAL MILEAGE DEC. 28TH, 1898.	1086.82 "

C.&S. RY - MILEAGE JUNE 30TH, 1918.

December 28th, 1898		1086.82
Purchased from Leadville Mineral Belt Ry.	2.99	
		1089.81 "
Total Decrease 1898 to 1918	99.18	
Total Increase " " "	23.79	
Net Decrease		75.39 "
TOTAL MILEAGE JUNE 30TH, 1918		1014.42 Mls.

INCREASES IN MILEAGE DEC. 28TH, 1898 TO JUNE 30TH, 1918.

Construction Commenced	Placed in Operation		
1900	1900	Leadville Mineral Belt Ry. - Extension	0.10 Mls.
1901	1901	Como to Leadville - Extension	0.03 "
		Fort Collins to Stout - Change of Initial Pt. Ft. Collins	0.21 "
1902	1902	No. 4 Jct. to Beacon Mine - New Branch	0.76 "
1902	1902	South Platte to Night Hawk - New Branch	4.11 "
7-10-02	1903	Minnequa Jc. to Southern Jc.	2.02 "
1903	1903	Argo Jct. to Silver Plume - Extension	0.45 "
9-5-03	Nov. 03	No. 4 Jct. to Beacon Mine - New Branch	0.48 "
1904	1904	South Platte to Night Hawk - Extension	0.17 "
Jun. 04	Sep. 04	Lowery Quarry Branch	2.81 "
Mar. 07	1908	Semper to Louisville Jct. - New Main Line	7.40 "
Aug. 08	1908	Macune to Trout Creek - New Main Line	1.55 "
		Clear Creek Jct. to Silver Plume - Change of In. Pt. from Argo Jc. to Cl. Cr. Jc.	0.12 "
May 11	Jun. 11	Sheridan Jct. to Morrison - Extension	0.20 "
		Boulder to D.B.&W.R.R. Conn. - Change of Initial Point	0.17 "
		Pueblo Jct. to Conn. A.T.&S.F. Ry. - Originally Side Track	0.06 "
		Berwind to Toller Mine - Purchased from C.H.C. Co.	0.93 "
		Waterton to Conn. with Silica Branch - Originally Side Track	0.13 "
1915	1915	Cheyenne to Orin Jct., Wendover Conn. with C.B.&Q.R.R. Guernsey Line	0.12 "
May 15	Aug. 15	Ludlow to Bear Canon Mine - Extension	0.95 "
5-1-17	11-15-17	" " " " "	0.72 "
1918	1918	Denver to Greeley - Conn. with C.B.&Q.R.R. Depot Jct., Denver	0.06 "
		Walsenburg Jct. to Trinidad - Change of Initial Point - Trinidad	0.19 "
		Denver to Como - Change of Initial Point, Como	0.05 "
		TOTAL INCREASES	23.79 Mls.

DECREASES IN MILEAGE DEC. 28TH, 1898 TO JUNE 30TH, 1918.

Date		
1899	Como to King - Taken up	2.71 Mls.
1901	Longs Jct. to Thompson Mine - Sold to C.&W. Ry.	1.28 "
1902	Jersey Cut-Off - Taken up	0.48 "
1902	Allen Bond Mine Spur - Taken up	3.24 "
1902	Colorado Central Transfer Track, Ft. Collins, Taken up	0.21 "
1902	Colorado Central Tranfer Track - Put in Side Track	0.06 "
1902	Acme Jct. to Brodhead Jct. Part put in Sidetrack	0.36 "
1902	Pels to Vasquez - Taken up	16.31 "
1902	Catskill to Newton - Taken up	9.25 "
1903	Jersey Cut-Off - Taken up	0.09 "
1903	No. 4 Jct. to Beacon Mine - Part put in Side Track	0.19 "
1904	Minnequa Jct. to Bessemer Jct. Taken up	0.78 "
1904	Ludlow to Hastings - Part Sold to C.&S.E. Ry.	1.69 "
1905	Kokomo to Wilfleys Mill - Taken up	0.04 "
1905	Ft. Collins to Stout " "	2.90 "
1908	Longs Jc. to Pels " "	15.70 "
1908	Schwanders to Trout Creek - Washed Out	1.09 "
1909	Ft. Collins to Stout - Taken up	4.01 "
1909	Longs Canon Branch - Taken up	0.42 "
1910	Como to Baldwin - Taken up	1.02 "
1912	Louisville to Lafayette - Taken up	0.77 "
1912	Pueblo Jct. to Southern Jct. Conn. with Colo. R. R.	0.02 "
	CARRIED FORWARD	62.62 Mls.

Date		
	BROUGHT FORWARD	62.62 Mls.
1912	Dickey to Keystone - Taken up	0.17 "
1912	Como to King - Put in Side Track	0.06 "
1913	Pueblo Freight House Track - Put in Side Track	0.56 "
1914	Lowery Quarry Spur - Taken up	2.43 "
1914	Lowery Quarry Spur - Put in Side Track	0.38 "
1914	Denver to Pueblo Jct. Change of Initial Point - Denver	0.18 "
1915	Denver to Como - Change of Initial Point, Denver	0.17 "
1916	South Platte to Night Hawk - Taken up	4.08 "
1916	South Platte to Night Hawk - Put in Side Track	0.20 "
1917	Loveland to Arkins - Taken up	0.55 "
1917	Denver to Pueblo Jct. - Taken up	1.61 "
1918	Louisville to Lafayette - Taken up	0.02 "
1918	Boulder to Conn. D.B.&W.R.R. - Change of In. & Term. Pts.	0.04 "
1918	Fort Collins to Stout - Taken up	2.79 "
1918	Fort Collins to Stout - Put in Side Track	0.18 "
1918	Denver to Pueblo Jct. - Taken up	22.70 "
1918	Trinidad to N.M.-Tex. State Line, Change of Int. Pt. Trinidad	0.19 "
1918	Como to Baldwin - Change of Initial Point - Como	0.05 "
	TOTAL DECREASES	99.18 Mls.

THE DENVER, LEADVILLE &

CHARTER JULY

RECEIVER APPOINTED

DECREE OF FORECLOSURE A

SOLD UNDER FORECLOSU

SPECIAL MASTERS DEED TO D.L.&G

PURCHAS. COMM. DEED TO THE

Construction Commenced	Placed in Operation	ORIGINAL CO
9-21-95	1895 -	Kokomo to Wi

Date Acquired	TRACKS ACQUIRED
8-29-89	The Denver South Park
	The Denver South Par

Date	DEDUCTIONS
1897	Castleton up Ohio Cree
	TOTAL MILEAGE D

THE DENVER, TEXAS & GULF R. R. CO.

CHARTER MAY 28TH, 1885.

BECAME PART OF THE U.P.D.&G. CONSOLIDATION APRIL 1ST, 1890.

ACQUIRED BY PURCHASE

The Denver and New Orleans R. R. Co. ..... 138.04 Mls.

THE DENVER AND NEW ORLEANS R. R. CO.

CHARTER JANUARY 25TH, 1881.

CHARTER AMENDED JUNE 1ST, 1881, SEPTEMBER 13TH, 1881, AND AUGUST 30TH, 1882.

DECREE OF FORECLOSURE AND SALE FEBRUARY 15TH, 1886.

SOLD UNDER FORECLOSURE MARCH 18TH, 1886.

SPECIAL MASTER'S DEED TO TRUSTEE APRIL 26TH, 1886.

TRUSTEE'S DEED TO D.T.&G. R.R. CO. SEPTEMBER 21ST 1886

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
Aug. 1881	1-1-83	Denver to M.P. 35	35.00 Mls.
1882	"	M.P. 35 to Gulf Jct., Pueblo	89.37 "
1882	"	Franceville Jct. to Franceville	4.55 "
1882	"	Manitou Jc. to Colorado Springs	9.12 "
		TOTAL MILEAGE MARCH 20TH, 1886	138.04 Mls.

THE CHICOSA CANON RY. CO.

CHARTER JANUARY 15TH, 1889.

BECAME PART OF THE U.P.D.&G. CONSOLIDATION APRIL 1ST, 1890.

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
1888	4-1-89	Chicosa Jct. to Forbes Mine	4.06 Mls.

THE GREELEY SALT LAKE & PACIFIC RY. CO.

CHARTER JANUARY 17TH 1881.

AMENDED JANUARY 24TH, AND JUNE 27TH, 1881.

BECAME PART OF THE U.P.D.&G. CONSOLIDATION APRIL 1ST, 1890.

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
Jan. 81	(3 Mls. July 81) Bal. Oct. 1, 1883)	Greeley to Stout	39.86 Mls.
July 81	10-1-83	Boulder to Sunset	14.43 "
Nov. 86	4-17-87	Loveland to Arkins	8.34 "
		TOTAL MILEAGE - APRIL 1ST, 1890	62.63 Mls.

THE DENVER, TEXAS & FT. WORTH R. R. CO.

CHARTER APRIL 12TH, 1887

AMENDED MAY 2ND, 1888

BECAME PART OF THE U.P.D.&G. CONSOLIDATION, APR 1, 1890

CHEYENNE & NORTHERN RY. CO.

CHARTER MARCH 1ST, 1886.

BECAME PART OF THE U.P.D.&G. CONSOLIDATION, APRIL 1ST, 1890.

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
Jan. 1887	11-11-87	Cheyenne to Wendover	125.18 Mls.

THE DENVER, CRIPPLE CREEK & SOUTHWESTERN R.R. CO.

CHARTER JANUARY 10TH, 1896.

Franchise (South Platte to Night Hawk) Purchased by The C.&S. Ry. Co. September 13th, 1899.

THE CANON DE AGUA R.R. CO.

CHARTER JANUARY 15TH, 1889.

BECAME PART OF THE U.P.D.&G. CONSOLIDATION, APRIL 1ST, 1890.

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
1889	Apr. 89	Ludlow to Hastings	3.30 Mls.

DENVER, SOUTH PARK & PACIFIC RY. CO.

CHARTER SEPTEMBER 30TH, 1872.

REORGANIZED JUNE 14TH 1873 AS

THE DENVER, SOUTH PARK & PACIFIC R.R. CO.

ACCEPTANCE OF LAWS, AUGUST 11TH, 1873.

CHARTER AMENDED { AUGUST 12TH, 1879 / FEBRUARY 7TH, 1880 / SEPTEMBER 20TH, 1880

DECREE OF FORECLOSURE AND SALE MAY 21ST, 1889.

SOLD UNDER FORECLOSURE JULY 17TH, 1889.

SPECIAL MASTER'S DEED TO D.S.P.&P. PURCHASING COMM. AUG. 28

D.S.P.&P. PURCH'G COMM. DEED TO D.L.&G. RY. CO. AUG. 29TH, 188

Construction Commenced	Placed in Operation	ORIGINAL CONSTRUCTION	
1874	7-1-74	Denver to Morrison	17.39
1878	Jan. 79	Sheridan Jct. to Webster	62.0
1879	Apr. 80	Webster to McGee's	57.1
1880	1880	McGee's to Buena Vista	8.8
"	"	Macune to Conn. D.&R.G.R.R.	1.0
"	"	Nathrop to St. Elmo	14.6
"	"	Como to King Coal Mines	3.7
1881	1881	St. Elmo to Alpine Tunnel	10.
"	"	Garos to Fairplay	9.
"	"	Como to Boreas	10.
1882	1882	Alpine Tunnel to Gunnison	40
"	1-8-83	Boreas to Keystone	3
"	1882	Fairplay to Alma	9
1883	1883	Gunnison to Old Baldwin Mine	1
"	"	Castleton up Ohio Creek	
July '83	"	Dickey to Kokomo	1
Dec. '83	Mch. 84	Buena Vista to Conn. Old Line	
1884	1884	Kokomo to Leadville	
"	"	Macune to Nathrop	
"	"	Schwanders to Trout Creek Conn.	
1885	1885	Nathrop - New Main Line	
		TOTAL CONSTRUCTED	

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HISTORY

OF THE

UNION PACIFIC

A Financial and Economic Survey

By

NELSON TROTTMAN

Of the Wisconsin Bar

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1923

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CHAPTER X

RECEIVERSHIP AND REORGANIZATION

Issue of Collateral Trust Notes

A leading financial journal observed, in 1891, that the new Gould-Dillon management came into office upon the same issue which six and a half years earlier had turned out the former Dillon management and brought the Adams administration into office, namely, the problem of a large and unwieldy floating debt.[1] This comment is somewhat misleading. The retirement of Mr. Adams did not come about as a result of a disagreement among opposing factions of shareholders in regard to the corporation's financial policy. Adams learned in the fall of 1890 that the Gould interests had again come into control of the Union Pacific, and when he discovered this to be the fact he resigned. Had the Adams administration continued in office it would doubtless have provided in some way for the new floating debt, which represented the company's investments in auxiliary lines, especially the Oregon Railway and Navigation Company, and the Union Pacific, Denver and Gulf. It is nevertheless a coincidence that just as the former Dillon management had left a large floating debt to the Adams management, so now the Adams management, when it went out of office, left a net floating debt slightly larger than the net floating debt which had faced the company in June, 1884.

The Adams administration had been able to reduce the former floating debt and finally wipe it out altogether, partly out of the company's surplus earnings and partly by the sale of securities in the company's treasury. The problem of meeting the new floating debt was more difficult now than it had

[1] Chron., 72: 1239.

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been before. The company's net surplus earnings, after paying all fixed charges and deficits of branch lines did not, in 1891, provide a large margin. The company was, moreover, not willing to retire the floating debt by disposing of any considerable amount of its branch line securities at a sacrifice. It was nevertheless imperative to make some provision for taking care of the company's large unfunded obligations. The directors during the summer of 1891 evolved a plan for the temporary retirement of the floating debt. This plan was materially different from the manner in which the same problem had been met before, by the Adams administration.

Under the new plan a series of 3-year 6 per cent collateral trust notes was to be issued, and part of this issue to be used to retire the floating debt.[2] These notes were to be issued at a discount of 7½ per cent to such holders of the floating debt as were willing to accept them. Holders of the floating debt who refused to accept payment of these new notes were to be paid in cash realized from the sale of these notes. A syndicate of Jay Gould, Russell Sage, Sidney Dillon, F. L. Ames, and a number of other directors of the Union Pacific agreed to underwrite the series.[3] The authorized issue was to be $24,000,000, but of this amount only about $18,000,000 were actually issued. As collateral security for the payment of these notes, all the unpledged bonds, stocks, and notes owned by the Union Pacific, these bonds and stocks representing control of the auxiliary lines, were deposited in trust with Drexel, Morgan and Company, as trustees. The par value of the bonds so deposited was $39,826,566, the par value of the stock was $56,334,418, and the par value of the company's bills receivable so deposited was $2,342,481. The market value of the entire lot of securities and notes so deposited was

[2] Copy of the trust indenture is in the Annual Report of the company for 1891, p. 139.
[3] Chron. 53: 187 (1891).

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estimated at $42,105,047.[4] The trustees were permitted at their discretion to reduce the principal of these notes by selling from time to time portions of the securities which had been so pledged.

This plan relieved the Union Pacific from the immediate pressure of the floating debt. It was expected that as favorable opportunities were presented from time to time a portion of the collateral might be sold advantageously, and it was hoped that a general improvement in business would place the company in a better position to meet whatever notes might remain outstanding at the maturity of the series. For a time it seemed that a general improvement in the company's business would take place. The two years of 1891 and 1892 saw a general increase in tonnage and in gross and net earnings, although the net earnings of the system increased very slowly as compared with the very large increase in business. In the year 1892 both gross and net earnings reached the highest point they had ever attained in the company's history; yet the fixed charges upon the 8,000 miles of the system left but a small relative surplus applicable to dividends.[5] The earnings of the first half of the year 1893 showed a falling off; but the decrease was not alarming. Late in the spring of the year 1893 the *Commercial and Financial Chronicle* observed that "the affairs of this great property are hence on the whole in a pretty satisfactory condition."[6] Between 1891 and 1893 about $7,000,000 were realized from the sale of some of the securities against which the collateral trust notes of 1891 had been issued, so that the total amount of these notes outstanding was reduced from about $18,000,000 to $11,430,000 by the close of the first half of 1893.[7]

An attempt of some foreign interests at the annual election

[4] Chron. 53: 290 (1891).
[5] Annual Reports. The net surplus earnings after the payment of all fixed charges upon the entire Union Pacific system amounted to $2,069,257.04 in 1892.
[6] Chron. 56: 693 (1893).
[7] Chron. 57: 181 (1893).

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in the spring of 1892 to oust Gould and Sage from the directorate and elect an independent board of directors was unsuccessful.[8] At this election S. H. H. Clark was elected to fill the office of president, which had again become vacant by the resignation of Sidney Dillon. Before the end of the same year, 1892, Jay Gould died, and his son, George Gould, was elected to succeed him on the board of directors.

The floating debt had been temporarily provided for. The road's earnings were sufficient during the prosperous years of 1891 and 1892 to meet fixed charges, and if the government would grant an extension of time to the company for the payment of its debt under some arrangement which would terminate the existing unsatisfactory relations, a rise in the market values of the company's securities might be reasonably expected. The date of maturity of the subsidy bonds was now near at hand, and the question of settlement could not long be postponed. Other classes of bonds were about to mature, and the chance would soon be offered to refund them at lower rates of interest. When Gould again acquired control of the Union Pacific the stock values were down. It was therefore in Gould's interest so to manage the road as to bring up the market value of the stock. Without question, too, the great system of southwestern roads which Gould controlled[9] would be benefited by his control of the Union Pacific. But whatever may have been his plans, they were never carried out.

Near Maturity of Subsidy Bonds

The government's second mortgage would mature from time to time between November 1, 1895, and January 1, 1899. On December 14, 1891, Senator Frye, of Maine, introduced a bill in the Senate for the refunding of the Pacific railroad

[8] Chron., 54: 725 (1892).
[9] The Missouri Pacific–Iron Mountain system, including the Texas and Pacific and a number of other important lines. The system extended in a general southwesterly direction from St. Louis.

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debts for a period of 100 years, with interest at 1 per cent per annum for ten years, commencing in 1892, and at 2 per cent per annum thereafter.[10] This bill was approved by the Commissioner of Railroads, except that the Commissioner recommended that interest at 2 per cent per annum begin at once.[11] Under the Commissioner's plan, the entire debt was to be retired at the end of 100 years. The companies were to pay each year, in addition to the annual interest at 2 per cent, a portion of the principal. Payments upon both principal and interest for the first ten years under the plan proposed by the Commissioner would have averaged, in the case of the Union Pacific, $1,224,259.52 annually for the first ten years, and $1,349,877.15 for the entire period, or about the same amount which the Union Pacific was at that time annually paying to the government under the provisions of the Thurman Act; only if the proposed plan were adopted, payments would be fixed, instead of contingent upon the road's net earnings. Neither the plan proposed in Senator Frye's bill nor the plan recommended by the Commissioner of Railroads was adopted by Congress.

So long as the Adams administration and the element of the stockholders which Adams represented were in control, the government was dealing with a management in no wise responsible for the situation, and one which was endeavoring to remedy, so far as possible, the unsatisfactory relations between the company and the government. These unsatisfactory relations the acts of past administrations had done much to bring about. What had been done by former managements could not be undone, and the problem was how best to deal with an existing situation. The case was somewhat altered after 1890. The company's continued failure to pay dividends was partly attributable to the government's vacillating policy.

[10] Cong. Record, 52nd Cong., 1st sess., p. 43.
[11] Report of the Commissioner of Railroads for 1892, p. 6.

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As Adams had predicted,[12] the failure of the road to pay dividends had again resulted in control of the road by speculators. The same group was in control after 1890 which had managed the property from 1873 to 1884, and this group was to a large degree responsible for the existing unsatisfactory condition of affairs.

On the other hand, from a business point of view the situation was unchanged. Extension of time offered what appeared to be the best proposition to the government, especially if a plan of refunding were adopted which would give to the government, instead of the lien upon the main line only, a superior security by way of a lien upon all of the assets of the company, its branches, terminals, and lands. The alternative to refunding was foreclosure. Viewed from a financial standpoint, a foreclosure which would result in government ownership was open to objection. In case of foreclosure it would be necessary for the government either to assume or pay the various prior mortgages upon different portions of the line. These prior mortgages amounted to over $35,000,000 in the case of the Union Pacific, and to over $63,000,000 in the case of all the bond-aided roads.[13] If this should be done, the government would then acquire a single trunk line extending from Omaha to Ogden, and from Ogden to the Pacific Coast, as well as the former Kansas Pacific line from Kansas City west for 393 15/16 miles.[14] The government's lien did not cover any of the branches, nor the line from the 394th mile post on the Kansas Division of the Union Pacific to Cheyenne, nor valuable terminal properties at Omaha, Denver, and Kansas City, nor terminal properties at Oakland, California, belonging to the Central Pacific. It was a disputed question whether the government's lien extended over the Omaha Bridge. Unless the government should invest a large

[12] Adams' remarks before the House Committee on Pacific Railroads, printed in the company's Annual Report for 1885, p. 148.

[13] Report of the Railroad Commissioner for 1892, p. 15.

[14] As well as the Sioux City and Pacific and 100 miles of the Central Branch Union Pacific.

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additional sum in acquiring terminals and feeder lines necessary to the successful operation of the Union Pacific, the portions covered by the government's lien would be of little value if other companies which owned connecting lines and terminals should refuse to make traffic agreements with the government. It was the general belief that for the government to acquire the Pacific railroads would entail heavy outlays, and the attitude of the great bulk of persons who were familiar with the question was expressed by the Commissioner of Railroads when he said, "It is time to get money out of the Pacific railroads, not to put more in."[15]

Insolvency of Company; Appointment of Receivers

The company's relations with the United States government continued unchanged for some years after 1891. Leaving this question for a time and turning to the internal history of the company, we find that the first three years of this decade, like the first three years of the previous one, were years of increasing traffic and increasing earnings. Net earnings did not, however, increase in proportion to the very large increase of traffic; for rates declined rapidly each year after 1890. The averaged rates per ton per mile upon the consolidated line and upon the system during the first four years of the decade were:[16]

Year	Consolidated Line	System
1890	1.21	1.38
1891	1.13	1.34
1892	1.10	1.31
1893	1.01	1.21

In 1891, although the number of tons carried one mile exceeded the number of tons carried one mile in 1890 by 3⅓ per cent, freight earnings increased but 7/10 of 1 per cent.[17] Tonnage increased 3¼ per cent the following year, while freight earn-

[15] Report of the Commissioner of Railroads for 1892, p. 20.
[16] Annual Reports.
[17] Annual Report for 1893, p. 19.

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ings increased but 1⅔ per cent. In the same year, 1892, the number of passengers carried one mile increased 2⅔ per cent, while passenger earnings actually decreased.[18]

In the year 1893, earnings declined to such a point that the road became insolvent. The last six months of the year were particularly disastrous. The net earnings of the entire system for 1893 were over $4,250,000, or over 30 per cent less than the corresponding figures for 1892. The complete demoralization of business which resulted from the nation-wide financial panic of 1893 was the direct cause of this decline. The earnings of every railroad in the country suffered. Before the end of the year a large percentage of the railway mileage of the country had been placed in the hands of receivers. So far as the Union Pacific was concerned, crop failures in the region through which the road passed intensified the situation, which became still worse after the repeal of the Sherman Silver Purchase Act closed the United States mints to silver coinage and compelled the Colorado silver mines to suspend operations.

The severity of competition among western railroads had recently been increased by the completion of a new transcontinental line, the Great Northern. The Union Pacific had now three competitors for the overland traffic of the northwest: the Northern Pacific, the Canadian Pacific, and the Great Northern. The company's financial situation was in 1893 complicated by the near approach of the date of maturity of four classes of Union Pacific bonds. The "sinking fund 8 per cents," of which a little over $5,000,000 remained outstanding, matured in September, 1893. The collateral trust notes of 1891 matured in 1894. The government subsidy debt and the company's first mortgage bonds matured at intervals from 1895 to 1899. The old land grant bonds had been redeemed and canceled,[19] and the sinking fund 8's now

[18] Annual Report for 1893, p. 19.
[19] Except eight bonds of $1,000 each.

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constituted a first mortgage on so much of the land grant as remained unsold. These sinking fund bonds were well secured, and the company was able to make an arrangement in August, 1893, whereby the time for their redemption was extended until 1899.[20] As the other classes of bonds matured, however, the changed business conditions would make it difficult for the company to refund them advantageously.

By the fall of 1893 it had become evident that a receivership could no longer be avoided. It was plain from the returns of the first nine months of the year that the year's net earnings would fall far below the net earnings of 1892, and that they would probably be insufficient to meet fixed charges. In October, 1893, three large stockholders of the Union Pacific, Edwin F. Atkins, Peter B. Wyckoff, and the executors of the estate of Frederick L. Ames,[21] brought proceedings in the United States Circuit Court for the district of Nebraska, wherein the insolvency of the Union Pacific was alleged, and appointment of receivers for the Union Pacific system was asked for.[22] The complaint declared that such a course was necessary in order to prevent the dismemberment of the system by foreclosure suits. Said the complaint:

> The various mortgages securing the bonds and obligations (of the different portions of the System) will become defaulted and subject to foreclosure proceedings, and the said Union Pacific System will be dismembered, depreciated, and dissipated, to the manifest and irreparable injury to the public and the Government of the United States, and the company's creditors and shareholders.

The complainants asked that the property be taken into judicial custody in order to prevent the system from being dismantled, dissipated and dismembered. The court granted the

[20] Copy of the extension is in the company's report for 1893, p. 168.
[21] Ames died in September, 1893.
[22] Copy of the petition for the appointment of receivers is in the Report of the Commissioner of Railroads for 1894; also in the record in the case, *United States v. Union Pacific Railroad Company, et al.*, docket No. 993, Circuit Court of the United States for the district of Utah. Evidence and Proceedings before the Special Examiner, p. 3469. This authority will hereafter be referred to as "Proc. Spec. Ex."

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prayer of the complainants, and on October 13, 1893, three receivers were appointed: S. H. H. Clark, the president of the road; Oliver W. Mink, the comptroller, and E. Ellery Anderson, a government director and one of the Commission of three who had investigated the Pacific railways in 1887. A month later, upon a supplementary petition of the Attorney-General of the United States, two additional receivers, John W. Doane, of Chicago, and Frederick R. Coudert, of New York, were appointed; so that the government had three representatives among the five receivers.

Disintegration of System

After the receivers were appointed, the earlier tendency toward expansion stopped. During the receivership, parts of the system from time to time became separated from the parent company, in some cases only temporarily, in other cases permanently. Notwithstanding the fact that the receivership was an avowed attempt to prevent the system from disintegrating, a number of important auxiliary lines were placed in the hands of separate receivers. As early as August, 1893, Ex-Governor Evans, of Colorado, a prominent stockholder in the Union Pacific, Denver and Gulf, petitioned for an accounting, alleging that this line was being "bled" for the benefit of the Union Pacific main line. Upon Governor Evans' petition a separate receiver for the Union Pacific, Denver and Gulf was appointed in December, 1893.[23] This appointment was made in spite of the opposition of the Union Pacific. In October, 1893, the Denver, Leadville and Gunnison line[24] was placed in the hands of the same receiver who had been appointed for the Union Pacific, Denver and Gulf. In the following year, 1894, the Denver, Leadville and Gunnison line was permanently separated from the Union Pacific by foreclosure and sale.[25] In July, 1894, a separate receiver was appointed for the Oregon

[23] Chron., 57: 980, 1040 (1893).
[24] A reorganization of the old Denver, South Park and Pacific.
[25] Chron., 59: 291 (1894).

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Railway and Navigation Company. Other auxiliary lines also passed out of the control of the Union Pacific receivers, pending foreclosure.

It was the policy of the receivers to check the process of disintegration of the system by paying, so far as the court allowed, the interest upon the various collateral trust obligations, and upon the outstanding bonds of such subsidiary lines as were deemed indispensable to the system, even though the interest on the Union Pacific first mortgage bonds might be in arrears.[26] At the same time the receivers directed their efforts toward ridding the Union Pacific of unprofitable branches and burdensome contracts. On July 19, 1894, the receivers presented a petition to the United States Circuit Court in regard to certain non-paying branches of the system, and asked to be relieved from operating such branches, and from carrying out the provisions of contracts made with such branches in regard to the constructive mileage allowed such branches in dividing through rates.[27] The court ordered that the Denver, Leadville and Gunnison road be divorced from the Union Pacific system, and that further hearings be had as to the other branches. Testimony in regard to these branches and the extent to which the receivers were bound by traffic contracts with them was taken before a master in chancery appointed by the court, who, in the fall of 1894, recommended that the operation of certain branches be continued, but reported that traffic contracts and contracts relating to interest guaranties made with certain other branches had never been ratified by the receivers, and that the receivers were not bound by them. The master recommended that the receivers be relieved from these contracts and from operating certain branches.[28] The court confirmed the master's recommendations in the main, and relieved the Union Pacific receivers from contracts with the

[26] Hearings before the Senate Committee on Pacific Railroads, Sen. Docs. No. 314, 54th Cong., 1st sess. (serial No. 3357), pp. 364 ff., testimony of Oliver W. Mink.
[27] Chron., 59: 117 (1894).
[28] Chron., 59: 740 (1894).

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Oregon Railway and Navigation Company, the Omaha and Republican Valley Railway, the St. Joseph and Grand Island Railway, the Union Pacific, Lincoln and Colorado Railway, and some other auxiliary lines.[29] Partly as a result of the policy of the receivers to terminate unprofitable arrangements with auxiliary lines, and partly as a result of foreclosure proceedings instituted against different portions of the system, the total mileage of the operated lines of the system was reduced from about 8,000 miles in 1893 to less than 5,000 miles in 1894.[30]

Proposed Reorganization Plans

In the meantime reorganization committees representing different classes of security-holders came into existence from time to time. The most representative committee appears to have been one appointed in November, 1893, whose members were United States Senator Calvin H. Brice, of the Senate Committee on Pacific Railroads; A. A. H. Boissevain, of Amsterdam, Holland, representing the foreign security-holders; General Louis Fitzgerald, the president of the Mercantile Trust Company, who represented the Gould interests; Samuel Carr, for the estate of Frederick L. Ames; General Granville M. Dodge, for the Union Pacific, Denver and Gulf road's interests; and Colonel H. L. Higginson for the Oregon Railway and Navigation Company.[31] Reorganization involved the settlement of the company's debt to the government; a readjustment of fixed charges which would bring them within the road's earning capacity; and the disposal of certain problems which related to the system of auxiliary lines.

No proposition for reorganization could well be entertained until mutually satisfactory arrangements relating to the company's debt to the government had been made. Mr. Boissevain

[29] Chron., 59: 970.
[30] Annual Reports of the company.
[31] Chron., 57: 894 (1893).

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proposed the following tentative plan of general reorganization: that the company deliver to the United States a new issue of 100-year 2 per cent bonds for the entire amount of principal and interest owing to the government, such bonds to be secured by a mortgage upon the property, and by a sinking fund to redeem the entire issue in 100 years; that the securities in the sinking fund established by the Thurman Act be applied toward the redemption of the underlying first mortgage bonds and the balance of the first mortgage bonds, about $20,000,000, be extended and renewed at a rate of interest not to exceed 5 per cent per annum, a sinking fund being provided for their redemption; that certain new securities be issued. Mr. Boissevain said:

> The fixed charges of the reorganized company under the new plan should not exceed $8,500,000 per annum. Certain classes of existing bonds secured by mortgage on portions of the system cannot be and should not be disturbed, as they are amply secured by property earning the interest which is payable thereon. Other bonds, however, must be converted in whole or in part into securities not imposing a fixed charge upon the reorganized company. While the reorganization committee has not approved of any definite plan, we believe that holders of bonds which must be disturbed and creditors and stockholders interested in the system can be provided for upon an equitable basis by the creation of the following new securities:
>
> (a) An issue of general mortgage bonds bearing interest at the rate of four per cent per annum, secured by a general mortgage covering the entire system, subject to such mortgages as cannot be disturbed and to the lien of the United States, upon the main line and Kansas Division for the adjusted debt.
>
> (b) An issue of five per cent preferred stock.
>
> (c) An issue of common stock.
>
> The plan of reorganization would require provision to be made to take up the trust notes secured by valuable collaterals. The funds required for this purpose and for the other cash requirements of the reorganization would be met in part by a

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reasonable assessment upon the stockholders and in part by the sale of new securities.[32]

The government directors proposed a plan of reorganization, the main features of which were:

1. That the entire road be subjected to a single mortgage, under which 3 per cent 100-year bonds should be issued to an amount such that the accruing interest would not exceed the minimum earning power of the road.
2. That the money or securities in the Thurman Act sinking fund be applied to the payment or extinction of bonds having a priority of lien over the lien of the government.
3. That the common stock be assessed $10 a share, and that $5,000,000 of the amount so raised be applied to the further extinction of bonds having priority of lien over the lien of the Government
4. That so many of the new 3 per cent 100-year bonds be sold as should be required to pay off the remainder of the existing prior lien bonds at maturity.
5. That there be issued to the government an amount of first mortgage 3 per cent 100-year bonds equal to the amount of the road's debt to the government.
6. That the remaining 3 per cent first mortgage bonds and so much preferred stock as necessary be used to compensate security-holders for the reduction of interest on liens subsequent to the lien of the government, and on bonds held in the collateral trusts of the company.
7. That the entire property of the Union Pacific Railway Company, including bonds and lands held in the collateral trusts, be sold under foreclosure.[33]

In the spring of 1894 the Attorney-General, Richard Olney, sent to the Speaker of the House of Representatives a draft of a bill entitled "An Act to reorganize the Union Pacific

[32] Chron., 58: 988 (1894).
[33] Report of the Government Directors for 1894.

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Railway Company, and to Readjust and Secure the Claims of the United States against the said company." The purpose of this proposed bill was to preserve the existing corporation, to relieve it of existing embarrassments, and "to put it in a sound financial and business condition." The bill provided:

1. That the existing first mortgage bonds for $33,539,512, less the amount of bonds in the sinking fund to be canceled ($7,616,000), be renewed and extended at a lower rate of interest, not exceeding 5 per cent, with a provision for a sinking fund estimated as sufficient to extinguish the debt at the maturity of the bonds.
2. That the debt of the United States, amounting to about $70,000,000, be paid in 2 per cent 100-year bonds, secured by a second mortgage on all the present and subsequently acquired property of the company, and further secured by a sinking fund of such amount that the annual payment on account of it and of the interest on these bonds should always be equal to the sum of $1,650,000.
3. That there be issued bonds secured by a third mortgage of the entire property of the company, called the general mortgage, which should be used in funding and refunding outstanding obligations of the company, and for betterment purposes.

According to the Attorney-General, the proposed bill, if enacted into law, would furnish the groundwork upon which any reorganization plan must rest; would put creditors and stockholders in possession of the actual conditions with which they would have to deal; and would enable them to devise and agree among themselves upon such a plan of reorganization as the equities of the various parties concerned might demand and the property and resources of the company permit.[34] Congress, however, took no action on this proposed bill.

The United States Commissioner of Railroads, disregarding the lessons of the past and the opinions expressed by his

[34] Chron., 58: 775 (1894).

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predecessors in office, recommended that Congress pass a bill which would require the Union Pacific to pay into the United States Treasury 50 per cent of its net earnings each year, until the debt to the government should be automatically discharged.[35]

The railway company made the following proposition:

1. That the stockholders be assessed a sum sufficient to pay all bonds having a priority of lien over the lien of the United States.
2. That the government refund the subsidy debt at 2 per cent, the government to receive new first mortgage bonds payable in 50 years, secured by a first mortgage upon the 1,822.59 miles of the Union Pacific Railway and further secured by reasonable sinking fund provisions.
3. That power be granted to the reorganization committee to form a successor corporation for the same general purposes and with the same general powers stated in the acts of 1862 and 1864.
4. That the exceptional restrictions on usual corporate powers and rights be removed, and that the successor corporation be given the same rights, privileges and freedom of action that were exercised and enjoyed by other railroads.[36]

The Proposed Reilly Bill

Various suggestions like the above were offered in Congress in the form of bills. On July 21, 1894, the House Committee on Pacific Railroads, of which Representative Reilly of Pennsylvania was chairman, favorably reported a refunding bill to the House.[37] This bill was offered as a substitute for several bills which related to the same subject, and had already

[35] Report of the Commissioner of Railroads for 1895, p. 12.

[36] Chron., 60: 132 (1895). These suggestions for reorganization (Boissevain's, the Government Directors', Attorney-General Olney's, the Railroad Commissioner's, and the railway's) while they formed the basis of discussion, were neither acted upon nor adopted. They are set forth above in order to illustrate the various lines of thought, and the different attitudes taken by those immediately concerned in the solution of the problem.

[37] Cong. Record, 53rd Cong., 2nd sess., p. 9177; House Report No. 1290 (serial No. 3272).

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been introduced and referred. Under the plan proposed by the Reilly bill, the amounts then in the sinking fund were to be applied to the payment of the first mortgage, and the company was to make provision for retiring the balance of the first mortgage, by assessment if necessary. The subsidy debt was to be refunded in a 50-year 3 per cent new first mortgage. The company was not only to meet the annual interest on this new first mortgage as it accrued, but was also to pay to the government each year a portion of the principal. Payments on account of the principal were, however, to be graduated, so that the annual payment on account of the principal was to be at the rate of ½ of 1 per cent per annum during the first ten years, and increased gradually with each succeeding ten years. The lien of the government was definitely defined, and was extended to cover terminal properties worth, it was estimated, between $15,000,000 and $20,000,000.

A minority of the Pacific Railroad Committee reported against refunding the debt and in favor of foreclosure and sale. One member of the minority, Representative W. A. Harris of Virginia, recommended in an individual report that, as it was the duty of the State to provide its citizens with highways, the United States government should proceed to acquire by foreclosure proceedings the main line of the Union Pacific and Central Pacific. Such course would, Harris declared, teach such a salutary lesson that the other railways of the country would no longer be managed without regard to the rights and interests of the United States government, and the people of the nation. In his report, Harris said of the Pacific Railroads:

> Their breach of faith is unparalleled and undenied, and their sole excuse is that they did only that which other companies did, and followed the common custom of railway builders and managers. Why again enter into such an entangling alliance, and permit or risk the sacrifice of public duty and functions to private avarice, greed and bad faith?
>
> I believe that the foreclosure of the Government lien should

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> at once follow default in payment, and that a complete transcontinental line should be acquired and operated by the only competent and legitimate power, the people, through their Government.[38]

Harris' report was in accord with the state of opinion in the region through which the Union Pacific passed. The Populist movement of the nineties, which was especially strong in Nebraska, Kansas, and Colorado, was inclined to favor the plan outlined by Harris. Populists were not the only persons who favored the Harris plan; as early as 1887, before the Populist agitation became general throughout the west, the testimony taken by the Pacific Railway Commission revealed the fact that there was a large local element which was thoroughly dissatisfied with the existing situation, and that this element would welcome any plan having for its object the government ownership and operation of the Pacific railroads. This feeling was, however, almost entirely local. Outside of the so-called "Populist West," the proposition for the government acquisition of these roads had but little support.

Congress took no action on the matter during this session, that is, the session of 1893–1894. When the short session of Congress met in December, 1894, the Reilly bill received much discussion, which resulted finally in the second reference of the bill to the Committee on Pacific Railroads. On the 23rd of February, 1895, not much more than a week before the close of the session, a majority of the Pacific Railroad Committee reported a new bill, in which it was proposed that the sums in the sinking fund be applied toward the principal of the subsidy debt; that the company, by stock assessments if necessary, raise a sum sufficient to retire the balance of the principal of the subsidy debt; that the first mortgage bonds be refunded at 4 per cent; and that the interest accumulations due the government be funded in a 50-year 2 per cent second mortgage bond.[39] A proposition made by

[38] House Report No. 1290, Pt. 2, 53rd Cong., 2nd sess. (serial No. 3272), p. 8.
[39] Cong. Record, 53rd Cong., 3rd sess., p. 2642; House Report No. 1924.

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the Union Pacific reorganization committee to pay the principal of the subsidy debt in full settlement of the government's claims accompanied this bill, and was reported without recommendation by the Pacific Railroad Committee.[40] The near approach of the end of the session prevented further consideration of the Pacific railroad question, and the amended Reilly bill, like its predecessor, never came to a vote.

The reorganization committee felt it could proceed no further until the question of readjusting the subsidy debt was settled. When Congress failed to pass the Reilly bill, the reorganization committee disbanded, in March, 1895, and no further progress was made until the following fall.

Operation of Road by Receivers

The receivers had meanwhile been operating so much of the system as remained within their control. The collateral trust notes of 1891 matured in 1894, but they were well secured, and, upon the advice of the trustees, holders of these notes did not press their collection, pending the adoption of some plan of reorganization of the entire system.[41] For a time the Union Pacific receivers paid the interest upon these, and the company's various other collateral trust obligations, in order that the sale of the stocks and bonds by which these obligations were secured might be prevented; but in the fall of 1894 the receivers discontinued paying this interest.[42] A large part of the auxiliary line system, the stock and bonds of which had been pledged as security for these collateral trust obligations, was now operated by separate receivers.[43] The outstanding collateral trust notes of 1891 had been re-

[40] Chron., 60: 303 (1895).
[41] *Ibid.*, 60: 154 (1895).
[42] Senate hearings, p. 367, testimony of Oliver W. Mink.
[43] The company's collateral trust obligations outstanding on June 30, 1894, were as follows:

Year of Issue	Principal Outstanding	Interest
1879	$ 3,672,000	6%
1883	4,677,000	5
1889	2,030,000	4½
1891	10,797,000	6

See Sen. Docs. No. 62, 54th Cong., 2nd sess. (serial No. 3469), entitled "Indebtedness and liabilities of the Union Pacific Railway Company."

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duced to about $10,000,000, and the income from the stocks and bonds pledged was sufficient to meet the semiannual interest upon them. As each six months elapsed, interest on these notes was paid by the trustees out of the income from the pledged collaterals.

Interest upon the company's first mortgage bonds was paid as rapidly as the road's earnings warranted. The court, under whose direction the road was operated, refused to authorize the payment of this interest until a sufficient sum had been provided each half-year to meet necessary repairs and renewals. Interest upon the first mortgage was generally several months in default; but there was no question of the security, and the bonds were quoted in the neighborhood of par during the receivership. There were no receiver's certificates issued.

The situation with regard to the Kansas Division was somewhat complicated. The first 394 miles were covered by two divisional first mortgages: the "Eastern Division" mortgage covered the first 140 miles west from Kansas City, while the "Middle Division" mortgage extended over the line from the 140th mile post to the 394th mile post. The line from the 394th mile post to Denver was covered by the "Denver Extension" mortgage, and the line from Denver to Cheyenne was covered by the old Denver Pacific first mortgage. The government's second mortgage covered the first 394 miles west from Kansas City; and in addition, the consolidated mortgage of 1879 covered the entire line from Kansas City to Denver, subject to the above-named first mortgages, and to the government's second mortgage. This complicated situation resulted in a variety of foreclosure suits under the different mortgages, and for a considerable period no interest was paid upon the Kansas Pacific bonds, pending the judicial settlement of the various questions involved in the conflicting interests of the different lien-holders.[44]

[44] Senate hearings, p. 370, testimony of Oliver W. Mink.

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At the close of 1894 the system operated by the Union Pacific receivers still included the consolidated lines of the Union Pacific Railway, the consolidated lines of the Oregon Short Line and Utah Northern Railway, and a number of short branches, amounting in all to about 4,900 miles. The Union Pacific, Denver and Gulf lines, and the Oregon Railway and Navigation Company were operated by separate receivers.[45] Later on foreclosure proceedings separated the Oregon Short Line and Utah Northern Railway from the Union Pacific system. In the spring of 1895, at the instance of one class of bondholders, a separate receiver was named for the Oregon Short Line and Utah Northern Railway; but it seems that a dispute between two classes of bondholders delayed for a short time the separation of this property from the Union Pacific system.[46] The Union Pacific receivers continued to operate the Oregon Short Line and Utah Northern for some weeks, but a separate receivership resulted finally. Early in 1897 the Oregon Short Line and Utah Northern Railway was sold under foreclosure, and reorganized independently as the Oregon Short Line Railroad Company.[47]

New Reorganization Plan

In the fall of 1895 a new Union Pacific reorganization committee came into existence. The members of this committee, which represented the first mortgage bondholders, were General Louis Fitzgerald, Jacob Schiff of Kuhn, Loeb and Company, T. Jefferson Coolidge, Jr., the president of the Old Colony Trust Company, Chauncey M. Depew, the president of the New York Central road, Marvin Hughitt, the president of the Northwestern lines, and Oliver Ames, 2nd, a director of the Union Pacific.[48] The personnel of this committee gave rise to the rumor that the Union Pacific, when it should be reorganized, would be controlled as a part of the

[45] Chron., 60: 925 (1895).
[46] *Ibid.*, 60: 968 (1895).
[47] *Ibid.*, 60: 241 (1895).
[48] *Ibid.*, 61: 663 (1895).

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Vanderbilt group of lines. A plan of reorganization was formulated, which was announced in the fall of 1895.

This plan, with some modifications, was finally adopted. The Union Pacific Railway only was considered. Referring to the auxiliary lines, the circular outlining the plan said:

> Considerations will not exist under reorganization for continued relations with these properties upon the basis of any assumption of any of their fixed charges. Geographical conditions and considerations of mutual advantage point to a continued operation of such of these auxiliary properties as have a demonstrated value in harmony with the reorganized company, and relief from the burden of these guaranties will, it is believed, be an advantage obtained without detriment to the property.

This plan therefore contained no express provision relating to the branches, or to the collateral trust obligations of the Union Pacific.

A foreclosure sale and the organization of a new company was contemplated. The capitalization of the reorganized company was to consist of three classes of securities:

First mortgage bonds bearing interest at 4%	$100,000,000
4% non-cumulative preferred stock	75,000,000
Common stock	61,000,000

Holders of the first mortgage bonds of the Union Pacific Railroad, holders of the sinking fund land grant mortgage bonds, holders of the Omaha Bridge bonds, and holders of the Kansas Pacific first mortgage bonds were to be permitted to exchange their bonds at par for the new 4 per cent first mortgage bonds, and were to receive in addition, in new preferred stock, 50 per cent of the par value of the amount surrendered. The Kansas Pacific consolidated mortgage bonds and other Kansas Division bonds[49] were to be exchanged for the new bonds at 80 per cent of their par value, and were to receive in addition 50 per cent in preferred stock. The common stock of the railway

[49] There were still outstanding small amounts of the old Kansas Pacific bonds of issues which had been funded into the consolidated mortgage of 1879.

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company was to be exchanged, dollar for dollar, for new common stock, upon the payment of an assessment of $15 a share. For this assessment new preferred stock was to be issued at par. A syndicate of bankers, headed by Kuhn, Loeb and Company, agreed to advance a sum not exceeding $15,000,000, to meet coupons as they fell due, and other cash requirements of the reorganization. These bankers were to receive as a commission, $6,000,000 in preferred stock. There would then remain, according to the figures of the reorganization committee, a balance "reserved for settlement of the debt to the United States and for extraordinary requirements" amounting to $35,755,280 in new bonds, $20,864,400 in new preferred stock, and $131,500 in common stock.[50] Coupons of the first mortgage bonds were to be paid in full until the first mortgage bonds matured.[51]

Security-holders were directed to signify their assent to the plan by depositing their bonds with the committee by the 1st of January, 1896.[52] The plan was on the whole a good one, and, as later events proved, it was successful. Although the face value of the company's capitalization was to be somewhat larger than it had been before, stock issues upon which dividends were optional were substituted for bond issues upon which the interest was fixed. Interest upon the proposed issue of 4 per cent bonds would amount to but $4,000,000 annually. This sum appeared to be well within the earning capacity of the road, even in the worst periods of depression. The net earnings of the railway company in 1894 had been the lowest they had ever been for over twenty years; yet in that year they amounted to $4,315,077.25, or over $300,000 in excess of the interest on the proposed first mortgage bonds. The company's net earnings for the ten years from 1885 to 1895 had averaged $7,563,669.10 annually, so that there was a very fair prospect

[50] The capital stock of the Union Pacific Railway Company was $60,868,500, par value.

[51] It should be borne in mind that the first mortgage bonds matured from time to time between 1895 to 1899. For copy of the plan of reorganization see Chron., 61: 705 (1895).

[52] This time limit was later extended to January 29.

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that when business conditions should improve there might be a considerable surplus to divide among the preferred stockholders, and possibly leave something for the common stockholders. From the standpoint of the security-holder the plan was excellent. The bondholders would receive in new securities about as much as they surrendered, and whatever reduction of interest they suffered would be offset by the prospect of dividends on the preferred stock when such dividends should be earned, and by the increased security of the new first mortgage. The stockholder alone suffered, and he was partially compensated by receiving preferred stock in exchange for his assessment, as well as new common stock in exchange for his old stock.

Negotiations Over Subsidy Debt

Nearly all of the security-holders had signified their assent to the plan early in 1896, and the only obstacle to reorganization was whatever difficulty would be found in disposing of the road's debt to the government. In March, 1896, the reorganization committee, through its counsel, Winslow L. Pierce, submitted its plan to the Senate Committee on Pacific railroads, with a view to securing the passage of an act which should dispose in some way of the question of the subsidy debt, and so permit the plan to go into effect. While the plan made no definite provision for this debt, over $56,000,000 in new securities had been set apart for this purpose. These securities could not, however, be considered as so much cash. Moreover, since under the plan the preferred stock would control the road,[63] complications might arise should the government accept preferred stock in payment of a portion of the debt, and thus become a stockholder of a great railroad company.

The Committee on Pacific Railroads held a number of hearings in the spring of 1896, at which several of the men

[63] Senate hearings, p. 9, testimony of Winslow Pierce. Both classes of stock, preferred and common, were to have the right to vote.

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connected in one way or another with the Union Pacific and Central Pacific Railways were examined. These men advanced the argument that the government should do as any other bondholder would do under like circumstances, and participate in the reorganization, even though participation might necessitate certain concessions on its part. Various propositions for refunding, or for cash payment of a portion of the debt if the government would execute a release of the balance, were suggested by representatives of the reorganization committee of the Union Pacific, and by the receivers of the railway. All of the suggestions for immediate cash settlement contemplated a partial money loss to the government, and the only apparent alternatives were either refunding the debt, or foreclosure. The result of these hearings was that on April 21, 1896, a majority of the Pacific Railroad Committee reported a bill to refund the debt at a lower rate of interest.[54] One member of the committee, however, Senator Morgan of Kansas, reported in favor of foreclosure and the acquisition of the Union Pacific and Central Pacific by the United States.[55]

No further progress either one way or the other was made during the remainder of the year 1896. Finally, after months of debate, on January 11, 1897, a proposed refunding bill similar to that reported in the Senate the previous year was definitely rejected in the House of Representatives.[56] President Cleveland now gave directions to the Attorney-General, Judson Harmon, to take whatever steps might be necessary for the protection of the government's lien.[57] It became evident that the government would insist upon cash settlement. The reorganization committee gave up its efforts to obtain an extension of time, and prepared to meet a cash settlement upon as favorable terms as the government would be willing to concede. Negotiations commenced between the Attorney-General and

[54] Sen. Report No. 778, 54th Cong., 1st sess., Pt. 1.
[55] *Ibid.*, Pt. 2.
[56] Cong. Record, 54th Cong., 2nd sess., p. 688.
[57] Sen. Doc. No. 83, 54th Cong., 2nd sess. (serial No. 3469), contains the correspondence.

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the reorganization committee, with the result that an agreement was reached that the Union Pacific Railway should be sold under foreclosure to the proposed new company, the reorganization committee to guarantee a minimum cash bid of $45,754,059.99, in addition to assuming the first mortgage.[58] The value of the sinking fund investments reduced this amount by about $17,000,000. Had this arrangement been carried out, the government would have received in cash the entire principal of the debt, and simple interest at the rate of about 3½ per cent per annum from the date of issue of the bonds to their maturity. The syndicate of bankers headed by Kuhn, Loeb and Company agreed to furnish this large sum, and in exchange were to receive 100 per cent in new first mortgage bonds and 50 per cent in new preferred stock for their advances.

This conclusion was reached early in 1897. Foreclosure proceedings now went ahead rapidly. The foreclosure decrees were, however, not altogether satisfactory to the government, by reason of the fact that the Omaha Bridge mortgage, amounting to over $1,200,000, was declared to constitute a lien prior to that of the government on that portion of the road between Council Bluffs and Omaha, and by reason of the fact that the money and assets in the hands of the receivers accruing from the operation of the roads were ordered sold, instead of being reserved to meet a deficiency judgment expected to be obtained by the government. The government thereupon prepared papers for an appeal. The reorganization committee was anxious to avoid further delay, and offered to increase its guarantee to $50,000,000, provided the government would withdraw its appeal and allow the foreclosure suit to be brought to an immediate end.[59]

To this the government agreed, and the sale was now ordered to take place at Omaha on the 1st of November, 1897.

[58] Senate Doc. No. 83, 54th Cong., 2nd sess. (serial No. 3469).
[59] Report of the Commissioner of Railroads for 1897, p. 7.

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The plan of reorganization was modified in some respects, a change being made in the allotment of new bonds and stock to be given in exchange for Kansas Pacific consolidated mortgage bonds and the sinking fund land grant 8 per cents. The former were to receive 50 per cent in new bonds and 110 per cent in new preferred stock, instead of 80 per cent in bonds and 50 per cent in preferred stock. The latter were to receive 75 per cent in new bonds and 100 per cent in new preferred stock, instead of 100 per cent in new bonds and 50 per cent in preferred stock.[60] The various collateral trust bonds and notes were independently provided for by the collateral underlying them. The sale of securities against which the collateral trust notes of 1891 had been issued had materially reduced the amount of these notes outstanding, and the balance of these notes were eventually retired by the sale of a further portion of the pledged securities. The bonds and stock of the Union Pacific, Denver and Gulf road, which had formed a part of these pledged securities, were sold to the reorganization committee of the Union Pacific, Denver and Gulf.[61] This road was independently reorganized as the Colorado and Southern, and did not again become a part of the Union Pacific system. Other branch line securities were sold to the Union Pacific reorganization committee.

Foreclosure and Sale

It appeared in the early fall of 1897 that the reorganization would meet with no further obstacles, and that within a few months the reorganized company would be operating the Union Pacific. Suddenly, on the 25th of October, 1897, the Attorney-General notified the reorganization committee that the government had applied for a postponement of the sale until December 15, after Congress could meet and consider the question.[62] This was most unwelcome news to the reorganization com-

[60] Chron., 65: 235 (1897); 65: 288 (1897).
[61] *Ibid.*, 66: 516 (1897).
[62] *Ibid.*, 66: 825 (1897).

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mittee. Further congressional agitation might jeopardize the whole plan of reorganization. The committee decided to increase its minimum guaranteed bid still further. The former bid had included both the Union Pacific and the Kansas Pacific. The committee now offered to guarantee the full amount, in cash, of the principal and interest of the bonds issued to the Union Pacific Rail*road*. The company had already repaid a portion of the interest on these bonds through transportation and through the payment of 5 per cent of its annual net earnings. The balance due the government was about $58,000,000. The committee's bid did not include the Kansas Pacific. The sale of the Kansas Pacific was accordingly postponed until the 15th of December. The increased bid for the main line was accepted, and the government interposed no further obstacles to the sale of the Union Pacific. The main line was sold under foreclosure on November 1, 1897, for $58,448,223.75, subject to the first mortgage.[63] Title to the property, franchise, and lands of the old Union Pacific Railway now became vested in a new corporation, the Union Pacific Railroad Company, organized in the summer of 1897 under the laws of the state of Utah.[64]

The *Commercial and Financial Chronicle* made the following estimate of the cost of the road:[65]

Government's claim	$58,448,223.75
Less sinking fund	18,194,618.26
Second lien	$40,253,605.49
First mortgage	27,637,435.00
Securities purchased	13,645,250.00
Total cost of road to reorganization committee	$81,536,290.49

The sale of the Kansas Pacific, which was postponed to December 15, was again postponed. The government and the

[63] Chron., 65: 870 (1897).
[64] Copy of Articles of Association of the Union Pacific Railroad Company is in Proc. Spec. Ex., p. 3423.
[65] Chron., 66: 52 (1898).

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reorganization committee experienced some difficulty in reaching an agreement regarding the minimum amount which the committee was to guarantee. After about a month and a half of negotiation, it was finally arranged that the committee was to guarantee to pay in cash the principal only of the subsidy debt, $6,303,000.[66] On February 16, 1898, the subsidized portion of the line was sold under foreclosure of the government's mortgage to the Union Pacific reorganization committee, and in the next few days, as a result of foreclosure sales under the other mortgages, the title to the entire property of the Kansas Pacific, including right of way, land grant, and terminals, was transferred to the new corporation, the Union Pacific Railroad Company.[67] The reorganized company took possession of the main line from Council Bluffs to Ogden on January 31, 1898, and of the Kansas Division on April 1, 1898, and the receivers were discharged.

So far as the main line was concerned, the government received full satisfaction for its mortgage. A year and a half before, such a result had seemed extremely doubtful. It had been generally supposed that a foreclosure sale would not yield anything like the sum necessary to pay the government's second mortgage and the large interest accumulations upon it. At one stage of the proceedings it had appeared possible that the first mortgage bondholders might foreclose the government out of its lien. This was even threatened in an effort to secure more favorable terms. During the hearings before the Senate Committee on Pacific Railroads, in March, 1896, Winslow Pierce put forward the proposition that if the government did not make satisfactory concessions, the first mortgage bondholders might foreclose without regard to the government, in which case the government would probably lose the greater part, if not all, of its debt.[68] A financial journal commented upon the fact that as the reorganization committee represented

[66] Chron., 66: 385 (1898).
[67] *Ibid.*
[68] See Senate hearings.

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the first mortgage bondholders, it was in their power to bring the government to terms.[69] Mr. Pierce assured the members of the Pacific Railroad Committee of the Senate that the object of his clients in taking into consideration the rights of the government was with a view to reaching an amicable settlement of the subsidy debt. He declared that it was the wish of the reorganization committee to do the fair thing by the government, by according to the government in the reorganization the same consideration that an ordinary second lien-holder would receive under the same circumstances.

It is, however, hard to accept at its full face value this statement regarding the magnanimous intentions of the reorganization committee. A first mortgagee does not ordinarily make important concessions to a second mortgagee unless he has good reasons for so doing. If the reorganization committee had the unquestioned power, as they claimed, to foreclose the government out of its lien, it is hard to believe that they would not have done so. The syndicate headed by Kuhn, Loeb and Company did indeed receive in new bonds and stock more than the equivalent of the cash they advanced to pay off the debt to the government. Yet the sum would in all probability not have been forthcoming had there been any way of completing the reorganization without meeting the government's demand. The cash payments to the government necessitated the issue of a larger amount of new securities than had originally been intended, although the authorized amount of new bonds and stock was not increased beyond the amounts provided for in the plan of reorganization, that is to say, $100,000,000 of new first mortgage bonds, $75,000,000 of new preferred stock, and $61,000,000 of new common stock.

The probability is that the first mortgage bondholders did not dare to foreclose the government out of its lien. Considerations of political expediency, which may be and often are as strong as legal rights, caused them to hesitate. This

[69] Chron., 61: 683 (1895).

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period of the nineties was the period of the Populist agitation in the states of the west. Even in sections of the country where Populism found little favor, the Credit Mobilier "scandal" had not by any means been forgotten. Many men who were not in sympathy with the Populists, and who were not in favor of government ownership, or even of government regulation of railroads on a large scale, believed that the Union Pacific Railway, or the men who had controlled that company, had been guilty of great frauds upon the United States government. About two-thirds of the original cost of the road had been met out of the proceeds of government grants. Any proceeding whereby a group of capitalists or a syndicate should acquire the property by a foreclosure sale which would result in a loss to the government of the greater part of its debt might, in view of public sentiment toward railroad companies, have raised a tremendous national outcry, greater and more far reaching in its effects than even the clamor which arose earlier, at the time of the Credit Mobilier episode. Congress was not disposed to be friendly to the Pacific railways. The fifty-fourth Congress had voted down a refunding bill, and it was altogether possible that drastic affirmative action would be taken, should the reorganization committee refuse to yield.

It seems, moreover, that there was some question as to whether the first mortgage bondholders could have legally enforced their claim as a lien paramount to the lien of the government.[70] Whether or not these bondholders believed that in the end they would have been sustained had they attempted to enforce their claim, they determined at any rate not to try conclusions with the government. The fact that they did completely yield so far as the main line was concerned is a virtual admission that they feared the legal or equitable rights of the government, or the business or political complications that might arise in case they attempted to enforce their claim.

With the sale of the Union Pacific property and the pay-

[70] See Senate hearings, pp. 368 ff.

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ment of the government's claim, the special relations between the government and the Union Pacific Railway Company came to an end. On the whole the settlement was, from a financial standpoint, a favorable one for the government, although it cannot be said that it was unfair to the company. The entire subsidy debt, principal and interest, of the original Union Pacific Rail*road* was paid in full, and the principal of the debt of the Kansas Pacific was paid,[71] so that the government received about $64,000,000 in settlement of its claim for about $70,000,000. This amount greatly exceeded the maximum sum which the most sanguine persons had at one time expected in case the government were to insist upon cash payment.

The general plan for the exchange of old securities for new securities was as follows:

Amounts Surrendered	To Receive in New Securities		
	1st Mortgage 4% Bonds	Preferred Stock	Common Stock
Union Pacific:			
1st mortgage bonds, $1,000	$1,000	$500	
Sinking fund 8's, $1,000	750	1,000	
Omaha Bridge 8's, 1,000	cash		
Omaha Bridge renewal 5's, $1,000	1,000	250	
Kansas Pacific:			
Divisional 1st mortgage bonds, $1,000	1,000	500	
Consolidated mortgage bonds, $1,000	500	1,100	
Fragments of old loans, $1,000	800	500	
Union Pacific stock, $100, upon payment of assessment		15	$100

[71] The government's claim against the Kansas Pacific amounted to $12,891,900. The government subsequently brought suit for the balance, but recovered only $891,898.

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CHAPTER XI

THE GROWTH OF THE UNION PACIFIC FROM TIME OF THE REORGANIZATION DOWN TO 1905

The New Management; E. H. Harriman

The plan of reorganization by which preferred stock was issued to the bondholders and to the financial syndicate which had managed the reorganization removed the Union Pacific from the Gould control; but as George Gould received a large amount of new stock in exchange for his holdings in the old company, he was elected a member of the board of directors of the new company, and served as director for several years after the reorganization. Among the other directors of the new company were Otto H. Kahn and Jacob Schiff of Kuhn, Loeb and Company, the bankers who had financed the reorganization; Marvin Hughitt of the Chicago and Northwestern road; Roswell Miller of the Chicago, Milwaukee and St. Paul; and Oliver Ames, the son of Frederick L. Ames and grandson of the Oliver Ames who had been president of the original company when the road was first built. Horace G. Burt, the third vice-president of the Northwestern lines, was chosen president of the new company.

Whether or not there was any foundation in the earlier rumor that the Union Pacific was to become an adjunct of the Vanderbilt system, no such thing occurred. It is true that the Vanderbilt interests were now not without representation upon the Union Pacific board. Yet a new and hitherto comparatively unknown man was soon to dominate the Union Pacific, and through his mastery of the Union Pacific extend his power over other lines until he became the most conspicuous railroad magnate of America, if not of the world. This was E. H.

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Harriman. In 1870, Harriman had come from Hempstead, Long Island, to New York, where he began his career as a clerk in a broker's office. He was alert, watched his opportunities, and aided by a series of fortunate speculations, managed during the course of the next twenty years to accumulate a very considerable fortune. Railroads seemed to have attracted his interest, and he became a sharp student and a keen observer of their problems and of the details of their operation. He became connected with a number of railroads, notably the Illinois Central, but it was through the Union Pacific that he attained his later prominence. Harriman, it seems, was the "railroad man" of the financial syndicate which had charge of reorganizing the Union Pacific.[1] He became a director of the new company and chairman of the executive committee of the board. From time to time he increased his holdings of Union Pacific stock by making large purchases of the common shares, which, in 1898, were quoted in the neighborhood of 25.[2] Within a surprisingly short time his influence dominated the management, and by 1900 his control of the Union Pacific had become absolute.[3]

The history of the reorganized company is in striking contrast to that of its predecessor. The old Union Pacific had often been contemptuously referred to as "two rusty streaks of iron on an old road-bed."[4] Financially it could not be classed as a strong road. On the other hand, the new company has become one of the strongest and most powerful railroads in the United States. During the decade following the reorganization, its history was marked by rapid growth and

[1] Proc. Spec. Ex., p. 4729, testimony of Otto H. Kahn. Yet Kahn elsewhere says that Harriman had nothing to do with the reorganization, but that he was admitted to the board of the new company in pursuance of some promise made to him by Kuhn, Loeb and Company. See E. H. Harriman, by Otto H. Kahn, the Railway Library, compiled by Slason Thompson, Vol. II, p. 313. (Chicago, 1911.)

[2] Files of the Commercial and Financial Chronicle.

[3] 12 I. C. C. Rep. 319.

[4] This phrase was first used by Charles Francis Adams in some remarks which he had at one time made at a congressional hearing, to characterize the sort of road which would result if Congress persisted in harassing the company by ill-considered attacks. These attacks, Adams maintained, were made in the interests of speculators, who were seeking control of the road. They would, said Adams, loot the road if they could and then abandon to the government "two rusty streaks of iron on an old road-bed."

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expansion on a much greater scale than had been the case in the expansion period of the eighties. Under the control of Harriman, the mileage of the Union Pacific grew from less than 2,000 miles in 1898 to over 6,000 miles in 1909. In addition the company acquired control of the 7,000 miles embraced in the Southern Pacific system. Steamship lines as well as railroads were included. By 1908 Harriman, through his high position in the councils of the Union Pacific, had become the most prominent as well as the most powerful single individual in the railroad world, so that one author wrote in 1909:

> In comparison with him, the Vanderbilts, the Goulds, the Garretts, the Huntingtons represent the parochial period in our railroad history. They consolidated small railroads into kingdoms, Harriman is federating their kingdoms into empires.[5]

Reacquisition of Branch Lines

The first step in this direction was the reacquisition by the Union Pacific of the important auxiliary lines which had formerly made up the Union Pacific system. Many of these auxiliary lines had been separated and independently reorganized. Not only were the Oregon Short Line, the Oregon Railway and Navigation Company, and the Union Pacific, Denver and Gulf no longer parts of the system, but a number of important agricultural feeders had been separated from the parent company and were now operated independently. Of the old system of about 8,000 miles, nothing was left but the main line from Omaha to Ogden, the Kansas Division from Kansas City to Cheyenne, and about 300 miles of shorter branches. Of these branches which were still owned, several continued to be operated by receivers, even after the new management took charge of the main line; but their securities were owned by the Union Pacific, subject to such of the collateral trust notes of 1891 as were still afloat. Early in 1898 the reorgan-

[5] Burton J. Hendricks, "The Most Powerful Man in America," McClures, Oct. 1909.

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ization committee purchased a sufficient amount of the collateral underlying these notes to retire the balance outstanding.[6] The remaining securities of these branches which had been held in this trust were therefore released, so that the new company had in these 300 miles the beginning of a branch system.[7]

In June, 1898, it was announced that the new company had acquired, at a large discount, nearly all of the bonds of the Omaha and Republican Valley Railway,[8] so that when that road was sold under foreclosure, in August, 1898, title to it passed to the new Union Pacific Railroad Company.[9] During the same year, 1898, the Union Pacific, Lincoln and Colorado road, a local line in western Kansas, and formerly a part of the Union Pacific system, was consolidated with the Union Pacific Railroad.[10] The Central Branch Union Pacific was permanently separated from the Union Pacific, but this line had never been an integral part of the old system; and control of the St. Joseph and Grand Island road was not again acquired by the Union Pacific until 1906. With these two exceptions the Union Pacific lines in Kansas and Nebraska again included substantially the same agricultural feeders which were included in the former system. The Union Pacific, Denver and Gulf road, which had also included the Colorado mineral branches, remained independent of the Union Pacific, but an arrangement was made with the reorganization committee of the latter

[6] Chron., 66: 2906 (1898).

[7] These branches which, as well as the main line, were subject to the new first mortgage were:

	miles
Brighton and Boulder branch	27.
Carbon Cut-Off Railway (Allen, Wyo., to Hamer, Wyo.)	19.06
Echo and Park City Railway	30.19
Junction City and Fort Kearney Railway	88.
Kearney and Black Hills Railway	65.72
Salina and Southwestern Railway	35.74
Solomon Railroad	57.04
	322.75

[8] Chron., 66: 617, 1190; 67: 179 (1898).

[9] *Ibid.*, 67: 372 (1898). This road was a system of local feeders in eastern Nebraska.

[10] *Ibid.*, 66: 385; 67: 957 (1898). This line was an alternate route from Salina, Kansas, to Oakley, Kansas, both stations on the main line of the Kansas Division. The length of the road was 225 miles.

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road whereby the Union Pacific reacquired by purchase the important cut-off from Julesburg to La Salle, Colorado, which enabled the Union Pacific to share in the business of Colorado.[11]

The new company was not organized by special charter, as was the old company, but was organized under the general laws of Utah. The articles of association contained no restriction regarding branch extensions as was impliedly contained in the old charter. It was therefore no longer necessary to operate these branches through the medium of separate corporate organizations.[12] Their acquisition had been financed without increasing the new company's authorized capitalization, the plan of reorganization having provided sufficient capital to carry out this purpose. In fact, something over 1,000 miles of this newly reacquired branch line mileage was unincumbered by any issue of bonds.

The Oregon Short Line and Oregon Railroad and Navigation Company

The next step in the direction of expansion was the reacquisition of the Oregon Short Line and the Oregon Railroad and Navigation Company. As the Union Pacific had paid the assessment called for under the Oregon Short Line reorganization plan, it still held a large interest in the Oregon Short Line; but the latter road had after the foreclosure mentioned in the preceding chapter been reorganized under a plan which placed the control of the company in the hands of the former bondholders. Of its capital stock amounting to $27,460,100, par value, the Union Pacific owned about eight millions, and later during the year 1898, it purchased enough additional shares to give it a substantially controlling interest.[13] On January

[11] Chron., 66: 521 (1898); 68: 188 (1899).

[12] There was no positive restriction in the charter acts of 1862 and 1864 which forbade branch line construction; but no provision was made respecting branches, and the act expressly gave to the company only the power to build a line of railroad from the Missouri River to California, together with the three specified branches, to Kansas City, Atchison, and Sioux City.

No court ever passed upon the legality of the right of the company to build branches; but the restriction was assumed, and then evaded through the subsidiary scheme.

[13] Chron., 68: 87 (1899).

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10, 1899, the Union Pacific stockholders voted to increase the common stock of the Union Pacific by $27,460,100 for the purpose of acquiring the Oregon Short Line.[14] This new Union Pacific stock was offered to stockholders of the Oregon Short Line in exchange for their stock, each stockholder of the Short Line to be entitled to one share of new stock of the Union Pacific in exchange for one share of Short Line stock plus an additional payment of $3 for each share exchanged. The offer appeared attractive to the Oregon Short Line stockholders, for nearly all of them accepted. By the close of the year 1899 the Union Pacific had in this way acquired all but a few shares of the stock of the Short Line.

The Oregon Short Line still owned a majority of the common stock of the Oregon Railroad and Navigation Company, but this stock did not give to it control of that company. The old Oregon Railway and Navigation Company had been reorganized in 1897, the name of the reorganized company being changed to the Oregon Railroad and Navigation Company. The preferred stockholders of this reorganized company controlled it. Under the plan of reorganization a voting trust had been established which provided that for a period of five years, or until dividends aggregating 20 per cent on the preferred stock had been paid, the preferred stockholders of the Oregon Railroad and Navigation Company were to elect two-thirds of the directors. On account of this arrangement which prevented the Union Pacific, after having acquired the Oregon Short Line, from exercising complete control over the Navigation Company through the Short Line, the Navigation Company was operated independently, but in the joint interest of the Union Pacific, the Northern Pacific, and the Great Northern. Of this necessary 20 per cent dividend which must be paid before the voting trust could be dissolved, 10 per cent had been paid by 1899. The Union Pacific, through the Oregon Short Line, guaranteed payment of the remaining 10 per cent,

[14] Chron., 68: 188 (1899).

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whereupon the voting trust was dissolved and the Union Pacific came in full control of the Oregon Railroad and Navigation Company.[15]

The Union Pacific management proceeded still further to strengthen its control over this company just as it had done in the case of the Short Line. The authorized preferred stock of the Union Pacific was increased by $25,000,000 and the authorized common stock by $7,718,600. This new stock was offered to stockholders of the Oregon Railroad and Navigation Company in exchange for their shares of the latter company.[16] Each class, preferred and common, of Oregon Railroad and Navigation Company stock exchanged, share for share, with the corresponding class of new Union Pacific stock.[17] Within a few months all but a negligible minority of shares of the Navigation Company were exchanged for new preferred and common shares of Union Pacific stock. From this time on the Northern Pacific and Great Northern were no longer accorded equal advantages with the Union Pacific over the Oregon Railroad and Navigation Company. The three properties, the Union Pacific, the Oregon Short Line, and the Oregon Railroad and Navigation Company, have since been operated as one road, although the Short Line and the Navigation Company have been operated under separate corporate organizations. In the Union Pacific annual reports before 1902 separate reports had been published covering the business of the auxiliary companies, but since 1902 no separate report has been made of the operations of these three constituent members of the Union Pacific system; the operations of the

[15] Chron., 69: 181 (1899).

[16] Minutes of directors' meeting, Aug. 29, 1899, Proc. Spec. Ex., p. 58.

[17] There were outstanding against the Oregon Short Line two series of income bonds, series A, amounting to $7,185,000, and series B, amounting to $14,841,000. The latter were secured by a pledge of $16,281,400, Oregon Railroad and Navigation Company common stock. The new $25,000,000 of Union Pacific preferred were used to retire the series B income bonds and acquire $11,000,000 of Oregon Railroad and Navigation Company preferred stock. The increased Union Pacific common stock was exchanged for the Oregon Railroad and Navigation Company common stock outstanding, $7,718,600 out of the total authorized issue, $24,000,000. The series A income bonds were retired out of the Union Pacific's reserved funds. (Proc. Spec. Ex., pp. 59, 60.)

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entire system have been reported as though the three roads were in name, as well as in fact, one company.

The Union Pacific system now included substantially the same mileage as it had included prior to 1890, the date of the acquisition of the Union Pacific, Denver and Gulf road. Certain branches were, however, noticeably absent. The old South Park Line to Leadville and Gunnison, which had been such a conspicuous example of a branch that was a "sucker" instead of a feeder, was not any more a part of the system. Other Colorado mineral lines were no longer included, nor were there included the two agricultural roads in eastern Kansas which have been mentioned, the St. Joseph and Grand Island, and the Central Branch Union Pacific. Of the lines which remained as part of the system all but the Oregon Short Line, the Oregon Railroad and Navigation Company, and one other line, the Leavenworth, Topeka and Western (formerly the Kansas Central), were operated without the intervention of subsidiary corporate organizations. The reorganization of the Oregon Short Line and of the Oregon Railroad and Navigation Company had materially reduced the fixed charges of each road, so that both of these companies became self-sustaining. The Union Pacific was therefore in a position to enjoy the benefits of a system of feeders and auxiliary lines, while it was not called upon to make good annual deficits upon branch line bonds.

Purchase of the Southern Pacific

So far the new management of the Union Pacific had confined itself to the work of building up and strengthening the Union Pacific system, by restoring, so far as seemed advisable, the auxiliary system as it had existed prior to the receivership. In 1901 a more radical step was taken. This was the purchase by the Union Pacific of a controlling interest in the Southern Pacific Company, which had since 1885 owned the Central Pacific line from Ogden to San Francisco. The principal

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Miller v. Climax Molybdenum Co.

United States Court of Appeals for the Tenth Circuit

April 18, 1938

Nos. 1587, 1588

Reporter
96 F.2d 254 *; 1938 U.S. App. LEXIS 3470 **

MILLER v. CLIMAX MOLYBOENUM CO.; SOUTH PART R. CO. v. SAME.

Prior History: [1]** Appeals from the District Court of the United States for the District of Colorado; J. Foster Symes, Judge.

Counsel: Victor A. Miller, of Denver, Colo., prose (Thomas Keely, Rodney J. Bardwell, Jr., Robert S. Palmer, and Erskine R. Myer, all of Denver, Colo., on the brief), for appellants.

Walter E. Schwed, of Denver, Colo. (Barney L. Whatley, of Denver, Colo., on the brief), for appellee.

Opinion by: LEWIS

Opinion

Before LEWIS, PHILLIPS, and WILLIAMS, Circuit Judges.

[*258] LEWIS, Circuit Judge (after stating the facts as above).

On April 7, 1937, the Climax Molybdenum Company filed its bill of complaint in the United States District Court against Miller and the Colorado and Southern Railway Company, being cause here numbered 1587. It alleged the facts with reference to the written contract between Miller and the Colorado Southern Railway Company of July 14, 1932, herein above partly quoted; that Miller had court that railway company in the state court for specific performance of that contract and for the appointment of a receiver of the railway company property; that to turn over the entire line from Waterton to Leadville or that part of it from Climax to Leadville to Miller **[**2]** or to a receiver would be in effect in violation of the orders of the ***Interstate Commerce Commission*** and would cause great injury and damage to the Molybdenum Company. It alleged that it had no plain, speedy or adequate remedy at law, and it asked that both Miller and the Colordo and Southern Railway Company be enjoined and restrained, the first from receiving the railway property of the Colorado and Southern Railway Company or procuring a receiver therefor and the second from conveying or transferring to Miller any part of the property or changing the present method of operating that segment without authority therefor from the ***Interstate Commerce Commission*** first had and obtained.

Miller answered and attacked the federal court's jurisdiction and alleged that the suit was wrongfully brought to avoid the effect of section 265 of the Judicial Code, 28 U.S.C.A. § 379. Other attacks and criticisms are made on the bill. He insisted in his answer that under his contract of July 14, 1932, he was entitled to th eappointment of a receiver of the railway and a decree for specific performance of said contract and to the rolling stock described in said contract; that service between Climax **[**3]** and Leadville had not been impaired and can not be impaired by the state court litigation.

On April 16, 1937, the Molybdenum Company brought its suit in the United States District Court for the District of Colorado against the South Park Railroad Company and the Colorado and Southern Railway Company, here numbered 1588. It again alleged the facts that have been stated with reference to the procedures before the ***Interstate Commerce Commission*** and the orders that it had made. It further alleged the contract of July 14, 1932, between Miller and the Colorado and Southern and the character of the suit brought by the South Park Railroad Company in Summit county, Colorado, seeking to condemn the line of railway and a large part of the equipment used in its operation for the purpose of operating that part of it and its branches east of Climax; that on the day that suit was filed, April 12, 1937, the South Park Railroad Company, plaintiff, procured an ex parte order of said state district court that upon deposit by it in court of $1,000 the South Park Railroad Company might take possession of and use during the pendency and until final conclusion of said condemnation suit the said part **[**4]** of said line of

railway, its branch lines and certain specified equipment consisting of engines, cars and snow plows; that the complainant in that case made the deposit of $1,1000. It was alleged that if the South Park Railroad Company is permitted to take possession of the equipment so ordered and if the Colorado and Southern Railway Company is permitted to deliver the equipment specified in said order to it, that the Molybdenum Company will be unable to procure the necessary rolling stock to serve its customers or operate its mining property and will be compelled to cease its operations, close its plant and discharge its employes; that it will be left without railroad facilities and no one would be equipped to operate the line between Climax and Leadville; that the conduct of the South Park Pailroad taken and threatened **[*259]** would be in violation of and contrary to the previous orders of the Interestate Commerce Commission; that the South Park Railroad Company relies on said contract that Miller made with the Colorado and Southern Railway Company on July 14, 1932, said Colorado and Southern Railway Company having by said contract conveyed the beneficial title to the equipment **[**5]** as well as the road. The Climax Molybdenum Company prayed for injunctive relief against the South Park Railroad Company and the Colorado and Southern Railway Company enjoining the former from receiving, possessing, taking or in any manner acquiring any of said railway equipment, and enjoining the latter from delivering any of said equipment to the South Park Railroad Company.

The South Park Railroad Company alleged, among other things, that two days after the state court in Summit county made its order that the South Park Railroad Company might take possession of the rolling stock it made its offer that it would release and quit claim to the Colorado and Southern Railway Company such of its equipment as would be necessary to its operation of the line between Climax and Leadville in order that it might continue to serve the requirements of the Molybdenum Company, although, it alleged, the Molybdenum Company "has no vestige of right, title or interest in said rolling stock and equipment through which it may compel the South Park Company to turn over and deliver to th eColorado and Southern Railway Company such rolling stock and equipment should the South Park Railroad Company come **[**6]** into legal ownership, possession and control thereof; that it is willing and offers to rent and lease on reasonable terms so much of the equipment and rolling stock as may be necessary to th eoperations which the Colorado and Southern Railway Company is required to maintain upon that portion of the line between Climax and Leadville." The South Park Railroad Company opposed the granting of the injunctive relief sought by the Molybdenum Company. The Colorado and Southern answered: "that if said South Park Railroad Company is permitted to take possession of the equipment specified in said order (of the district court of Summit county), this defendant will be unable to provide and furnish all the rolling stock required to handle and transport the business and traffic of the plaintiff."

On application the Colorado and Southern Railway Company and Victor A. Miller were enjoined as sought in the first suit brought by the Molybdenum Company, and the South Park Railraod Company and the Colorado and Southern Railway Company were enjoined as sought in the second suit brought by the Molybdenum Company.

Plainly, the institution of these two suits by the Climax Molybdenum Company was caused **[**7]** by the bringing of the two suits in the state district court of Colorado, one by Victor A. Miller against the Colorado and Southern Railway Company, a Colorado corporation, and the other by the South Park Railroad Company, a Colorado corporation, against the Colorado and Southern Railway Company.

The Colorado and Southern Railway Company operated for many years a narrow gauge railway from Denver, Colorado, westward through mountainous territory to Leadville, Colorado, consisting of approximately 150 miles of mainline and several branch lines. Several years ago it instituted proceedings before the ***Interstate Commerce Commission*** to obtain an order permitting it to ***abandon*** the line from ***Denver*** to ***Leadville*** and its branch lines. It had and still has approximately 900 miles of other railway in Wyoming, Colorado and New Mexico and perhaps a small amount of milage in some of the adjoining states. Its first application for abandonment was denied with leave given to renew it. Finally on renewal it was granted with this exception, the ***Interstate Commerce Commission*** refused to grant abandonment of about fifteen miles of the mainline extending from the station Climax westwardly to Leadville. **[**8]** That was because appellee in cases here on appeal has a large mine at Climax that produces the rare metal molybdenum used in the manufacture of steel. Its only outlet for shipping is over that segment of the road, thence over the Denver Rio Grande Western and connecting carriers its products reaches all parts of the world. The facts in that respect and the great increase in the use of molybdenum are set forth above and apparently was the inducement for

the Commission's final action.

We think each of the suits brought in the state court against the Colorado and Southern Railway Company by Miller and by the South Park Railroad Company threatened violation of the order of the **[*260]** ***Interstate Commerce Commission*** that the Colorado and Southern should continue operation of that part of the line between Climax and Leadville. The Colorado and Southern concedes in its answer here that it is its duty in obedience to the orders of the Commission to continue that operation, but it says that it can not do so if through the state court possession of that part of the rolling stock which the South Park is seeking to obtain is in fact obtained by it, and it is obvious if Miller should **[**9]** succeed in placing a receiver in possession and charge of that part of the road that also would prevent or interfere with its operation by the Colorado and Southern Railway Company. Miller also in his state court suit seeks decree for specific performance of his contract of July 14, 1932. In this court by affidavit in opposition to the issuance of the writ, in his answer, and in his argument pro se he concedes that he can not interfere with that part of the line, but he did not offer to amend his bill in the state court by eliminating the Climax-Leadville segment from that suit. The South Park Railroad Company in its answer to the bill of the Climax Molybdenum Company offered to lease to the Colorado and Southern Railway Company the necessary rolling stock out of that described in Miller's contract that might be needed in the continuation of operations of that segment and then added as a separate defense that Molydenum Company had a plain, speedy and complete remedy at law in that it may compel the Colorado and Southern Railway Company to procure necessary cars from the South Park Company or others by normal, customary legal processes by application to and proceedings before the **[**10]** public utilities commission of the state of Colorado or the ***Interstate Commerce Commission*** of which Molybdenum Company must avail itself prior to an application to this court. We do not doubt that the District Judge exercised a wise discretion in granting the writs.

Both appellants contend that this court is without jurisdiction. Title 28 U.S.C.A., § 41, pars. (8) and (27) give the District Court jurisdiction:

"Of all suits and proceedings arising under any law regulating commerce," and

"Of all cases for the enforcement * * * of any order of the ***Interstate Commerce Commission***."

Title 49 U.S.C.A. § 1(18), (19) and (20) makes provision for th eabandonment of lines or parts of lines of railway. They require procedure before the ***Interstate Commerce Commission***.Paragraph (20) contains this:

"Any construction, operation, or abandonment contrary to the provisions of this paragraph or of paragraph (18) or (19) of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which * * * knowingly authorizes, consents **[**11]** to, or permits any violation of the provisions of this paragraph or of paragraph (18) of this section, shall upon conviction thereof be punished," etc. Lucking v. Detroit Nav. Co., 265 U.S. 346, 44 S.Ct. 504, 68 L.Ed. 1047.

It is argued with much insistence that both suits brought by the Molybdenum Company fly in the face of the prohibition of section 379, 28 U.S.C.A., which provides that the writ shall not be granted by any court of the United States to stay proceedings in any court of a state. But the writ does not stay court proceedings in either case brought in the state court. It did not seek a stay of them. Each stay order and each writ specified future acts by the parties to those suits. Neither writ commenced, directed or prohibited either court or its officers to do, not to do, or refrain from doing any thing. Moreover, that section of the statute is not one of jurisdiction. Smith v. Apple, 264 U.S. 274, 44 S.Ct. 311, 68 L.Ed. 678; National Surety Co. v. State Bank, 8 Cir., 120 F. 593, 61 L.R.A. 394; Chicago, R.I. & P. Co. v. Callicotte, 8 Cir., 267 F. 799, 16 A.L.R. 386.

The District Judge delivered an opinion in passing on the issue whether writs of injunction **[**12]** should issue. It has been certified up with the record. In reference to the South Park Railroad Company he said this:

"It appears there has been very recently organized a corporation known as The South Park Railroad Company, defendant in the case. It has no paid in capital, has never owned or operated a railroad, and there is no showing here of its ability to operate in the event it should acquire any part or all of this railroad."

That company must have been acting with, under the direction of, or in collusion with Miller, because Miller attached the contract of July 14, 1932 with the Colorado **[*261]** and Southern to his complaint in the state court,

and within less than a month thereafter the South Park Railroad Company filed its suit against the Colorado and Southern Railway Company in the state court in Summit county and it attached that same contract to its complaint. Each suit, in our opinion, was brought to circumvent and avoid the rulings of the ***Interstate Commerce Commission***.

The orders appealed from are affirmed.

End of Document

INTERSTATE COMMERCE COMMISSION REPORTS

VOLUME 166

DECISIONS OF THE

INTERSTATE COMMERCE COMMISSION

OF THE UNITED STATES

(FINANCE REPORTS)

JUNE–DECEMBER, 1930

REPORTED BY THE COMMISSION

OHIO STATE UNIVERSITY

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FINANCE DOCKET NO. 7132 [1]

COLORADO & SOUTHERN RAILWAY COMPANY ABANDONMENT

Submitted January 16, 1930. Decided June 2, 1930

1. Present and future public convenience and necessity not shown to permit the abandonment by the Colorado & Southern Railway Company of its narrow-gage line of railway and connecting branches in Douglas, Jefferson, Park, Summit, and Lake Counties, Colo. Application denied without prejudice.
2. Application of the city and county of Denver, Colo., for a certificate authorizing the abandonment by the Colorado & Southern Railway Company of a portion of its line of railroad in Douglas and Jefferson Counties, Colo., denied.

John L. Rice, *John Q. Dier*, *Kenneth L. Burgess*, *Bruce Scott*, and *Henry C. Hall* for Colorado & Southern Railway Company.

Lindsey & Larwill for Board of Water Commissioners of the city and county of Denver, Colo.; *Thomas H. Gibson* for city and county of Denver; *Harry S. Dickinson* for Denver Chamber of Commerce; *Robert E. Winbourn* and *Colin A. Smith* for State of Colorado; *Eugene A. Bond* for Board of County Commissioners of Lake County, Colo., W. W. Gaffin, W. H. Folsom, and John J. Flanagan; *B. F. Napheys, jr.*, for Board of County Commissioners of Clear Creek County, Colo.; *Carl A. Kaiser* for Board of County Commissioners of Summit County, Colo.; *John M. Boyle*, *B. L. Whatley*, and *Jack Garrett Scott* for Park County, Colo.; *Arthur E. Aldrich* for Denver Live Stock Exchange; *C. Lorimer Colburn* for Colorado Mining Association and Colorado Chapter of American Mining Congress; *Arthur Ponsford* for Colorado Land & Livestock Exchange; *Barney L. Whatley* and *Jack Garrett Scott* for Climax Molybdenum Company and Pioneer Counties Protective Association; *Swerer and Johnson* for Paradox Land & Transport Company; *Fred A. Harrison* for Summit Milling & Mining Company; *Fred L. Emerson* for Colorado Manufacturers & Merchants Association; *Warwick M. Downing* for Royal Tiger Mines Company; *Charles J. Hotchkiss* for Manufacturers Bureau of Denver, Incorporated.

[1] This report also embraces Finance Docket No. 7092, Application of City and County of Denver, Colo., for Certificate Authorizing Abandonment by Colorado & Southern Railway Company.

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REPORT OF THE COMMISSION

BY THE COMMISSION:

Exceptions were filed to the report proposed by the examiner and the case was argued orally.

On August 17, 1928, the city and county of Denver, by its board of water commissioners, filed an application in Finance Docket No. 7092, under section 1(18) of the interstate commerce act for a certificate that the present and future public convenience and necessity permit the abandonment by the Colorado & Southern Railway Company of that portion of its so-called Platte Canyon line extending from Waterton, about 20 miles south of Denver, westerly to Buffalo, approximately 19.2 miles, in Douglas and Jefferson Counties, Colo. This portion of the railroad runs through a deep canyon of the South Platte River, known as Platte Canyon, in which it is proposed to construct a large reservoir and certain smaller reservoirs for the purpose of providing an increased water supply for the city of Denver and its vicinity. On January 14, 1929, the applicant, hereinafter referred to as the city, filed an amendment to its application seeking only the relocation of the line of railroad between Waterton and Buffalo, so that it would pass around the high-water line of the reservoirs to be constructed, instead of the complete abandonment of that line. This amendment was brought about by the protests of ranchmen, miners, mining companies, merchants, and others against the abandonment sought in the original application. Counsel for the city stated that the cost of the proposed location and construction would be borne by the city and county of Denver and that the relocated line would be donated to the railway company. We are now asked to authorize the abandonment sought in the application on condition that such relocated line be so constructed.

On September 22, 1928, the Colorado & Southern Railway Company, a carrier by railroad subject to the interstate commerce act, filed an application in Finance Docket No. 7132, under section 1(18) of the act for a certificate that the present and future public convenience and necessity permit the abandonment by it of those portions of its Platte Canyon line above mentioned described as follows: (*a*) That part of its Denver-Leadville narrow-gage line extending from Waterton, Jefferson County, southwestward and westward, through Jefferson and Douglas Counties, to Como, Park County; thence northwestward to Dickey, Summit County, and thence southwestward through Summit and Lake Counties to Leadville, a total distance of 131.67 miles, together with the following branch lines connecting therewith; (*b*) all of its 3-rail branch line in Lake County extending from Leadville southeastward to Blind

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Tom mine, 2.44 miles; (*c*) all of its narrow-gage branch line in Summit County extending from Dickey northward to Dillon and thence eastward to Keystone, a total distance of 6.84 miles; (*d*) all of its narrow-gage branch line in Summit County extending from Kokomo northwestward to Wilfley's Mill, 1.1 miles; (*e*) all of its narrow-gage branch line in Park County extending from Como southward to Garos and thence northwestward through Fairplay to Alma, a total distance of 31.67 miles; and (*f*) all of its narrow-gage branch line in Park County extending from Hill Top Junction southwestward to Leavick, 11.33 miles. The aggregate length of said line and branches is 185.05 miles, all in the State of Colorado.

The Colorado & Southern Railway Company, sometimes hereinafter called the railway company, represented that the abandonment of the portion of the line between Waterton and Buffalo sought by the city would prevent all through traffic between Denver and points on the line west of the abandoned segment, which traffic is the principal source of earnings from the operation of the line, and would leave the western segment disconnected from applicant's other lines. It therefore stated that it could consent to such abandonment only on condition that it received authority to abandon the remainder of the line west of Buffalo and its branches above described. The railway company further alleged that because of the mountainous character of the country it was not practicable to relocate and rebuild the railroad around the proposed reservoirs, and that on account of the decline of mining in the State the public convenience and necessity no longer required the operation of the railroad west of Waterton, as was evident from the diminishing volume of traffic and the resulting deficits in operation.

The railway company intervened in Finance Docket No. 7092 and the city intervened in Finance Docket No. 7132. Several counties, associations, and commercial organizations intervened in both proceedings in opposition to the proposed abandonment, and Park County, Colo., filed an answer and protest against the proposed abandonment in each proceeding. A joint hearing was held upon both applications, at which the Public Utilities Commission of Colorado sat with our examiner and participated in the development of the record. Briefs have been filed. The Colorado commission recommends that the application of the railway company be denied.

The city presented testimony to the effect that the present reservoirs were inadequate and that the only place where an additional reservoir of sufficient size could be built was in Platte Canyon, now occupied by the railway. At a point about midway between Waterton and Buffalo and 29.4 miles from Denver, the North Fork and the South Fork of the South Platte River join. Just below this

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point it is proposed to erect a dam which will impound the waters of both forks, forming the proposed large reservoir, to be known as the Two Forks Reservoir, and providing a storage capacity stated in the application as 335,000 acre-feet. Two smaller reservoirs, below, are also contemplated. At the Two Forks dam the bottom of the canyon is approximately 175 feet wide and the walls are from 500 to 700 feet high. The depth of the reservoir at the main dam will probably be 360 feet, and the total length of railroad line to be inundated by the three reservoirs will be approximately 12 miles. An engineering reconnaissance for a relocated line, at least 20 feet above the high-water level of the Two Forks Reservoir, indicates that such a line would be 16.75 miles in length, would have a grade of 2 per cent for 12 miles, and would entail heavy grading, high bridges, 16 tunnels, and many sharp curves. A preliminary and approximate estimate of cost for this construction is $2,900,000. The line in its projected new location would ascend to the same elevation as the existing line, but would do this in 12 miles as compared with 19 miles of the present line. While the proposed grade would be continuous, the grade of the present line is undulating, and averages about 1.8 per cent between Thomas and Foxton. On the existing line there are several sections having grades exceeding 2 per cent, notably between mileposts 26 and 28.5, where the grades are from 2.14 per cent to 2.73 per cent. There would be no material difference in permissible train loading or in transportation cost between the present line and the line relocated as suggested.

Whether an additional water supply is needed for the city of Denver and its suburbs it is not our province to determine, and whether the expenditure by the city of $2,900,000 on the railroad in connection with such water supply is reasonable and proper we need not consider. Assuming the power of this commission to permit or require a railroad to change its line, in the interest of interstate commerce, the facts before us in this case do not justify our granting the application of the city of Denver to require the Colorado & Southern Railway Company to change its line in order to afford the city opportunity to construct a water system.

The main line of the Colorado & Southern Railway extends from Wendover, Wyo., where connection is made with the Chicago, Burlington & Quincy Railroad, hereinafter called the Burlington, southerly across the State of Colorado, to Sixela, N. Mex., connecting there with the Fort Worth & Denver City Railway. The miles of road operated by the railway company in Wyoming are about 144, in Colorado about 808, and in New Mexico about 83, a total of approximately 1,035 miles. The Denver-Leadville narrow-gage line, of which the portion west of Waterton is covered by the application in

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Finance Docket No. 7132, enters the Platte Canyon at Waterton at an elevation of 5,508 feet and from that point to Como, 68 miles west, where the elevation is 9,795 feet, the country traversed is rugged and mountainous with some timber, a few farms and large ranches, tracts of mountain meadow, and abandoned mining territory. At Como the main line runs northward, crossing the Continental Divide at Boreas, elevation 11,493 feet, and continuing on through Breckenridge to Dickey, where it turns westward to Frisco and then runs southward, again crossing the Continental Divide at Climax, elevation 11,319 feet, and thence on 15 miles further south to Leadville. The Como-Alma branch is in Park County, the best agricultural and stock-raising section on the line. Alma is in a mining district and Fairplay is the county seat of Park County. From Hill Top, a little south of Fairplay, the Leavick branch runs to the southwest. This branch was built to serve the Hill Top Mine and has not been operated since 1923.

The line proposed to be abandoned was built between the years 1878 and 1884 by the Denver, South Park & Pacific Railroad Company. The property of that company was acquired in 1889 by the Denver, Leadville & Gunnison Railroad Company and operated as a part of the Union Pacific system for several years. The Wilfley's Mill branch was built in 1895 and the Leavick branch in 1896. Following receivership of the Union Pacific, and separately, of the Denver, Leadville & Gunnison, the property of the latter passed into the hands of the Colorado & Southern, which was incorporated on December 19, 1898. The total mileage of the Denver, Leadville & Gunnison acquired by the Colorado & Southern was 336.56 miles, the consideration being $2,084,000, face amount, of stock and bonds. An apportionment of this amount assigns $1,145,830 to the mileage now proposed to be abandoned. A valuation of $3,247,612.24 is placed by the railway company on the property of which abandonment is sought, based upon our determination of value as of June 30, 1918, plus additions and betterments to 1928. For taxation purposes in 1927 the portion of these lines in Park, Lake, and Summit Counties was valued at $5,756,470. In 1928 the total valuation for tax purposes of all classes of property in Park County was $8,923,880, of which about 40 per cent was railroad property. There has been some decline in property values in Park and Summit Counties in the last 10 years.

The population of the country traversed by the Platte Canyon line is small, there being only about 3,300 people in the tributary territory, exclusive of the terminal cities, according to the estimates of the railway company, although the protestants estimate it at about twice that number. The Colorado Year Book for 1927 shows the popula-

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tion of Park County as 1,977, of Summit County as 1,924, and of Lake County, in which Leadville is situated, as 6,630. Some decline in population since 1918 is shown. Protestant's witnesses place the population of Summit and Park Counties somewhat higher, the county assessor of Park County estimating that there were 1,650 voters in that county in 1928.

The largest towns or villages on the line are Buffalo 225 inhabitants, Baileys 205, Como 125, Fairplay 200, Alma 225, Breckenridge 900, Braddocks 125, Climax 315, and Leadville 3,275. Leadville, which is said to have had 12,455 inhabitants in 1900 and 40,000 in the early nineties, is also on a branch of the Denver & Rio Grande Western Railroad, hereinafter called the Rio Grande, by which railroad it is 275 miles from Denver, although by the Colorado & Southern the distance is only about 151 miles. No other point on the line sought to be abandoned is on any other railroad.

Another branch of the Colorado & Southern runs westward from Denver, 20 or 25 miles north of the Platte Canyon line, although intervening mountains make highway communication between points on the two lines quite circuitous. The Midland Terminal Railway runs westward from Colorado Springs some 30 miles south of the easterly portion of the line to be abandoned, Divide on the Terminal being a little over 30 miles south of Buffalo, although by highway the distance is considerably greater. The Rio Grande runs westward from Pueblo and then northward through Buena Vista and Leadville, Buena Vista being about 20 miles southwesterly from Garos and about 30 miles from Como, although by highway it is some 41 miles from the former and 51 miles from the latter point.

There are summer resorts on the line sought to be abandoned, namely, Longview, Foxton, Critchlow, Fairplay, and other points. Testimony of the proprietors of some of these resorts indicated that this class of business in this section has been declining and that as patrons of the resorts travel more generally by automobile they bring little traffic to the railway. Some hotels built by the railroad have been discontinued.

On the easterly part of the line the ice business is important. Ice is hauled by rail to Denver from Crystal Lake and Maddox, respectively 43 and 58 miles from Denver, during one or two months in winter. It constitutes the heaviest tonnage of any commodity handled by this line, 22,535 tons having been handled in 1927, from which the Colorado & Southern received a revenue of $27,751.75. This is considered a profitable item of traffic, but its short period is complained of by the railway company, whose computations show that if the ice traffic of 1928 were spread over the entire year, it would amount to only 3.8 carloads, or $65.77 a day, based on the

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freight rate applying before a reduction was allowed in the fall of 1928. The ice plant at Crystal Lake has an approximate value of $40,000, and the storage houses, etc., in Denver, operated in connection therewith an estimated value of $60,000. Nearly 300 carloads of ice were shipped from Crystal Lake in 1928, and larger amounts have been sent out in former years. The average number of men employed is 40. On account of the purity of the ice, it is the manager's opinion that another location for his business could not be found, and that the abandonment of the railroad would result in serious loss to his company. A similar situation appears to confront the ice plant at Maddox. This plant is valued at $56,000, and together with the houses and equipment in Denver, at $200,000, all of which would be lost, in the opinion of its owner, if the line were abandoned. Between 120 and 130 men are employed at Maddox during the cutting season, and total shipments have approximated 1,000 carloads annually for four years. The trucking of ice to Denver is not considered practicable by the ice men. Evidence was introduced to show the increasing use of electric refrigeration, and the railway company contends that this will cause the gradual abandonment of the natural ice business on the line. On the other hand, the protestants fear that cutting off the ice supply at the points mentioned may cause a shortage in Denver.

National forests constitute more than half of the land in Park and Summit Counties. Forest products furnish considerable traffic to the railroad. Between Waterton and Como, 88 miles from Denver, there is timber production, mostly in the form of mining timbers, poles, and railroad ties. These are cut both in the National forests and on private lands. A timber company operating near Jefferson, 81 miles from Denver, employs from 50 to 75 men in getting out telephone poles. It shipped 189 carloads of poles and other material in 1927 and 138 carloads in 1928. In 1929 it is expected to ship 300 to 400 carloads. A producer and buyer shipping mostly from Baileys estimated that he would ship about 300 narrow-gage carloads of railroad ties and about 200 carloads of mine props to various points during 1929. Baileys, Grant, and Webster, respectively 55, 66, and 69 miles from Denver, have been the principal shipping points for forest products. The Colorado & Southern has obtained an average of 64,588 narrow-gage ties annually along the line since 1924. The National Creosoting & Lumber Company is building a treating plant in Denver, which is improving the outlook for standard-gage ties. This plant, when fully completed, will have a capacity of 1,500,000 ties a year. The creosoting company has an interest in several timber areas, and has set up a mill at Buffalo for the manufacture of ties and lumber. In the six years 1923–1928

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there were handled on the line 864 cars of lumber, 3,579 cars of logs, props, and poles; 171 cars of ties, and 39 cars of other forest products; total 4,657 cars, or an average of 776 cars per year. For these six years, respectively, the carloads transported were 737, 535, 721, 859, 938, and 869. The total revenue to the railroad from forest products in these years was $141,022, or $23,503.70 per year. Several shippers testified that they expected to increase their shipments, but little reliance is placed by the railway company upon increased lumber production in this territory, the view taken being that only a small part of the forests in Colorado is reached by this line, and that all the timber needed can be obtained from other sections. Attention is called to the small amount of revenue traffic in forest products in the past, the average for the years 1923 to 1929 being only 2.1 carloads a day. It is estimated that there are nearly 700,000,000 board feet of standing timber in the Pike and Leadville National Forests within 20 miles of the line to be abandoned. It is testified that for the last five years the average annual cut from these forests has been 3,200,000 board feet. The allowable cut from the Leadville National Forest is between 7,000,000 and 10,000,000 feet a year, but in 1928 only between 1,000,000 and 2,000,000 feet were cut.

Another potential source of traffic on the South Platte line is granite, of which an immense quantity exists near the proposed reservoir site. A quarry is now in operation about 35 miles from Denver and is so situated as to be unaffected by the proposed reservoir. Its proprietor stated that the granite could be transported only by rail, and that, having tried hauling by trucks, he could not compete with quarries which had railroad facilities. It is testified that there is a prospect of supplying 18,000 tons of this granite for a proposed municipal building in Denver if this line be not abandoned. Shipments from the quarry mentioned have, however, been extremely light for several years. In 1924, 30 cars were shipped, 8 cars in 1925, 6 cars in 1926, 3 cars in 1927, and none in 1928.

The chief agricultural and stock-raising district on the Platte Canyon line is in the northerly part of the section called the South Park in the central part of Park County and includes a plateau around Garos. In this area the number of sheep increased from 34,400 in 1924 to 59,800 in 1928. In the latter year 12,000 sheep were brought into South Park for replacement. Approximately 46,000 sheep and 18,000 head of cattle, not including young stock in either case, are wintered in Park County. A raiser of livestock in that county testified that he shipped about 35,000 head of stock over the line annually. Another witness stated that in 1928 there were shipped from the county 33,500 lambs, 8,000 ewes, 40,200 pounds of

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wool, and 20,000 pelts. A livestock company owning 80,000 acres of land south of Garos keeps 20,000 to 25,000 sheep and buys 4,000 annually for replacement. It is estimated that the investment in the sheep industry in Park County in 1928 was $2,000,000 and that the total value of the products was $433,000. Sheep are also extensively grazed in the Leadville and Pike National Forests. From all stations on the line 177 carloads of cattle were transported in 1927, of which 28 carloads were shipped from Buffalo. The Denver stockyards received during the five years 1924–1928 a yearly average of 291 carloads of cattle and 278 carloads of sheep from points on this line, and forwarded from Denver over the line an average of 178 carloads of livestock a year.

The feasibility of trailing or driving sheep and cattle to other railroads, namely the Rio Grande or the Midland Terminal, and the trucking of lambs to market in Denver, were made the subject of extended testimony both by the protestants and by the railway company. Much livestock is brought to the Denver stockyards each year by motor trucks and by driving over the highways, although it was testified that there was practically no drive-in to the stockyards from the territory served by the Platte Canyon line and that few shipments from that territory are trucked in. The record shows that in other parts of Colorado and in Wyoming the trucking of cattle, sheep, and wool is successfully carried on for long distances. The railway company relies on these facts to support its argument that there is no substantial reason why the stockmen of Park County can not trail or haul their stock to the Rio Grande or the Midland Terminal, although the largest ranch is 33 miles from Buena Vista on the former road and 28 miles from Divide on the latter. Driving stock on much traveled roads, however, is difficult.

The hay crop is also of some importance. In 1927 there were shipped on the line 1,630 carloads of this commodity and the yearly average for the years 1923–1928, inclusive, was 1,374 cars. The annual production of hay in Park County is stated as 26,500 tons and the average annual shipment by rail is 10,120 tons. Much wild hay is produced on the ranches, and the valuation of the hay lands in Park County tributary to the railway was estimated at $1,308,550. The value of the hay produced in Summit County in 1928 was $208,283. A witness estimated the investment in cattle, sheep, and hay, including the ranches, at about $4,000,000. As to the transportation of hay, it was testified by ranchers that in the event the railroad were discontinued no more hay would be marketed, as it could not be handled by trucks, and that not enough livestock could be raised to consume the surplus. Although the railway company

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shows that on the entire line in question hay traffic has averaged less than four carloads a day for six years, it appears that the average annual revenue of this line therefrom is $39,614.69.

The industries hereinbefore described are probably of less importance from a traffic standpoint, or in connection with a determination of the need for rail transportation, than is the mining industry. The railway company alleges that the business of metalliferous mining, for which the line was built, has been almost wholly discontinued in the tributary territory, and that the small amount of ore and concentrates from Alma, Breckenridge, and Climax can be trucked to Leadville and shipped over the Rio Grande. It is in the general locality of these places that mining began some 50 years ago. The production of gold, silver, copper, lead, and zinc in Lake County began in 1878 and reached a peak in 1882–83, and again in 1916, but in 1928 was only slightly greater than in 1878. In the State as a whole mining was at its height about 1893. Several daily trains were then needed to handle the ore. Kokomo and Robinson were large towns and Leadville was an important city. Many smelters were then in operation in the State; now there is but one at Leadville and one at Durango, neither operating at capacity. There has been a marked let-up in mining activity all over the State. Between 1913 and 1926 there was a decrease of 52.57 per cent in the assessed value of all mining property, as compared with a decrease of 3.84 per cent in other property. The corresponding declines in the counties here principally considered were as follows: Park County, mining property 22.37 per cent, other property 1.21 per cent; Summit County, mining property 48.94 per cent, other property 9.46 per cent; Lake County, mining property 58.18 per cent, other property 46.49 per cent. The evidence shows some recent increase in mining activity in Park County, there being now 17 or 18 active mining operations in that county as compared with 5 or 6, two or three years ago. None of these mines, however, are producing in much volume except the London, hereinafter considered, and that only in a moderate way.

This decline in mining has resulted in the abandonment of several rail lines in central Colorado, including the Colorado Midland through Lake George, Hartsel, Leadville, and Glenwood Springs; lines of the Rio Grande Western, between Leadville and Dillon, between Colorado Springs and Cripple Creek, and between Canon City and Cripple Creek; and lines of the Colorado & Southern extending southerly from Garos, through Buena Vista and St. Elmo to Quartz.

It is clear that a virtual exhaustion of the high-grade noncomplex ores in Colorado has caused the present condition in mining. Leaving out of consideration for the present such special metals as

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molybdenum and manganese, the ores now found are complex ores commonly containing gold, silver, copper, lead, and zinc, and requiring a milling process of separation instead of the smelting process formerly employed. Zinc can not be smelted by the ordinary blast-furnace method. In zinc smelting, lead can not be treated, and the lead, gold, and silver are usually lost. In lead smelting, all zinc is lost, and a penalty is imposed for a percentage exceeding 8 per cent of zinc in the ore. In order to handle low-grade ores containing zinc and lead, a separating process must now be employed before smelting can be done.

This separating process by milling has been known for a long time but has only been in actual operation for a few years. Previously, more expensive treatment, described as jigging and tabling, and as baking, were used. As now applied in Colorado, for the separation of lead and zinc, the milling process is called selective flotation. By this method, crude ore is ground and treated with oil and certain chemicals which cause the mineral to float to the surface. By a "differential," separate concentrates of copper, zinc, etc., can be made in separate vats. While by this process of milling or selective flotation lower-grade ores can be worked than could be used at the old smelters, the milling plants and machinery are expensive, so that much capital is required to work the mines.

The London Gold Mine Company, at Alma, has recently been increasing its business. Payments made by it for wages, supplies, etc., in 1928 were $182,180, while in 1924 they were $10,175. Ore shipments in 1928 consisted of 101 carloads, having a value of $210,206, as compared with 20 carloads having a value of $37,712 in the preceding year. After 12 years of development work, including the construction of a tunnel at a cost of about $500,000, the outlook for 1929 is thought to be good. This mine, which was a large producer 30 years ago, has a quartz sulphide ore containing gold, lead, and silver, estimated to be worth about $85 a ton, or $80 a ton after smelter charges. The cost of production was not stated. About 90 per cent of the ore is shipped to Leadville, and 10 per cent to Colorado City. This is a case where the ore is of sufficiently high grade to be treated in a lead smelter and not to require milling. The mining company's engineer testified that they expected to reach a production of 40 cars a month within a few months and that they would be able to ship at that rate for 10 years if the railroad continued to operate, but that if the railroad were abandoned, the mine would either have to close or a mill would have to be built. The mine is 91 miles by rail from Leadville, but the direct distance over the mountains is only 6 or 8 miles. There is no direct highway, although there was formerly a stage road over the mountains, which

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could possibly be made usable for trucks by the mine owners or the county. There is another gold mine at Alma apparently not now in operation, the owners of which are considering the building of a mill. A recent increase in general activity in the Alma region is indicated by the testimony of a local witness that there were billed out at Fairplay 750 carloads of freight in 1928 and only 208 carloads in 1927.

At Tiger, near Breckenridge, in Summit County, a large expenditure has been made in development work on old properties of the Royal Tiger and Cashier mines, which contain low-grade ores of zinc, lead, copper, iron, and some gold and silver. The testimony indicates that the ore found is sufficient to justify production on a large scale, although shipments in recent years have been insignificant. The president of the Royal Tiger Mines Company testified that his company had expended $2,500,000 in the last 10 years, of which over $2,000,000 was for the construction of from 15 to 17 miles of tunnels and other development work; that upwards of 13,000 assays had been made at an expense of nearly $300,000; that some 30,000 tons of ore had been put through a testing plant at an expense of nearly $300,000; that over $180,000 had been spent in the installation and equipment of a plant for treating, under the method of selective flotation, 300 to 350 tons of ore per day; that preparations were being made to bring the tonnage up to 1,000 tons a day and that the budget was arranged to obtain 2,500 tons a day by the end of 1929. It was further testified that their development now justified the installation of a plant of not less than 10,000 tons a day capacity, with ore blocked out to keep it going 40 years, and that the ore in the Royal Tiger mines is worth $30,000,000.

It is estimated that this ore has a gross value of $7 a ton and upwards and the expense of mining, milling, transportation, and overhead is figured at about $4 per ton, or only about half of what it costs at the Wellington Mine next considered. From 100 tons of ore are obtained about 3 tons of concentrates, so that with a production of 2,500 tons per day there would be about 75 tons of concentrates for shipment. Thus far it has been all development work and practically no shipments have been made. The president of the company testified that he could not say that the shipments in the last 10 years would amount to 10 cars. He indicated, however, that shipments would begin soon and that the railroad would be indispensable. He thought that the movement of their concentrates by truck would be entirely impracticable and said that he had given some consideration to operating the line in case such operation were forced upon them by the abandonment proposed.

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Another mine near Breckenridge is the Wellington, containing an ore from which lead and zinc concentrates are made. A flotation separating plant was completed in July, 1927. About 120 men are employed. The lead concentrates are sent to Leadville and the zinc concentrates to Amarillo via the Colorado & Southern. Although there has been some decline in the business of this company it appears that nearly 300 carloads of freight were moved in 1928 and that the railway company secured approximately $16,000 in revenue therefrom. It was testified that they could not profitably work ores from this mine worth less than $9 or $10 a ton. The Aco Mining Company is also developing a milling ore at Breckenridge, but has not yet started shipping.

The Utah Gold Mining Company, about 7 miles northwest of Como, employs a small force and expects to erect a mill for treating complex ores, but it offers no definite or dependable assurance of furnishing any material rail traffic. The King Solomon mine, near Frisco, and the Wilson mines, near Robinson and Kokomo, are not operating. On the Wilfley's Mill spur are the Kimberly and Wilfley's mines, which are being operated in an experimental way, but no shipments have been made from the spur since 1927 and it is no longer usable. At or near this branch are also the Free America and Kokomo claims, said to be just starting operations, and two abandoned mines. The Free America expects to ship from 300 to 500 tons a month.

Some shipments of concentrates from mines in Clear Creek and Gilpin Counties, north of the line to be abandoned, are made by that line to Leadville, 112 "dry" tons having been shipped from Gilpin County and 1,687 "dry" tons from Clear Creek County in 1928. It is testified that there are good prospects of increased shipments from these counties.

The smelter at Leadville is owned by the American Smelting & Refining Company. It treats gold, silver, lead, and copper ores and concentrates, other than zinc. It is the only smelter accessible to the counties which have been mentioned in this report. In 1928, 5,927 "dry" tons of ore were shipped to it from Summit, Clark, Gilpin, and Clear Creek Counties over the narrow-gage line now sought to be abandoned. Considerable increase is looked for by the manager of the smelter from the Alma and Breckenridge regions. If this smelter should shut down, only the higher-grade ores could profitably be sent to Salt Lake City or Durango. All lead smelters have had a decrease in business since the selective process has been adopted. The ores mostly remaining must be subjected to this process in order to separate the zinc before the smelters can handle them.

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A committee, of which the State commissioner of mines was a member, has been investigating the establishment of a reduction plant at Denver for combining smelting with other processes in the treatment of low-grade zinc ores. From local examinations and reports an estimate of the probable tonnage of ore for such a plant was made. This indicated the following amounts to be available on a daily basis in the counties concerned in this case: Clear Creek County 700 tons, Gilpin County 300 tons, Park County 500 tons, Summit County 800 tons. The cost of the project, embracing a smelting and concentrating plant, is estimated at $1,500,000 or $2,000,000, and with an electrolytic plant in addition, $5,000,000 or $6,000,000. Secrecy surrounds the negotiations to form a new company for this enterprise, but the promoters have confidence that it can be financed. It is intended to follow the methods employed at the International Smelting & Refining Company's plant at Tooele, Utah, where a mill separates the zinc in the ore. The lead concentrates go to the lead smelters, the copper goes to the copper smelter, and the zinc goes to an electrolytic plant for treatment.

The foregoing outline of mining conditions covers the production of zinc, lead, and associated metals. In addition there is found, at Climax, the rare metal molybdenum, used in steel alloys during the World War and later to a constantly increasing extent in the manufacture of automobile parts, bearings, rolls, mining machinery, etc. The production of molybdenum steel increased from 7,500 tons in 1921 to 400,000 tons in 1928, having exceeded that of other alloys, such as chrome, nickel, and tungsten. It was testified that 95 per cent of the world's supply of molybdenum is in the United States, and that 85 per cent is at Climax. Average molybdenum steel is composed of 5 pounds of molybdenum to 1 ton of steel. The Climax Molybdenum Company, begun in 1916 because of a world shortage of tungsten, operated for war purposes until the time of the armistice, and then for several years expended over $100,000 a year experimenting, and endeavoring to develop a peace-time market. Active operation was resumed in 1924, and has increased rapidly, due in large part to the adoption of this metal by the Timken Roller Bearing Company. In 1928, 321,448 tons of crude ore were mined and milled here, in comparison with 92,263 tons in 1925. A force of 220 men is employed. Rail shipments in 1928, generally to Galveston, Tex., for export and to Langeloth, Pa., comprised a total of 124 carloads, upon which $44,924 was paid in freight charges, and the inbound traffic of the mine consisted of 375 carloads. Its president testified that the company had invested roughly $2,500,000 and had put $1,000,000 or $1,500,000 back into the property, so that its investment was really $3,500,000 or $4,000,000. The Climax mill

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is at present treating over 1,000 tons of ore daily, and with the enlarged plant which has been authorized, will treat 1,500 tons a day. This is considered by no means of final maximum. Much development work has been done and the last inventory of the company's ore reserves, made January 1, 1929, and based upon nearly 12,000 feet of diamond-drill holes and 8 miles of underground workings showed 20,158,000 tons. The limits of the deposit are not known, but it is testified that on the tonnage blocked out, now the mine is good for 40 years at the rate of half a million tons a year.

The concentrates of molybdenum ore are so concentrated that only about 1 ton is derived from 100 tons of ore. The shipments to and by the company furnish the railroad about 500 carloads a year. The applicant obtains only a short haul on considerable of this traffic as the company's coal, part of its lumber, and part of the steel balls, of which it uses about 60 carloads a year in its operations, come by the Rio Grande to Leadville.

The interest shown in this plant by the Timken Roller Bearing Company, the Central Alloy Steel Corporation, and the United States War Department, the widespread market which has been developed throughout the country, and the showing of increased uses for this alloy, all entitle the Climax enterprise to be regarded as important. As to the stability of the business from an earning standpoint, some inference may be drawn from the president's statement that the production cost of the concentrates ready for shipment is about $300 a ton and their value about $600 a ton. Some competition from New Mexico, Norway, and Australia is admitted.

The molybdenum mine is located at the top of the Fremont Pass, elevation 11,319 feet, where much trouble is encountered in highway transportation because of snow. Although by highway it is only 18 miles or less to Leadville, and downhill, great difficulty is experienced in keeping the highway open. It was closed from November 14, 1927, to May 20, 1928. While it is said that the roads are pretty good in summer, it is testified that the mine could not be operated economically without rail transportation. In the development of this mine, reliance has evidently been placed on the continuance of railroad service. Rejecting suggestions that the highways be used, that a tramway be built to Leadville, or that the portion of the railroad between Climax and Leadville be taken over by them, the mining company's representatives desire that no change be made in existing transportation conditions. They do not say, however, that the company would go out of business if the railroad were abandoned.

A protest against the proposed abandonment of the railroad was made in the form of a resolution by the Colorado Mining Associa-

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tion and the Colorado Chapter of the American Mining Congress, which are working for the proposed Denver plant. It may be conceded that such a plant would, if installed, have a beneficial effect on the traffic possibilities of the line in question, but the large amount of money required for its construction is by no means assured. The railway company treats the project as a remote possibility, and claims generally that the oil flotation process offers no solution of the railroad problem. It shows that while the value of gold, silver, copper, lead, and zinc produced in Summit and Park Counties increased from $372,600 in 1872 to $2,988,363 in 1881, declined to $642,083 in 1885 and increased to $2,104,153 in 1915 it declined to $761,790 in 1925, since which year it has been $680,427 in 1926, $588,387 in 1927, and $675,442 in 1928. It is also shown that whereas under former systems of mining ores were bulky and furnished much tonnage to the railroads they are now so concentrated that the tonnage is much less, the concentration being so great in the case of molybdenum that only about 20 pounds of concentrates are obtained from a ton of ore.

The Platte Canyon line is difficult and expensive to operate on account of heavy grades, excessive curvatures, and unfavorable climatic conditions. On the 163 miles of line between Waterton and Leadville, including the Como-Alma branch, there are 1,092 curves totaling 61.3 miles in length and making 101 complete circles. The sharp curves vary from 20° to 32°. The steep grades are from 2.03 to 4.2 per cent eastbound and from 2.38 to 4.49 per cent westbound. An average of 2.58 locomotives is required per train to haul an average of 369 gross tons over Kenosha hill; an average of 1.7 engines per train of 194 gross tons is required over the Boreas hill; and 1.5 locomotives are able to haul but 238 gross tons up the grade at Climax. The rail in service is chiefly 52 pounds to the yard, but some of it is as light as 35 and some as heavy as 60 pounds. Low temperatures are common in winter. The snowfall in recent years has been as heavy as 114 inches during a winter. The delays and expense caused by storms, snow slides, and washings were shown to be considerable.

Every effort has apparently been made to keep the cost of operation low. On the 185 miles proposed to be abandoned, only 23 to 25 sectionmen and one roadmaster are regularly employed, and there are agents at only eight stations. Two freight trains a week are operated in each direction between Denver and Leadville and two corresponding trains are run between Como and Alma. Passenger service is operated daily, except Sunday, with additional trains in summer between Waterton and Grant to accommodate fishermen. The Public Utilities Commission of Colorado has refused applica-

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tions to further reduce service. The equipment in service consists of 7 passenger locomotives, 14 freight locomotives, 32 passenger-train cars, and 731 freight-train cars. This is little more than half the amount of equipment used in 1900. The locomotives are old and some of them are stated to be in very poor condition. Protestants attribute the high cost of operation of the line largely to poor equipment.

In the years 1923 to 1927 the principal commodities handled on the Denver to Leadville line and branches were the following:

	1923	1924	1925	1926	1927
	Tons	*Tons*	*Tons*	*Tons*	*Tons*
Cattle	3,467	2,667	2,931	2,782	3,199
Sheep	2,176	2,673	3,360	3,119	2,946
Coal	9,256	9,327	9,293	9,975	9,099
Clay, gravel, and stone	7,032	8,709	12,800	13,045	8,869
Hay	8,167	10,257	9,205	7,621	10,980
Ice	31,340	27,521	25,942	28,765	22,535
Lumber	2,112	1,393	2,092	2,179	2,674
Logs, props, and poles	8,664	5,605	7,453	9,389	10,441
Ores	25,159	11,819	15,247	16,181	13,825
Sugar beets	2,293	----------	3,669	6,098	7,456
Total (all commodities)	109,165	95,244	100,971	108,738	102,430

The total tonnage handled on the line to be abandoned, that is, excluding the section Denver to Waterton, is stated as 95,014 tons in 1923, 78,895 tons in 1924, 80,958 tons in 1925, 86,058 tons in 1926, and 71,009 tons in 1927.

The record shows that the ore transported over the Platte Canyon line consisted of 895 carloads in 1923, 480 carloads in 1924, 631 carloads in 1925, 639 carloads in 1926, 548 carloads in 1927, and 472 carloads in 1928. Protestants claim in brief that the tonnage for 1928 was considerably more than above stated. The number of passengers carried on the line, Denver to Leadville, decreased from 34,366 in 1923 to 24,114 in 1927 and the revenue from passenger traffic decreased from $85,994 to $52,560 in the same time. The passenger revenue allocated to the line from Waterton to Leadville declined from $62,763 in 1923 to $39,936 in 1927.

For the 18 years 1910 to 1927, inclusive, the operating revenues of the line covered by the railway company's application averaged about $330,000 a year, the operating expenses about $490,000, the operating deficit about $167,000, and the operating deficit after taxes about $240,000 a year. The operating revenues decreased from $444,813 in 1920 to $266,859 in 1927. The operating expenses for those years respectively were $800,713 and $463,650. For the eight years 1920 to 1927, inclusive, the operating deficits are shown as $1,811,833, or $226,479 per year, and the operating deficits after taxes as $2,713,361, or $339,170 a year.

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The operating ratio on this line is high on account of the character of the road and of the country traversed, as hereinbefore shown, and the light traffic. This light traffic is forcibly shown by the fact of record that the average revenue ton-miles per mile of road operated on this line were only 31,357, while on the remainder of the Colorado & Southern lines they were 1,106,812; that is, the traffic density on this line is only about 3 per cent of that on other parts of the system. Maintenance-of-way cost is 51.3 per cent of operating revenues as against 28.78 per cent on the Colorado & Southern as a whole. The wages of enginemen and trainmen in the freight service are high on account of mountain differentials and much overtime.

The income account of the Colorado & Southern for 1927, the last full year for which statistics are given, shows net railway operating income of $1,214,511, and the record shows that $1,610,000 was paid in dividends. The railway company was able to pay its fixed charges and these dividends because the amount of its nonoperating income for that year, exclusive of hire of equipment and joint-facility rents receivable, was $5,723,346. The operation of the line proposed to be abandoned, however, was a serious burden upon interstate commerce.

Protestants assert that as the line at the time of its acquisition owned terminal rights and facilities in Denver which are now of great value, it is unfair to the line and the industries and people along the line to give separate consideration to the line from Waterton to Leadville to the exclusion of those terminal rights and facilities. We are not impressed by this argument. The fact that part of a line acquired in the past is profitable should not foreclose the abandonment of another part acquired at the same time which is unprofitable and a burden upon interstate commerce.

The deficits mentioned, which officers of the railway company say have aggregated enough in the last nine years to rebuild the road, were sustained in spite of the fact, shown by the record, that the freight rates are higher on this mountain railroad than on roads of lower elevation, the average revenue per ton-mile between Denver and Leadville being $0.03495, while on the remainder of the Colorado & Southern system it was $0.01134, and the average passenger fare being about 6 cents a mile as against 3.5 cents on other parts of the system. Some of the protestants state that they would rather pay higher rates than have the railroad abandoned. It appears doubtful, however, that the traffic would bear higher rates. Denver shippers want the Platte Canyon line retained in service because it gives them competitive rates to Leadville. If the line is to compete with the Rio Grande it certainly can not raise rates much. It also appears, as above noted, that the Climax Molybdenum Company

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has been bringing in carloads of steel balls used in its mill operations and other supplies over the Rio Grande because it could not get a satisfactory rate over the Platte Canyon line.

Protestants criticize the statements of operating revenue and expenses of the Platte Canyon line submitted by the applicant, because they are figured on a mileage basis instead of on the basis of the rates fixed for different parts of through hauls. To illustrate this point they say that the total rate on zinc concentrates from Breckenridge to Amarillo, Tex., is made up as follows: $2.80 Breckenridge to Denver, 110 miles; $2.50 Denver to Amarillo, 465 miles. This line, they say, actually earns $2.80 of the total charge, but is credited with only 91.23 cents on a mileage basis. As 6,572 tons of zinc concentrates were shipped from the Wellington mine at Breckenridge in 1927, the total charge for which was $34,832, the line to be abandonded should, they say, have been credited with $18,402 of this amount but on a track-mile basis would be credited with only $5,996. The method employed by the railway company, however, involves a comparatively small amount of allocation of revenues, as most of the traffic is local. It appears that of the total freight and passenger revenue shown for the line west of Denver for 1923, only 8.26 per cent is prorated on a mileage basis, and for 1927 only 7.59 per cent. The remainder was local traffic.

Other objections raised by protestants to the applicant's analysis of the income and expenses of the line were in regard to apportionment of the general expenses of the system, to allocation of the cost of operating the Denver terminals, to an alleged excessive amount charged to this line for superintendence, and to the inclusion of taxes, which it is claimed would not be saved. Of $577,332 charged as operating expenses to the line in 1927 the sum of $78,612 represents an apportionment of system expenses, and of this amount about $52,407 is assigned to the line west of Waterton. Protestants contend, but do not satisfactorily show, that none of this would be saved by abandonment. Again, $27,707 of the operating expenses represent a portion of the applicant's cost of operating Denver terminals. Protestants claim that this apportionment, made on a car-mileage basis, should have been made on the basis of the number of cars handled. It was shown by the railway company, however, that an apportionment on a cars-handled basis would have produced a larger sum.

An important question raised in connection with the company's showing of loss on the line proposed to be abandoned was in the matter of taxes. This line is charged with taxes approximating $112,000 a year from 1920 to 1926, and with $125,649 in 1927. A member of the Colorado Tax Commission testified for the prot-

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estants that, if the method used by that commission in levying railroad taxes in the past were followed, the Colorado & Southern would save nothing by this abandonment, that its taxes would probably be increased thereby, because the value of the company's physical property is determined by the capitalization of its earnings at a certain rate per cent—7 per cent in 1928—and if its earnings were increased by the abandonment of a line which is operated at a loss an increased value would be given to the company's physical property, notwithstanding the abandonment of part of it. The chairman of that commission, however, testified that it could not be told in advance what the assessment would be and that if 185 miles of railroad were abandoned the Colorado percentage of the whole system would be decreased accordingly, and that would be a factor tending to reduce the taxes; that he had never known a case where the junking and elimination of railroad trackage did not tend toward the decrease in the assessed valuation of the railroad. We are not impressed by the argument that the abandonment by the applicant of 185 miles of railroad, about 23 per cent of its mileage in the State and nearly 18 per cent of its total mileage, would not tend toward a reduction in its taxes.

The protestants also claim that if the feeder value of this line to the Burlington, the proprietary line of the Colorado & Southern, were ascertained and added to the income credited to the line the alleged deficits would be wiped out. A definite measure of feeder value to the Burlington is not directly provided by the record. However, from the exhibits showing individual shipments from December, 1927, to November, 1928, it appears that the Burlington participated in handling many such shipments, mostly of small tonnage. The amount of this traffic clearly shown to have been over Burlington lines during this period was about 3,125,000 ton-miles, with an additional 788,000 ton-miles indicated by shipments forwarded from or destined to points suggestive of Burlington routing in part. If the average 1928 revenue of the Burlington of $0.00982 per ton-mile be applied to these figures, the Burlington might be said to have received somewhere between $30,687 and $38,431 from traffic of the Colorado & Southern line west of Denver in the period stated. The expense to the Burlington of handling this traffic is not of record.

Protestants assert that a great saving could be made by the railway company in operating the line in question by securing new and heavier motive power. The opinion was expressed that three of the engines now used on the line are only 65 to 70 per cent efficient and the others only 20 to 25 per cent. It was thought that eight

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new locomotives would be sufficient for the line and that they would cost about $50,000 each. Materially heavier engines, however, would require the rebuilding of the road with heavier rails, all of which would involve greatly increased expenses. The railway company does not consider these expenses advisable in view of the industrial conditions shown by the record.

If the abandonment sought is permitted, the Colorado & Southern offers to donate the line to be abandoned, or any part or parts thereof, to such local interests or communities as may desire to continue operation. It also offers to donate for that purpose such of the locomotives and other rolling stock used on the line as may be necessary for its continued operation. It further states in its brief that assurance has been given by the trustee of the refunding and extension mortgage that arrangements will be made for a release of the line from this mortgage in case we authorize the abandonment and the company's offer to other interests is accepted. It is stated that the only other mortgage on the line is now being paid off. To the objection of protestants that the line to be abandoned is of little value without the segment from Waterton to Denver, giving it access to the latter city and opportunities for connection with the railroads at that point, counsel for the Colorado & Southern stated at the argument that the railway company was perfectly willing to have us condition any certificate granting the abandonment requested "upon the Colorado & Southern not only donating this line which it seeks to abandon but transferring to the railroad company or person who takes it the line from Waterton up to South Park Junction in the corporate limits of Denver, including the so-called Morrison branch and the so-called Silica branch." South Park Junction is the end of the narrow gage, where it meets the broad-gage line of railroad. It is about 2 miles from the passenger station in Denver.

The territory and interests served by the Platte Canyon line would not be left without transportation facilities by the abandonment proposed. The record shows that there are good highways in the region in question connecting the principal towns on the line and connecting the territory served by the line with points to the north and to the south, although they have some heavy mountain grades. Automobiles and motor busses have already taken from the line a large part of its passenger traffic and will, it is believed, care for the rest of that traffic in a satisfactory manner. Motor companies are also prepared to establish lines of motor trucks in the territory concerned and the railway company offers to donate the roadbed of its line for highway purposes, if it is not used as a railway, and thus provide a highway of easy grades. It is doubtless somewhat easier to keep the railroad open in winter with steam locomotives

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and rotary plows than it is to keep the highways open, but representatives of motor companies testified that their motor lines were kept in operation all winter with few interruptions to traffic. A motor transport company, operating busses and trucks carrying all kinds of freight proposes to apply to the State commission for permission to enter this transportation field if the railroad is abandoned, and its president thinks that service can be provided during 90 per cent of the year. In the easterly part of the territory motor trucks would perhaps handle most of the traffic in a satisfactory manner. Livestock, as above shown, is in many cases transported long distances by trucks. Lumber and ice can be economically hauled by trucks for short distances. The ice traffic would probably be injured, but long-distance transportation of ice is steadily decreasing due to the increased use of manufactured ice and to electric refrigeration. Lumber transportation would also doubtless be affected, but the tonnage furnished by this industry is relatively small. Hay perhaps can not be advantageously hauled long distance by truck, but more of it probably could be used to advantage on the farms and ranches by increasing the holdings of livestock. Long hauls of granite by truck are also probably impracticable, but the granite quarries have furnished little traffic in the last few years and they seem not to be at a prohibitive distance from Waterton and that part of the line which will be continued in operation.

While the mining industry seems to need the railroad more than any other, the mines are mostly on the westerly part of the line and their products largely move to Leadville. Only three mines are at present producing tonnage in considerable volume, the London mine at Alma, the Wellington mine at Breckenridge, and the Molybdenum mine at Climax. As to the London mine, in case of the abandonment of the railroad, if it were found to be impracticable to transport the ores by truck over the mountain and no one were willing to operate the railroad, it might be necessary for the company to build a mill, as its engineer suggests. As for the mines at Breckenridge, Frisco, and other points in Summit County and at Climax in Lake County, the operation of the railroad between Breckenridge and Leadville would take care of this traffic, and it would seem that if those mining interests are badly in need of the railroad they might find a way to operate it in view of the railway company's offer to donate the railroad and equipment. In behalf of the Royal Tiger mine, which, while not presently producing much tonnage for the railroad, has, as we have seen, been making expensive improvements, it was indicated, as above noted, that the management has given some consideration to the operation of the railroad in case of its abandonment by the railroad company.

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The record before us, so far as it relates to existing operations, would justify the issuance of the certificate sought. It shows continuing losses in large amounts for many years from the operation of the line in question. Operations at the cost of so serious a burden upon interstate commerce can not be expected to be continued indefinitely. We must, however, consider the needs of the communities and interests served and their showing as to future prospects of traffic for the railroad. Although, as indicated herein, the testimony as to those prospects is conflicting, we are sufficiently impressed with the representations of the protestants to afford an opportunity to test their predictions. Accordingly, we will deny the application without prejudice to its renewal by the applicant after the expiration of 36 months from the date hereof if it can show that the situation has not materially improved.

In the meantime, possible economies in operation, such as might be effected by reducing passenger service, changing freight schedules, and perhaps improvement of equipment, should be developed. It is also possible that the cooperation of the State through reduction in taxes can be secured. The public served by the road should realize that the continuation of the service is dependent primarily on the traffic furnished. If the people desire to retain the service of the railroad they will no doubt appreciate the necessity of providing it with sufficient traffic to enable it to live.

The application of the city, in Finance Docket No. 7092, for a certificate that public convenience and necessity permit the abandonment by the Colorado & Southern Railway Company of that portion of its Platte Canyon line extending from Waterton to Buffalo, on condition that the city build a relocated line in its place, as stated in its amended application and in this report, will be denied.

LEWIS, *Commissioner*, concurring:

It is desirable that the character of the finding herein made be emphasized. The carrier, the State, and the territory served are all given a probationary period in which to make a united effort to save these lines of railroad. So far as the carrier is concerned, it is desirable that it look to what the nearby Uintah has successfully done under more adverse operating grades and curves, and in a more sparsely settled country yielding less tonnage, largely by changes in motive power which have reduced operating costs.

The State of Colorado asks that the railroad be saved. Other States, confronted with probable loss of railroads, have contributed successfully to their preservation by lessening or removing tax burdens for a rehabilitation period. Instances that come to mind are Indiana, in the case of the Chicago, Attica & Southern Railroad;

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Michigan, in the case of the Manistee & Northeastern Railway Company, and probably roads in its cut-over lumber section; and, in the notable case of the Kansas City, Mexico & Orient Railway, the relief extended down to counties and townships. Section 15a (18) of the interstate commerce law provides that any carrier, or corporation organized to construct and operate a railroad, proposing to undertake the construction and operation of a new line of railroad may be relieved of recapture of excess earnings. It would seem logical that if the Federal Government is willing to lessen taxation on newly constructed lines in order to fill out an adequate system of transportation, other political units may justify lessening of tax burdens for the purpose of saving established and needed lines. Such political divisions are faced with the fact that abandonment not only reduces taxable railroad property but depresses the sections served and lessens the ability of property to continue to pay taxes.

As for the localities and country served by the carrier, there are many precedents for organization to route traffic and in various ways to improve the carrier's position and to cooperate with it. This has not only been done successfully by communities or sections served by a weakened carrier whose future operation was threatened, but also has been done by States interesting themselves in the future welfare and strengthening the position of the carriers that serve them. Voluntary action by the New England States in cooperating to place their railroads on a satisfactory basis is a notable example.

The declaration of Congress is that there be maintained an adequate system of transportation and this requires in this instance the bona fide cooperation of all interests in an attempt to continue the existence and operation of this railroad across central Colorado.

LEE, *Commissioner*, concurring in part:

I concur in dismissing the complaint of the city of Denver and in refusing the railroad company permission to abandon that portion of its railroad under consideration herein. However, I doubt the wisdom of fixing a definite time within which traffic must be increased to avert an order of abandonment.

The majority express the opinion that during this test period "It is possible that the cooperation of the State through reduction in taxes can be secured." This commission has no jurisdiction over the taxation of railroads by a State. Furthermore, it can not be presumed that the State of Colorado does not fairly and equitably assess and collect taxes on all the taxable property within the State. In my judgment, it is improper for this commission to suggest to the responsible officers of the State that this railroad be relieved of any of its fair share of the tax burden.

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Order

Entered June 2, 1930

A hearing and investigation of the matters and things involved in these proceedings having been had, and the commission having, on the date hereof, made and filed its report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That the application of the Colorado & Southern Railway Company in Finance Docket No. 7132 for a certificate that the present and future public convenience and necessity permit the abandonment of its narrow-gage line of railway and connecting branches in Douglas, Jefferson, Park, Summit, and Lake Counties, Colo., be, and it is hereby, denied without prejudice.

It is further ordered, That the application of the city and county of Denver, Colo., by its board of water commissioners, in Finance Docket No. 7092, for a certificate that public convenience and necessity permit the abandonment by the Colorado & Southern Railway Company of that portion of its Platte Canyon line extending from Waterton to Buffalo, in Jefferson and Douglas Counties, Colo., described in the application in Docket No. 7092 and in this report, be, and it is hereby, denied.

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FINANCE DOCKET No. 7132

COLORADO & SOUTHERN RAILWAY COMPANY ABANDONMENT

Submitted July 24, 1936. Decided October 12, 1936

Certificate issued permitting abandonment by the Colorado & Southern Railway Company of a narrow-gage line of railroad, and certain branch lines connecting therewith, in Douglas, Jefferson, Park, Summit, and Lake Counties, Colo. Condition prescribed. Previous report, 166 I. C. C. 470.

Bruce Scott, *John Q. Dier*, *John L. Rice*, *Walter McFarland*, and *Henry C. Hall* for applicant.

Paul P. Prosser, *Richard E. Conour*, *Robert S. Palmer*, *Robert L. Gee*, *Carl A. Kaiser*, *Quentin D. Bonner*, *Wilbur F. Denious*, *Dayton Denious*, *Arthur Ponsford*, *Joseph D. Pender*, *D. C. Stone*, *Fred L. Emerson*, *Arthur J. Lovell*, and *J. A. Farquharson* for protestants.

Victor A. Miller for himself and trustees of railroad company.

Barney L. Whatley and *Cecil R. Ditsch* for interveners.

Charles J. Hotchkiss for manufacturers' bureau.

REPORT OF THE COMMISSION ON FURTHER HEARING

BY THE COMMISSION:

Exceptions were filed to the report proposed by the examiner and the case was argued orally.

By report and order dated June 2, 1930, in the above-entitled proceeding, 166 I. C. C. 470, we denied the application of the Colorado & Southern Railway Company for a certificate of public convenience and necessity permitting abandonment of (1) that part of its Denver-Leadville narrow-gage line extending southwesterly and westerly from Waterton, through Jefferson and Douglas Counties, to Como, Park County, thence northwesterly to Dickey, Summit County, and thence southwesterly, through Summit and Lake Counties, to Leadville, a total distance of 131.67 miles; and (2) branch lines connecting with its Denver-Leadville narrow-gage line, described as follows: (*a*) All its 3-rail branch line in Lake County, extending southeasterly from Leadville to Blind Tom mine, 2.44 miles; (*b*) all its narrow-gage branch line in Summit County, extending northerly from Dickey to Dillon and thence easterly to Keystone, a total distance of 6.84 miles; (*c*) all its narrow-gage branch line in Summit County, extending northwesterly from Kokomo to Wilfley's Mill, 1.1 miles; (*d*) all

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its narrow-gage branch line in Park County, extending southerly from Como to Garos and thence northwesterly through Fairplay to Alma, a total distance of 31.67 miles; and (*e*) all its narrow-gage branch line in Park County, extending southwesterly from Hill Top Junction to Leavick, 11.33 miles. These lines have an aggregate length of 185.05 miles and are all located in the State of Colorado.

In that report are set forth pertinent facts concerning the history and physical characteristics of the lines in question, a description of the tributary territory, the industries served, the nature and volume of traffic handled during the 5-year period 1923–27, and the financial results of operation. In our conclusions we said:

> The record before us, so far as it relates to existing operations, would justify the issuance of the certificate sought. It shows continuing losses in large amounts for many years from the operation of the line in question. Operations at the cost of so serious a burden upon interstate commerce cannot be expected to be continued indefinitely. We must, however, consider the needs of the communities and interests served and their showing as to future prospects of traffic for the railroad. Although, as indicated herein, the testimony as to those prospects is conflicting, we are sufficiently impressed with the representations of the protestants to afford an opportunity to test their predictions. Accordingly, we will deny the application without prejudice to its renewel by the applicant after the expiration of 36 months from the date hereof if it can show that the situation has not materially improved.
>
> In the meantime, possible economies in operation, such as might be effected by reducing passenger service, changing freight schedules, and perhaps improvement of equipment, should be developed. It is also possible that the cooperation of the State through reduction in taxes can be secured. The public served by the road should realize that the continuation of the service is dependent primarily on the traffic furnished. If the people desire to retain the service of the railroad they will no doubt appreciate the necessity of providing it with sufficient traffic to enable it to live.

The Colorado & Southern Railway Company offered to donate the above-described lines, or any portion thereof, to any local interests or communities that might wish to operate them, together with such rolling stock used thereon as might be necessary for continued operation, and to allow the operator entry into Denver. Pursuant to that offer, two corporations were formed and each filed an application with us for authority to acquire and operate the lines in question. The applications were denied. *Denver I. & S. Ry. Co. Acquisition*, 193 I. C. C. 707, decided November 29, 1933.

On August 16, 1935, the Colorado & Southern Railway Company filed a petition seeking (*a*) to reopen the case, (*b*) to amend its application in the previous proceeding by excluding therefrom its request for permission to abandon the western portion of its Denver-Leadville line between Leadville and Climax, 14.83 miles, and (*c*) to renew the application as amended. The aggregate length of the lines now sought to be abandoned is 170.22 miles. The offer to do-

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nate the lines and rolling stock, above mentioned, is now withdrawn. The petition was granted and a further hearing was held at which the attorney general and the assistant attorney general of Colorado entered appearances in opposition to the applicant's proposal on behalf of the protestants, the State of Colorado, and the Public Utilities Commission of that State. The proposed abandonment also is opposed by various local authorities, business interests, and municipalities in the territory tributary to the line.

All points mentioned herein are in the State of Colorado unless otherwise designated.

The applicant's main line extends southerly from a connection with the Chicago, Burlington & Quincy Railroad at Wendover, Wyo., through Denver, Colorado Springs, and Pueblo, to a connection with the Fort Worth & Denver City Railway at Sixela, N. Mex. The Denver-Leadville narrow-gage line, of which the portion between Waterton and Climax, including branches, is herein sought to be abandoned, traverses a rugged, mountainous territory, sparsely populated. The principal stations on the line westerly from Waterton to Climax, in their order, are South Platte, Buffalo, Pine Grove, Baileys, Maddox, Shawnee, Grant, Kenosha, Jefferson, Como, Breckenridge, Dickey, and Kokomo. Other stations, served by branch lines, are Dillon, Garos, Fairplay, and Alma. The record indicates that the population of some of these communities has increased in recent years. The largest has less than 1,500 inhabitants.

For many years, the chief support of the line came from the mining industries, for the benefit of which it was originally built. The eastern section of the territory served by the line produces feldspar from deposits located chiefly around South Platte. The western section is principally devoted to gold mining. The mining regions are located around Kokomo, Breckenridge, Montezuma, Alma, and Fairplay. A large molybdenum mine is located at or near Climax, and the retention of the western portion of the line between Leadville and Climax is for the purpose of providing continued rail transportation service to that mine, the owner of which offers no objection to the proposed abandonment. There is a smelter at Leadville which treats ores and concentrates containing gold, silver, lead, copper, etc., which is the only smelter accessible to the mining regions served by the line. A reduction mill of limited capacity, known as the Golden Cycle, is located at Colorado City. The Leadville smelter receives about 75 percent of the ore and concentrates from Alma, the principal mining district, and the Golden Cycle mill receives the remainder.

Gilpin and Clear Creek Counties, north of the territory immediately tributary to the line, have a number of small gold mines served by another narrow-gage branch of the applicant extending

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westerly from Denver. These mines are located in what is known as the Clear Creek mining district. Most of their output is shipped over the last-mentioned branch to Denver and thence to Leadville over the Denver-Leadville line. If the latter were abandoned, rail transportation between the district and Leadville would involve a joint-line movement via the applicant's line to Pueblo and thence over the Denver & Rio Grande Western Railroad to Leadville. The route would be much longer but there is nothing in the record to indicate that freight rates would be materially increased.

The mines in the Montezuma district are located about 6 miles from the Keystone branch of the Denver-Leadville line. They have comparatively little traffic to offer the applicant. Much of the production from the mines in the Kokomo district is trucked to Leadville, 19 miles, but one of the principal mine operators in that district thinks the railroad is essential to the successful operation of the mines in that district. There are large deposits of silver, lead, and zinc in the western section of the territory tributary to the Denver-Leadville line, but those minerals have not been mined to any great extent for many years. Other interests affected by the proposed abandonment are certain individuals or corporations engaged in the business of raising sheep, cattle, and hay in Park and Summit Counties, and in cutting ice from lakes near Maddox and Crystal Lake, on the easterly section of the line, for shipment to storage houses in Denver during the winter months.

On behalf of the applicant it is contended that (*a*) the predictions of the protestants in the previous proceeding as to increased traffic have failed to materialize; (*b*) traffic as a whole has materially decreased, largely owing to the general use of motortrucks; (*c*) there is no possibility that traffic will increase in the future; (*d*) despite all possible economies effected in maintenance and operation of the line, large deficits have recurred year after year, which the applicant is unable to bear; (*e*) the income of the applicant has been insufficient to pay its operating expenses and fixed charges since 1931; (*f*) the physical condition of the line is such that large sums for repairs and rehabilitation must be expended if operation be continued; (*g*) the installation of new and heavier equipment, suggested by the protestants as a means of more efficient and economical operation, would incur an unwarranted expenditure and necessitate strengthening the line to accommodate such equipment; and (*h*) the public has not supported the line in accordance with the suggestions in our previous report.

One of the principal questions is whether the line sought to be abandoned has made the improved showing predicted by the protestants and considered possible by us in the previous proceeding.

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For purposes of comparison it will be necessary to repeat certain figures pertaining to traffic, revenues, expenses, etc., contained in the original report. During the years 1923–27, inclusive, the commodities handled over the Denver-Leadville line and branches consisted of cattle, sheep, coal, clay, gravel, stone, hay, ice, lumber, forest products, ores, and sugar beets. Tons handled were as follows: 1923, 109,165; 1924, 95,244; 1925, 100,971; 1926, 108,738; and 1927, 102,430. The applicant now shows that the freight traffic handled over the same line and branches during the years 1928–34, inclusive, which consisted of practically the same commodities, stated in tons, was as follows: 1928, 94,786; 1929, 93,834; 1930, 87,525; 1931, 69,756; 1932, 87,288; 1933, 60,595; and 1934, 70,915. The total freight traffic handled during the latter period averaged 80,671 tons a year compared with 103,310 tons a year handled during the five preceding years. The average annual tonnage of the above-mentioned commodities, stated for the 1923–27 period and 1928–34 period, respectively, was as follows: Cattle 3,009, 2,024; sheep 2,855, 1,838; coal 9,390, 7,457; clay, gravel, and stone 10,091, 5,231; hay 9,246, 5,519; ice 27,221, 17,004; lumber 2,090, 1,974; forest products 8,310, 4,554; ores 16,446, 19,748; sugar beets 4,757, 5,730; other commodities, including less-than-carload freight, 9,895, 9,592.

In 1934, the Denver-Leadville line and branches had 35,260 ton-miles of revenue freight for each mile operated, and the remaining lines of the applicant's system had 507,058 ton-miles. The number of passengers handled over the line and branches decreased from 34,366 in 1923 to 24,114 in 1927, and from 17,273 in 1928 to 5,658 in 1934. During the first eight months of 1935, 8,396 passengers were handled.

The previous report shows that during a period of 18 years, 1910 to 1927, inclusive, the average annual results of operation of the line and branches were as follows: Railway operating revenues $330,000, railway operating expenses $490,000, and railway operating deficit, after allowance for taxes, about $240,000. The operating revenues decreased from $444,813 in 1920 to $266,859 in 1927. Operating expenses for those years respectively were $800,713 and $463,650. For the eight years, 1920 to 1927, inclusive, the operating deficits averaged $226,479 a year, or $339,170 a year after allowance for taxes.

Income accounts submitted by the applicant in the present record show the average annual results of operation for the 7-year period 1928 to 1934, inclusive, as follows: Railway operating revenues $256,807, railway operating expenses $326,957, taxes $104,151, and net railway operating income deficit $174,301. Railway operating revenues decreased from $321,051 in 1928 to $223,202 in 1931. They amounted to $263,956 in 1932, $185,141 in 1933, and $222,971 in 1934.

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Railway operating expenses decreased from $438,114 in 1928 to $235,227 in 1933. They amounted to $295,171 in 1934. Net railway operating income deficits for the years 1928 to 1934, inclusive, are shown as follows: 1928, $236,354; 1929, $193,045; 1930, $224,309; 1931, $176,031; 1932, $91,623; 1933, $138,140; and 1934, $160,605.

The figures above shown pertain to the results of operation of the portion of the Denver-Leadville line and branches sought to be abandoned in this proceeding. Deficits from operation of the entire line and branches, including the portions to be retained between Denver and Waterton and between Leadville and Climax were as follows: 1928, $312,174; 1929, $260,372; 1930, $289,288; 1931, $244,238; 1932, $151,153; 1933, $175,609; and 1934, $196,597. In support of its alleged inability to bear the losses sustained from operation of the portion of the Denver-Leadville line and branches herein sought to be abandoned, the applicant shows that its system as a whole was operated at a loss of $1,269,824 in 1932; $943,389 in 1933; and $854,137 in 1934. However, owing to a dividend of $1,840,000 received by the applicant from the Fort Worth & Denver City Railway Company, together with interest received from other lines in Texas owned by the applicant, its net income from all sources was $992,241 during the first eight months of 1935.

Revenues and expenses were directly assigned to the Denver-Leadville line and branches, or allocated thereto, by the methods stated in the previous report, except that on through business involving a haul over the Denver-Leadville line and over other lines of the applicant, the total revenues were divided on a so-called rate prorate, determined by using as factors the local rate on traffic from points of origin on the Denver-Leadville line to Denver and the local rate from Denver to points of destination on other lines of the applicant, or *vice versa*. The local rate applicable on the Denver-Leadville line and those applicable on other lines of the applicant were added together and the amount allocated to the Denver-Leadville line was in the proportion that its local rate bore to the sum of the two rates. This method of allocation is said to be more favorable to the line and branches proposed to be abandoned than the mileage-prorate basis.

The applicant's engineers estimate that there is about $85,000 of deferred maintenance on the line between Waterton and Climax, 116.84 miles, and the branch between Como and Alma, 31.67 miles or an average of about $570 a mile. This estimate includes $13,844 for bridges. Two engineers employed by the protestants made an inspection of the line. One of them estimated the deferred maintenance at $60,006, excluding bridges, and the cost of future maintenance at $77,914 a year. The other estimated deferred mainte-

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nance at $58,425, excluding bridges, and the cost of future maintenance at $76,790 a year. Their reports were rendered separately.

Testimony for the applicant is that the narrow-gage equipment used on the line and branches has been well maintained. However, the locomotives are old and not as efficient as modern locomotives which cost less to maintain and operate. Certain economies in operation have been effected. On March 1, 1931, passenger service between Denver and Leadville was reduced from daily to triweekly. Freight service, rendered twice weekly, remains unchanged. Extra trains are operated when necessary, chiefly to handle seasonal movements of ice and livestock. Maintenance costs have been reduced by the adoption of a new system of track supervision. Five agent-telegraphers have been eliminated. At the present time there are station agents only at Pine Grove, Como, and Breckenridge. The stations at Alma and Fairplay have custodians. The savings in wages effected by the changes above stated, amount to $17,938 a year. The actual amount of other savings is not stated. A witness for the applicant testified that continued operation of the line would involve additional expenses owing to the full restoration of the basic wage scale, higher cost of coal and materials, taxes for employees' compensation, a possible increase in local taxes, and the expense necessary to cover deferred maintenance within the next three years. The net salvage value of the line and branches sought to be abandoned is estimated at $220,330, including $64,919 for locomotives and cars.

Taxes on the Waterton-Leadville line and branches, including the segment to be retained between Leadville and Climax, decreased from an average of $115,502 a year during the 3-year period 1925–27 to an average of $93,465 a year during the 3-year period 1932–34, or about 19 percent. The decrease, however, did not follow as a result of our suggestion in the previous report. It resulted from a general reduction in valuation of property in Colorado, including railroad property, during the period of depression. On brief, the protestants state that it would be improper and probably illegal to assess the line in question at less than similar lines operated by other railroad companies in the State. There is considerable discussion in the record as to what extent the taxes, now amounting to about 40 percent of the revenues, would be affected by the proposed abandonment. The applicant is of opinion that abandonment of the line would result in a saving of the taxes levied thereon. The protestants, on the other hand, endeavor to show that the taxes on the applicant's railroad property in Colorado would be increased, rather than decreased, if the line were abandoned, owing to the method followed by the Colorado Tax Commission in arriving at the value of railroad property for taxation purposes in that State. The tax commission, having

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authority to use its judgment in such matters, usually determines the value of railroad property in the State by a combination of two methods, known as the "stock and bond method" and the "net earnings capitalized method." The average yearly market value of the applicant's stock and bonds is obtained for a period of five years preceding the year of assessment, from which is deducted the average yearly value of the applicant's miscellaneous investments in property situated in other States. The result is a so-called net stock and bond value, of which 74.87 percent is taken as the Colorado proportion. The latter is representative of the proportion of the applicant's entire main-line mileage within Colorado and is subject to slight variations each year. There is then obtained another valuation, based upon the average yearly net earnings of the applicant's entire system over the same 5-year period, capitalized at 7 percent, from which the Colorado proportion is determined by applying the percentage above indicated. The results of the two valuations are then averaged. From this average is deducted the value of the applicant's property locally assessed in Colorado, and the result is the "net Colorado proportion of system value," which is allocated to the several counties traversed by the applicant's main line in the State in proportion to its length within each county. The valuation per mile is the same throughout the State but the mill levy varies in each county.

It is apparent that the Colorado Tax Commission could prevent any decrease in the applicant's taxes, or probably could increase such taxes, by use of the methods above indicated. However, the chairman of that commission testified that it is not bound to follow such methods, and that there are many instances in which they cannot be followed. Whether abandonment of the line in question will result in the saving of taxes anticipated by the applicant, rests entirely with the Colorado Tax Commission.

The loss in traffic in recent years was due in some measure to the general economic depression, which commenced late in 1929, but there is much evidence that the plight of the applicant's line is largely attributable to the general use of motor vehicles as a means of transportation in preference to the railroad. A witness for the applicant who has made an investigation of highway traffic in the tributary territory, testified that trucks are now handling about half the traffic originating in that territory, including 50 percent of the ore and from 66 to 75 percent of the hay; and that trucks bring in about 50 percent of the coal and gasoline, and about 80 percent of the merchandise. The number of trucks registered in the five counties traversed by the line increased from 206 in 1929 to 721 in 1935. Most of them have a carrying capacity of from 4 to 7 tons. There

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are four common-carrier truck lines authorized to carry freight of specified classes in those counties, but the carriers are not permitted to operate on a regular schedule and they must charge at least 20 percent more for service than carriers operating regularly. There are 23 contract carriers and 32 commercial carriers holding permits to operate motor vehicles in the territory served by the line, but the commercial carriers are permitted to haul nothing but their own commodities. Seven applications are pending with the State commission for permission to operate truck lines between Denver and points on the line and branches sought to be abandoned. These points include Grant, Jefferson, Como, Fairplay, Alma, Breckenridge, and Dillon. Some of the applicants would operate to Leadville. A common-carrier bus line, carrying passengers, baggage, and express, recently has been permitted to operate in competition with the applicant's line between Denver and Alma. The State commission withheld the granting of such permission for several months awaiting a report from the applicant as to the steps it proposed to take to install suitable equipment and convenient passenger service on its line between those points. The applicant appears to have ignored the State commission's request for the report. Testimony for the State commission is that its policy for several years has been to protect the applicant's railroad from motortruck competition as much as possible; that it has aided the applicant in effecting economies in operation, such as curtailment of passenger service, closing of certain stations, etc.; and that it has consistently refused to issue certificates permitting motor carriers to operate in competition with the railroad sought to be abandoned. The applicant does not deny that the State commission has endeavored to do all it could do to facilitate continued operation of the line but that commission appears to have been unable to prevent the steady trend toward motor transportation by the industries, and the people generally, throughout the tributary territory. The protestants offer much testimony tending to show that the handling of certain commodities by motortruck, chiefly livestock, would be injurious, and that trucks as a means of transportation, are uneconomical, unsatisfactory, inadequate, and unreliable, especially during the winter season when the highways are obstructed by snow.

In order to meet truck competition, the applicant has made substantial reductions in freight rates on petroleum from Denver to Baileys, ice from Maddox to Denver, hay from various points on the line to Denver, ores from Alma to Leadville and Colorado City, and various other commodities between Denver, Leadville, Climax, Dillon, Alma, and Fairplay.

In recent years, the mines in the so-called Alma-Fairplay district have greatly increased their production, owing to the increase in

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the price of gold that took place in 1933. Practically all of the mines have mills to concentrate the crude ore to about one-tenth of its original weight, thus facilitating transportation by rail or truck to the Leadville smelter at a much lower cost. Prior to 1932, only crude ore was shipped from Alma to Leadville, but in 1934 over 81 percent of it was concentrated. The number of tons of crude and concentrated ores received at the Leadville smelter from Alma for the years shown, has been divided between rail and truck movement as follows: 1932, rail 21,891, truck 38; 1933, rail 5,388, truck 49; 1934, rail 11,075, truck 5,639; and for the first 10 months of 1934, rail 7,721, truck 7,247. Much of this ore was shipped from the mines of the London Gold Mine Company, hereinafter called the London mine, the largest producer in the Alma-Fairplay district. Alma is about 11 miles directly east of Leadville, but the rail and highway distance around the intervening mountains between those points is from 90 to 100 miles.

Testimony for the applicant is that in 1932, the London mine paid a rail rate of $6 a ton on many shipments of ore to the Leadville smelter, in addition to $1.50 a ton for hauling the ore by truck from the mines to the railroad. The manager of the London mine then undertook to have the rail rates reduced. While the applicant's officers were endeavoring to find out what rates the London mine wanted, the latter entered into a 3-year contract with a trucking concern to have all its ores or concentrates trucked directly from the mine to the Leadville smelter for $4.75 a ton. Another mining company, the Fairplay Gold Mines, Incorporated, later obtained a rate scale from the applicant ranging from $1.60 to $3 a ton. It now ships its ore or concentrates almost exclusively by rail, for the alleged reason that it is safer than by truck. Its production in 1934 amounted to 146 carloads. Almost all the mines, except the London mine, are now shipping by rail when there is enough ore to make a carload. Testimony for the protestants, as stated in the previous report, was to the effect that if the railroad were abandoned the London mine would have either to close down or build a mill to concentrate its ore. The mill has since been built and all other mines of any importance now have such mills.

The Tiger and Wellington mines, near Breckenridge in Summit County, mentioned in the previous report, have been rather disappointing. The total number of carloads of ore and concentrates shipped from all stations on the line in Summit County during the period 1927–34 was as follows: 1927, 345; 1928, 131; 1929, 183; 1930, 8; 1931, 2; 1932, none; 1933, 9; and 1934, 53.

Most of the livestock handled over the line is shipped from Garos, but other shipping points include Jefferson, Dillon, Buffalo, and

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Grant. The total rail shipments of cattle and sheep, averaged annually for 3-year periods, was as follows: 1923–25, 5,758 tons; 1926–28, 5,924 tons; 1929–31, 3,779 tons; and 1932–34, 3,322 tons. The number of sheep in Park County, the most important livestock territory tributary to the line, decreased from 59,800 in 1928 to 46,061 in 1935. The number of cattle in the county increased from 14,581 in 1930 to 22,512 in 1935. Much of the livestock area in Park County is owned or controlled by three concerns, having headquarters 8 miles south of Garos, a station on the applicant's Como-Alma branch. In event of abandonment of the branch, the nearest shipping point would be Buena Vista, on the Denver & Rio Grande Western Railroad (D. & R. G. W.), and Divide, on the Midland Terminal Railway, each about 35 miles away. Nearly all the business of these concerns is handled over the applicant's line. The gist of the testimony of all witnesses for the livestock interests is that if the line were abandoned the livestock would have to be trucked or driven to the markets, or to shipping points on other lines of railroad, entailing many difficulties and much additional expense. Their transportation problems are practically the same as those stated in the previous report. Ranchmen who own or lease most of the land in Park County have signed an agreement between themselves to ship at least 90 percent of their hay and livestock over the applicant's railroad during the next four years on condition that the present freight rates are not increased. The record shows that the movement of livestock by truck is not uncommon throughout the tributary territory, but it is clear that rail transportation is far more advantageous, especially for the large shippers.

The evidence seems conclusive that the greater part of the hay is now shipped by truck from the tributary territory to Denver markets. The testimony of the protestants is that it was necessary to ship some of the hay by truck because the buyers insisted that delivery be made at their place of business rather than at the railroad station, and that the applicant could probably regain much of the lost hay traffic by making truck delivery at the buyer's door.

Details of the ice business conducted by the Maddox Ice Company at Maddox, on the eastern section of the line, about 50 miles from Denver, are described in the previous report. The business is seasonal, lasting only during one or two months of the winter. Normal shipments amount to about 1,000 carloads a year, but, owing to mild winters, only about half that amount was shipped during 1934 and 1935. The capacity of the narrow-gage cars is from 17 to 18 tons each. The owner of the business testified that if the line were abandoned his business would require 150 ten-ton trucks to take its place during the shipping season, that his business would be ruined, and

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that it would cost him $200,000 to get back in the ice business in Denver. The number of 10-ton trucks, above stated, making one trip a day, would transport the witness's normal yearly supply of 18,000 tons in 12 days. If the shipping season lasts one or two months, as previously indicated, that number of trucks would not be necessary.

Testimony for the protestants is that the timber available for cutting in the territory tributary to the line has increased considerably during recent years. However, the record shows that the total number of tons of forest products handled over the line decreased from 14,637 in 1929 to 4,404 in 1934. A witness operating a sawmill located 10 miles from Breckenridge testified that his shipments over the line decreased from 70 carloads in 1930 to 12 carloads in 1934. Another witness in the timber business near Keystone shipped 28 carloads in 1934.

The Western Feldspar Milling Company owns or controls large deposits of feldspar at a number of places in Colorado, including several deposits located near South Platte, Buffalo, and Baileys, 9, 19, and 34 miles, respectively, from Waterton, the eastern terminus of the line sought to be abandoned. Feldspar is a mineral product which, after processing, is used in manufacturing glass, pottery, porcelain, etc. The company has a plant on the applicant's line in Denver for processing crude feldspar from its deposits throughout the State. The only deposits being worked at the present time are those located on the applicant's line near South Platte, and at Canon City on the D. & R. G. W. It is said that there are "tremendous bodies" of feldspar at Canon City. It is estimated that there are 300,000 tons at South Platte and 35,000 tons at Baileys. Another feldspar deposit, located on an unpatented mining claim near South Platte, is owned by an individual who has a contract to supply the feldspar company with 120 carloads by August 15, 1936. He shipped 15 or 20 carloads in 1935. The total amount of feldspar shipped from South Platte was 79 carloads in 1934 and 324 carloads between April 1 and November 25, 1935. The haul from the mines at South Platte to the rail shipping point is about 4 miles. All the feldspar, worth about $2.75 a ton loaded on cars, is milled in transit at Denver and shipped to various industries throughout the country. The feldspar company, desiring continued operation of the line to Baileys, or at least to South Platte, has offered to guarantee the applicant 8,000 tons a year from the latter point and believes that it would ship from 10,000 to 12,000 tons a year. Its president testified that abandonment of rail facilities would end the feldspar business at South Platte, because trucking to Denver would cost too much and the milling-in-transit rates would be lost. A witness engaged in public traffic service testified that the

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feldspar moves in and out of Denver over the applicant's lines and that the latter is paid a transit charge of 50 cents a ton, which is refunded when the traffic moves out of the transit point. The rate from South Platte to Denver, including the transit charge, is $1.50 a ton. The witness estimates that the applicant's gross revenues on the 324 carloads of feldspar shipped from South Platte to Denver, previously mentioned, amounted to $11,720, in addition to system revenues amounting to $2,895. He states that there is no direct highway leading from Baileys or South Platte to Denver. Although the distance by rail from South Platte to Denver is 29 miles, the highway between those points follows an irregular course through the mountains, a distance of 60 miles. In event of abandonment of the line, the applicant's right-of-way could be utilized for highway purposes. The record indicates that most of the feldspar along the applicant's line is mined on a royalty basis of 25 cents a ton and that much of the land is leased for mining purposes on that basis. It is not shown that the feldspar interests have any substantial investment in that land. It is apparent that there is plenty of feldspar available from holdings of the feldspar company located at Canon City and other places.

The general decline in traffic and the losses from operation of the line sought to be abandoned, hereinbefore set forth, are not seriously disputed by the protestants, but they blame the applicant for its alleged indifference to the causes precipitating the present plight of the line. They attribute the distressed condition of the line largely to the depression and the action of railroad officers in persisting in the continued use of "antiquated equipment" as a means of combatting modern truck competition. Among other matters of criticism dealt with in their brief, the protestants argue that the applicant has made no *bona fide* effort to effect such operating economies as were contemplated in our previous report, that the economies effected were mere gestures on the part of the applicant to mislead us, and that excessive rates, poor, slow, and inadequate service, and the general neglect of the ordinary principles of good railroading will not meet truck competition, or even retain existing business.

The condition of the applicant's motive power used on the line is substantially the same as at the time of the previous hearing in this case. The 17 locomotives, built between 1884 and 1898, have been maintained in good serviceable condition and their tractive power is unimpaired. Owing to heavy grades, trains are generally hauled by from two to four locomotives. Eight so-called typical trains operated between Como and Leadville in 1935, averaged 2.25 locomotives, 11 cars, 304 tons of freight, and 11.65 hours for the 65-mile run. In 1934, there were 2.83 freight-locomotive miles to each freight-train mile. The slow movement of trains, from 4 to 10 miles an hour,

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necessitates the payment of overtime wages to trainmen and enginemen, in some cases amounting to over 50 percent of the amount paid for straight time. The protestants complain that substantial amounts expended for overtime wages of additional engine crews, fuel maintenance of equipment, etc., could be saved if the applicant would acquire new types of locomotives and change its method of operation. They have gone to considerable length to show that the line could be operated successfully if the applicant would imitate the management of the Uintah Railway or the R. G. S. (Rio Grande Southern Railroad). Both these lines, said to be successfully operated, are narrow-gage and traverse mountainous territories under conditions comparable to the applicant's line. Under the suggested plan, the protestants would have the applicant purchase heavier locomotives, preferably of the Mallet type used on the Uintah, for the movement of its freight trains. Passengers and less-than-carload freight would be handled by motor cars such as are used on the R. G. S. A comparison made by a witness for the protestants, an engineer of the State commission, shows that Mallet locomotives have more speed and handle loads on parity with two of applicant's heavy locomotives, or three of its light locomotives. The witness has made a detailed survey of the operations of the Uintah and is of opinion that the use of Mallet locomotives on the applicant's line between Como and Leadville, 63 miles, would save at least half of all freight-train expense, including maintenance of equipment. He estimates that it would cost about $60,000 to improve the track and roadbed for the accommodation of such locomotives between these points, but states that rehabilitation of the remainder of the line between Como and Denver would cost much more.

The use of motorcars for passenger and less-than-carload freight services is advocated by the protestants, largely on the strength of the testimony of Victor A. Miller, who operates the R. G. S. under receivership. The protestants rely on Miller's testimony, although he expressed the opinion that the applicant's line could not be successfully operated as a part of a trunk-line system by using the same methods employed by him in the operation of the R. G. S. The latter uses gasoline-propelled motor vehicles to transport passengers, mail, express, and less-than-carload freight. These vehicles are second-hand 7-passenger automobiles, spread in the body to the width of a narrow-gage car, with the chassis remodeled to fit on two 4-wheel trucks, to the rear of which are joined light metal vans supported by a third truck. The entire vehicle is 44 feet long, weighs 14,800 pounds, carries 10 passengers and 10 tons of commodities, and is operated by one man. It is much faster than a steam locomotive and the average cost of operation is said to be 14 cents a mile.

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The R. G. S. operates trains by steam motive power only as the freight-traffic needs require.

An engineer for the applicant, admitting that the so-called motorized operation on the R. G. S. has given good results, testified that the success of the latter has been materially aided by a generous mail contract and by a favorable arrangement with the D. & R. G. W. for car supply at a low cost. He further testified that the R. G. S. pays no taxes and is not bound by standard labor contracts, and that the applicant's labor contracts would not permit the operation of such vehicles without putting on a conductor and motorman. Rather than attempt motorized service, the witness thinks it would be better to provide a mixed service on freight trains if the lines were strengthened to permit faster freight movement. He states that the full economy of using heavier locomotives could not be obtained without using them over the whole line, including the Como-Alma branch. Some of the applicant's officers, after having made a survey of the operations of the Uintah, conclude that no better type of locomotive could be chosen for operation between Denver and Leadville than the Mallet, if new and heavier motive power were to be used. To meet the demand for improved freight service suggested by the protestants, it would be necessary for the applicant to purchase at least five Mallet locomotives, at a cost of $282,500. Some of the present locomotives would be retained for helper service. The cost of strengthening the line to accommodate such motive power would be $597,664, making a total investment of $880,164, not including the cost of overcoming the present deferred maintenance. The change would save $48,450 a year in wages, fuel, and locomotive maintenance, but expenses for maintenance of way and structures would be increased about $12,000 a year. The net saving would be $36,450. Interest at the rate of 5 percent a year on the total investment, above mentioned, would be $44,008. The difference between the net saving that would be effected and the interest on the total investment would represent a loss of $7,558 a year, without any allowance for locomotive depreciation.

Although the applicant's passenger service was reduced in an endeavor to effect economy in operation, as suggested by us in our former report, counsel for the protestants contend, on oral argument, that the present "dirty, uncomfortable, and slow" operation of passenger trains has practically destroyed the passenger, express, and less-than-carload business; that motortrucks are absolutely necessary to transport such traffic as long as the applicant renders poor service; and that, if the applicant expects to compete with motortrucks, it must render better service. It is also argued that if busses can be operated on highways they can be operated on rails, and that the

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applicant should try that method of operation as a solution of its passenger-traffic problem. However, counsel states that the motorbus now operated in competition with the railroad between Denver and Alma carries only four or five passengers a day.

Admitting that the method of taxation is unfair to the narrow-gage line in some respects, and without any suggestion that the Colorado Tax Commission endeavor to correct such unfairness, counsel for the protestants points out that the applicant might avoid the payment in full of such taxes if it "wanted to take the initiative" by refusing to pay any taxes whatever on the narrow-gage line and let the counties, upon which rest the responsibility of collection, sue the applicant for the taxes and thereafter "settle the judgment for whatever they can."

Argument on behalf of the brotherhoods of locomotive firemen, enginemen, and conductors, is to the effect that the line should be retained for the reasons stated by the protestants and for the further reason that its abandonment would result in the dismissal of a number of train and engine crews, having no seniority rights on other lines of the applicant's system. However unfortunate this situation may be, our power to impose conditions in cases arising under section 1 (18) of the Interstate Commerce Act does not extend to matters involving the disposition of labor. *Chicago G. W. R. Co. Trackage*, 207 I. C. C. 315.

The application in the previous proceeding was denied in order to determine whether or not it was possible for the line to make an improved showing during a test period of three years. Nearly six years have now elapsed, and the anticipated improvement has failed to materialize. It has been clearly demonstrated that the line cannot be operated successfully with its present equipment. The record is not convincing that success could be achieved if the applicant would discard its old equipment, in whole or in part, and replace it with new and heavier locomotives, motorcars, etc., as suggested by the protestants. The initial cost of heavier equipment and the cost to strengthen the line for its use would be excessive in view of the traffic possibilities of the territory served. Whether the new methods of operation suggested by the protestants would result in the elimination of truck competition to any great extent is a matter of conjecture. The undertaking would be largely experimental and, if it proves unsuccessful, the sums expended would be an economic waste. The record clearly shows that neither the present nor prospective volume of traffic on the line is sufficient to warrant its retention and that continued maintenance and operation thereof would impose an undue burden upon the applicant and upon interstate commerce.

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We find that the present and future public convenience and necessity permit abandonment by the Colorado & Southern Railway Company of its narrow-gage line of railroad and branches in Douglas, Jefferson, Park, Summit, and Lake Counties, Colo., described in the amended application. Our certificate will be issued with the provisions that it shall take effect and be in force from and after 60 days from the date thereof, and that within that period the applicant shall sell said line of railroad, or any portion thereof, to any person, firm, or corporation desiring to purchase the same for continued operation, at a price representing the fair net salvage value thereof. Nothing contained herein shall be construed as authorizing any purchaser to operate the line, or any portion thereof, in interstate commerce, without first securing a certificate therefor under section 1 (18) of the Interstate Commerce Act.

EASTMAN, *Commissioner*, concurring in part:

I approve the report, except that I would provide that the certificate permitting abandonment shall not take effect until six months shall have elapsed, and I would not stipulate conditions as to what shall be done by applicant within that period. My reason for so voting is a conviction that only in this way can the real issue as to the future of this line of railroad be precipitated.

In the time which has intervened since our prior action in this case, it appears that the communities and industries served have not done their part to maintain the service of the road and that the same may be said of the State of Colorado and of applicant itself. The record which has been made is not creditable to any of the parties concerned. I am not persuaded that it is impossible to keep the road alive without undue burden on applicant, but do not believe that it can be done without some measure of financial help from those whom the road serves or the State or both.

The road needs new equipment and a new management policy. Possibly a sale at scrap value or thereabouts to a new operator is the way out. Possibly the result desired can be secured through cooperation of all the vitally interested parties, including the employees. In six months the necessary arrangements could be made, if they are at all practicable. If they should prove impracticable, that would in itself be convincing evidence that the road should be abandoned.

PORTER, *Commissioner*, concurring in part:

With the portion of the report permitting the abandonment of the line, I am in accord. As to the construction of section 1, paragraphs

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18 and 20, and our power to protect the employees directly affected by the abandonment, I am in disagreement. I am unable to escape the thought that paragraph 20 confers upon us ample power to protect the employees from serious loss. It provides, "The commission shall have power to issue such certificate as prayed for * * * and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require." Under the circumstances developed in this case and under the foregoing provision of the law, I believe we have the authority to attach reasonable conditions looking to the protection of employees directly affected by the abandonment, and I think we should do so.

SPLAWN, *Commissioner*, dissenting:

The railroad sought to be abandoned was built in 1879. A considerable area in the State of Colorado depends solely upon it for railroad service which at certain seasons is the only service available. The report finds that public convenience and necessity require the abandonment of that railroad and then suggests that public convenience and necessity might justify continued operation by some other company.

The provisions of section 1 (18) and (19) of the Interstate Commerce Act dealing with abandonment of railroad lines must be read in connection with section 5 dealing with combinations and consolidation of carriers. Section 5 was enacted to authorize and encourage consolidation of railroads into a limited number of systems and had for its purpose, as a necessary and indispensable part of the plan, the allocation of weak lines, such as the applicant here, to systems strong enough to include them. If no such purpose had been manifested, weak carriers would be left out of consolidation plans and as a result of stronger competition might be forced in time to discontinue operations. But the statute provided that there could be no abandonment unless and until the Commission determined that public convenience and necessity no longer required the service. In determining that question the Commission, among other things, might consider the relation of the road sought to be abandoned to stronger systems in the same territory. The railroad in the instant case is already a part of the Colorado and Southern Railway which in turn is part of the Burlington lines. We must view the applicant, therefore, not merely as an isolated property dependent solely upon its own resources but as an integral part of a large and substantial railroad system.

The physical property sought to be abandoned serves a large area. There were transported over it an average of 80,671 tons of freight annually in the period 1928–34, inclusive. Average annual operating

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revenue in the same period was $256,807, and the annual railway operating expenses were, it is stated, $326,957, thus indicating an annual deficit in operating revenues of $70,150. Five of the years included in the above period were years of economic depression. With betterment in economic conditions now manifest, the income of applicant should gradually increase and with careful management, improvements in service, and operating economies the operating expenses should not increase in proportion. With the present physical units of the property applicant has been furnishing and can continue to furnish necessary rail transportation. There is reason to believe that the operating revenues will increase and that with careful administration there will be enough to meet operating costs. It is only when the tax feature is considered that the financial problem becomes difficult. Public convenience and necessity, however, clearly require the preservation of the physical property of this road and its continued operation. We should be guided principally by those factors, the only ones we are required by law to consider. We are concerned only with the physical property, and the necessity in the public interest of its continued operation. We should make our findings accordingly regardless of the effect of the tax burden or other financial burden other than railway operating expenses.

In the period, 1928 to 1934, the average annual tax burden was $104,151, and the railway operating revenue was $256,807. Thus taxes took over 40 percent of the operating revenues. There has been some reduction in taxes so that during the 3-year period 1932–34 the average was somewhat less but the percentage relation of the taxes to operating revenue remains very high. The duty of determining whether such a tax burden should continue rests with the taxing authorities and not with us. The effect of that burden, however, has no bearing upon the questions of public convenience and necessity for the preservation of the physical property and for the performance of rail service over it.

I think that upon the record made in this case we should find that the present and future public convenience and necessity do not permit of the abandonment sought.

I am authorized to state that COMMISSIONERS AITCHISON and MCMANAMY concur in this expression.

COMMISSIONER CASKIE did not participate in the disposition of this case.

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THE BACKGROUND AND TECHNIQUES OF EQUITY AND BANKRUPTCY RAILROAD REORGANIZATIONS—A SURVEY

WARNER FULLER*

The complete story of the financial travail of American railroads and of the legal devices and business expedients resorted to in an attempt to resolve their difficulties is a history which is all too long to allow presentation in any but the most general way within the limits of a short article. The high-spots, however, can be touched upon.

The financial problems which faced the railroads of this country in the period of their infancy,[1] that is to say, in the era preceding 1850, were comparatively simple and easy of solution. During this time financing was usually accomplished by the sale of capital stock, rarely by the corporate mortgage. Under-estimation of the cost of the project was the chief source of financial difficulty. When funds ran out, the entrepreneurs put up or raised more money, issued additional stock, and carried the construction to completion. It was with the advent of the corporate mortgage in railroad financing in the era following 1850 that the law and technique of corporate reorganization in the United States had its real beginning.

In this period the mortgage was used with an increasingly lavish hand. The result was that railroad financial troubles and the railroad mortgage became indissolubly associated as the Siamese twins. It was thought that railroad revenues would constantly increase with the development of the country, and that therefore relatively heavy fixed charges could be sustained. In many cases, however, revenues did not show the anticipated increase and the top-heavy mortgage set-up and inadequate revenues forced many carriers to default on their mortgages. Financial misfortunes of this type were especially prevalent in the times of severe economic stringency when there was an inevitable shrinkage in railroad revenues. As a result of such defaults the property securing the mortgage could be sold at foreclosure, or where the mortgage so provided, it might be taken over and operated by the mortgage trustee for the benefit of the bondholders. But in the period between 1850 and the

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[1] For a brief treatment of the early history of railroad financing, see DEWING, FINANCIAL POLICY OF CORPORATIONS (3d ed., 1934) bk. VI, c. III.

panic of 1873, resort to either of these alternatives was not frequent. Usually a settlement was arranged between the debtor and the security-holders under which overdue interest was funded. This course of action was dictated largely by technical deficiencies in, and one-sided provisions of, railroad mortgages then in use.[2] The funding expedient, of course, afforded merely temporary relief and made the underlying financial situation of the debtor all the more critical, because no permanent adjustments between income and outgo had been effected. The day of reckoning was merely postponed. Later insolvencies were almost invariably the consequence.

The foundation for the modern equity reorganization technique was laid in the period following 1850.[3] This technique, as it was ultimately developed, involved foreclosure and sale of the insolvent carrier's property to a new company formed to take it over. The equity receivership was an essential ingredient of this process. It may be explained that an equity receiver is a disinterested person who, according to the usual definition, has been appointed by a court to hold or manage property which is subject to a pending suit until the rights to the property have been judicially determined.[4] While the property remains in the control of the receiver, it cannot, save in unusual circumstances, be affected by other courts or persons.

After it became established that receivers might be appointed to take over the operation of railroads, resort to the use of the receivership was most common in connection with foreclosure proceedings instituted on behalf of the holders of defaulted railroad bonds.[5] From the bondholders' point of view, the appointment of a receiver in connection with such proceedings had the advantage of taking the mortgaged property from the possession of the debtor's management and permitting revenues of the property to be applied on their obligations pending sale or foreclosure. Although the mortgage foreclosure receivership was useful in some situations, it by no means solved the bondholders' problems. This type of receivership extended only to the property subject to the mortgage, which frequently was only a part of the debtor's system. Since a railroad must be operated as a unit, this limitation greatly reduced the utility of the foreclosure receivership. Where the railroad had a complex aggregate of mortgages, legal machinery was needed which would extend the receivership to the entire system of the debtor and permit its centralized operation pending the development of a plan of reorganization. Not only the bondholders but also the railroad management felt this need. But it was not until 1884 that the well-known Wabash receivership pointed the way to such a possibility.

By 1884, when the Wabash reorganization was instituted, it had become well established that an equity receiver might be appointed, subject to certain limitations, in connection with pending litigation against a railroad, where the application was made on behalf of the debtor's creditors or stockholders.[6] Defying precedent, the

[2] Crowell, *Railway Receivership in the United States* (1898) 7 YALE REV. 319, 326.

[3] 2 CLARK, RECEIVERS (2d ed., 1929) 1249. [4] 1 CLARK, *op. cit. supra* note 3, at 15.

[5] Prior to 1850, it was not clear that receivers could be appointed to take over railroad operation. *Id.* at 1249.

[6] This requirement of pending litigation was met, for example, where foreclosure of a defaulted mortgage was sought. Foreclosure constituted a pending suit brought by corporate creditors against the debtor.

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Wabash Company itself filed a bill in equity, which had no connection with any pending suit, in which it requested the appointment of a receiver for its entire property.[7] The object of the bill was to place the Wabash properties in the lap of the court until a reorganization could be accomplished. The bill alleged, among other things, that the petitioner was insolvent and that unless a receiver was appointed, suits would be brought against it and its properties disintegrated, with great resulting loss to creditors, stockholders, and the general public. The bill was sustained and influenced reorganization profoundly, but certain doubts which were cast upon its soundness, and the fact that the procedure there followed lacked a well-formulated basis for effecting the reorganization once the receivership had been commenced, led to an ultimate departure from this technique.[8] The reorganization technique, as it was finally evolved following the Wabash case, was transformed from one in which the company itself formally instituted receivership proceedings in its own name to one in which a friendly creditor of the company was induced to commence the receivership proceedings, ostensibly for himself but actually at the instigation of the debtor.

Institution of Equity Reorganization Receiverships under the Modern Technique[9]

After a debtor's management had reached the decision that reorganization was necessary, attorneys for the company drew up all necessary legal papers in great secrecy, in order to prevent creditors from anticipating the receivership and subjecting important property to their claims or from instituting unfriendly receivership proceedings in the state courts.[10] Then a friendly creditor of the company was sought who was willing to file a petition requesting the appointment of a receiver for the debtor. In order that statutes governing the institution of suits in the federal courts might be complied with, it was necessary for him to reside in a state other than that of the incorporation of the debtor, and to have a claim exceeding $3,000.[11] The federal courts have been preferred for railroad reorganizations for the reason, among others, that the systems of the insolvent carriers frequently extend into several states, and if the state courts were used, separate receivership proceedings would have to be commenced in each state in which the railroad's properties lay. While it is also true that separate proceedings, called ancillary proceedings, must be instituted in each federal judicial district through which the debtor's system runs, the intimacy existing between the various federal district courts is much greater than between state courts, and the federal courts of the ancillary proceedings usually allow the

[7] For a more detailed discussion of the receivership background of the Wabash reorganization, see Chamberlain, *New-Fashioned Receivership* (1896) 10 HARV. L. REV. 139.

[8] See Byrne, *The Foreclosure of Railroad Mortgages in the United States Courts* in SOME LEGAL PHASES OF CORPORATE FINANCING, REORGANIZATION AND REGULATION (1917) 77, 86 *et seq.*

[9] A generalized description of the equity reorganization process is here set forth. Individual variations from certain aspects of the process may be found. For a more detailed and technical discussion of the manner of instituting railroad receivership proceedings, see *id.* at 77 *et seq.*

[10] Although the past tense is used in describing the equity reorganization receivership, this procedure may still be used, but it has been largely superseded by the new statutory bankruptcy reorganization. See p. 384, *infra*.

[11] 36 STAT. 1091 (1911).

court in which the primary proceedings have been instituted to control the operation of the entire railroad system.

The receivership proceedings were instituted through filing a petition for appointment of a receiver in the federal district court of the district in which the carrier's chief operating offices and a material part of its line were located.[12] Similar bills were simultaneously filed, as was noted above, in all other district courts in which the debtor had important properties. The bills alleged, among other things, that the defendant was indebted to the plaintiff and was insolvent; that there were other creditors whose debts had matured and which the company was unable to pay; and that it would be dismembered through attachment and execution if a receiver was not appointed and its assets administered. The allegations of these bills were admitted by the debtor who joined in the prayer for the appointment of a receiver. Courts of the ancillary proceedings usually appointed as their receivers the same individuals named as receivers by the court of the primary proceedings. It was customary for the court to name two or more receivers, one of whom was usually an officer of the debtor experienced with its operations.

Shortly after the receivership proceedings were instituted, the mortgage trustees under defaulted mortgages obtained the court's permission to commence foreclosure proceedings. The foreclosure bill, in connection with which a receiver of the mortgaged property was requested, was filed with the receivership court sitting in the district within which the property was located. The receivership was extended to the mortgage foreclosure suit by court order, and the persons named as receivers in the original receivership bill were usually named receivers in the foreclosure proceedings.

When the foregoing steps had been taken, the reorganization proceedings may be said to have been completely launched. The long-range objective thereof, namely, the foreclosure of the debtor's property and sale to the new company, would usually, however, be several long and weary years away. In the meantime, a plan of reorganization had to be devised and adequate support obtained for it. The so-called protective or reorganization committee system performed this function.

The Protective Committee System in Equity Reorganization

Since railroad properties are so extensive and valuable that outside bidders are almost unknown at their foreclosure, the investors in the old company were compelled to get together and acquire the property themselves if they hoped to salvage any portion of their original investment. This they almost invariably did by forming a new company to take over the properties. And if the new company was to be financially sound, it was necessary that its fixed charges should be materially lower than those of its predecessor. The situation, therefore, required investors of the old company to accept obligations of the new having a lesser face amount or reduced interest, or perhaps to take all or some portion of their claims against the former in stock or other contingent securities of the new company. Other classes of creditors

[12] Farmers' Loan & Trust Co. v. Northern Pacific R. Co., 72 Fed. 26 (1896).

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and stockholders, if they were permitted to participate in the reorganization at all, were required to make similar sacrifices. The complicated adjustments incident to such a re-shuffling of corporate interests obviously could not be worked out on a town meeting basis, even if it had been possible to bring together at one place thousands of scattered creditor and equity interests. The protective committee system was designed to permit the accomplishment of these re-adjustments.

Protective committees were self-constituted groups, formed to represent the various creditor and stock interests of the insolvent carrier. Usually each creditor or equity class had its separate committee. The common-stock committee was likely to be sponsored and dominated by the management of the debtor; bondholder committees by the investment bankers originally selling the issues to the public.[13] Rival committees, backed by diverse interests, frequently put in an appearance. Creditors and stockholders were solicited by their respective committees to deposit their securities with the committees pursuant to the terms of what is known as a deposit agreement. This agreement conferred broad powers on the committees and authorized them, among other things, to take all necessary steps to protect the depositors in connection with the reorganization proceedings and in the furtherance and development of a plan of reorganization.[14] The plan of reorganization was, at least in theory, the result of prolonged negotiations carried on among the various committees. No mathematical basis existed for the determination of what interests particular classes of creditors or stockholders of the insolvent debtor should have in the reorganized company. The treatment accorded individual classes depended on such factors as the strength of their claims, the ability of the committees representing them, and the integrity with which their interests were protected.

A key problem facing protective committees was that of raising sufficient money to make reorganization possible. These funds were usually provided through the adoption of a reorganization plan calling for the sale of new first-mortgage bonds to a banking syndicate and by levying a so-called "assessment" on the junior equity or creditor interests of the old company. Under the assessment plan the junior interests were permitted to obtain securities in the new company only upon payment of a designated amount of money. Because of the uncertainty involved in the raising of needed money in this way, the reorganization plans almost invariably provided for an underwriting of the proposed sale of securities to the junior interests.

After a plan of reorganization was agreed upon by the committees dominating the reorganization, their depositors were notified that a copy of the proposed plan had been lodged at a designated place where it might be examined by them. Those who were dissatisfied were permitted to withdraw their securities upon payment of their pro-rated share of the committee expenses. Provision was usually made that

[13] DEWING, *op. cit. supra* note 1, at 1104.

[14] For a more detailed description of deposit agreements and related problems, see Cravath, *The Reorganization of Corporations* in SOME LEGAL PHASES OF CORPORATE FINANCING, REORGANIZATION AND REGULATION (1917) 153, 162 *et seq.*

failure of a depositor to withdraw his securities within a stipulated period constituted an acceptance of the proposed plan.

Foreclosure and Sale of the Property and Consummation of the Plan

After the dominating protective committees had decided that their plan had the support necessary to make a reorganization possible, a decree of foreclosure of the debtor's property was sought. In connection with the foreclosure proceedings a hearing was held in which the court set a price known as the upset price below which it would not permit the property to be sold. This price was set in order to prevent creditors and stockholders supporting the reorganization plan from acquiring the property at an unconscionably low figure. This was a frank recognition of the fact that in most cases involving large railroad properties the latter group was the only possible purchaser.[15]

At the sale on foreclosure the property was bid in by representatives of creditors and stockholders of the old company, known as the purchase committee, and thereafter it was transferred to a new corporation which had been formed to take it over. After 1920 it was necessary for the new company to receive the Interstate Commerce Commission's approval of the securities it proposed to issue.[16] Securities in the new company were then delivered to those participating in the reorganization plan on the basis therein provided. Those refusing to acquiesce in the reorganization plan were paid in cash their pro rata share, if any, of the price for which the property was sold on foreclosure.

The transfer of the railroad properties to the new company terminated the reorganization proceedings for most practical purposes, and if no doctrines of reorganization law had been violated, the new company took the property of the old, free of all the latter's debts which were junior to the foreclosed mortgages. The reorganized company started its life subject only to the undisturbed mortgages of the old company and to the obligations which it assumed under the reorganization plan.

The Doctrine of Northern Pacific Railway v. Boyd

The *Boyd*[17] case established, or at least made clear, an important limitation on the rights of stockholders to participate in reorganizations. Prior to this case, it had been assumed that if mortgaged railroad property was foreclosed and sold for less than the amount of the mortgage, purchasing bondholders were privileged to deal with the acquired property as they saw fit. This notion, however, received a rude jolt in the *Boyd* case. In this case the Northern Pacific Railroad had been reorganized through the foreclosure and sale of its property to the Northern Pacific Rail-

[15] The advantage in favor of those supporting the plan having overwhelming support is easily perceived. If a corner lot, having a $5,000 mortgage thereon, is sold on foreclosure for $3,000 and is bid in by the mortgagee, the latter is entitled to credit the amount of the debt on the price which he paid for the property. Hence, he merely has to put up enough money in such circumstances to pay the expenses of foreclosure sale. Similarly a purchase committee representing 95% of the bondholders are entitled to a credit of 95% of the sale price of the property which they are purchasing. The holders of the remaining 5% of the securities would have only a 5% credit. This large differential can usually be counted upon to prevent the minorities from effectively bidding at foreclosure sales.

[16] 41 STAT. 494 (1920).

[17] 228 U. S. 482 (1913).

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way Company. The bondholders' reorganization plan provided that stockholders of the old company might obtain an interest in the new by making a specified cash payment. No provision was made for participation in the plan for general unsecured creditors of the old company. Ten years after the reorganization had been completed, Boyd, an unsecured and unpaid creditor of the old company, brought suit against the reorganized company. He asserted that since no provision had been made for his claim, the transfer of the assets of the old company was fraudulent, and that consequently the transferee company was liable for the debt of its predecessor. The claim of Boyd was sustained, and a decree was entered making his claim a lien on the property of the reorganized company. The rationale of the decision was that bondholders, who might have purchased the property for themselves alone, could not permit stockholders to obtain an interest in the new company pursuant to an arrangement made before the sale, without also giving every creditor of the old the privilege of participating in the reorganization on a fair and equitable basis. The *Boyd* decision was variously described as the demon incarnate and as a perpetual spectre across the path of corporate reorganization. A profound fear existed that the Supreme Court's requirement of a fair and equitable plan of reorganization was such a vague and uncertain guide that those creditors who had not become parties to the reorganization would be able to contest the fairness of the reorganization many years after it had been consummated and to hold the new company liable for the debts of its predecessor where the judgment returned was that the reorganization plan was unfair as to them. Such a possibility was obviously a serious threat to the efficacy of the reorganization process, as the estimate of the fairness of the plan years after the event would all too likely be influenced by hindsight rather than foresight.

Steps were immediately taken, however, to plug the reorganization hole which had been revealed by the *Boyd* case.[18] The expedient adopted was to have the fairness of the reorganization plan litigated in the foreclosure proceedings. This was done by inserting in the decree of foreclosure a provision that the sale would not be confirmed by the court unless, after hearing, it was satisfied that a fair and timely offer of participation had been made to all creditors of the old company. Provision was also made for notifying creditors of the terms of the decree, of the filing of the reorganization plan, and of the hearing to be held thereon. The result of the new procedure was that all creditors of the old company, whether or not they were parties to the reorganization proceedings, became bound by the terms of the plan upon confirmation of the sale of the properties. In the words of one writer, the doctrine of the *Boyd* case became reasonably domesticated.

Criticism of the Equity Reorganization Process

Dissatisfaction with various aspects of the equity reorganization scheme mounted with the years. The cumulative effect of a wasteful system of ancillary proceedings, the necessity for the essentially ritualistic sale on foreclosure of the insolvent's

[18] See Swaine, *Reorganization of Corporations: Certain Developments of the Last Decade* in SOME LEGAL PHASES OF CORPORATE FINANCING, REORGANIZATION AND REGULATION (1931) 133, 142 *et seq.*

property, the fees exacted by the numerous protective committees, reorganization managers, mortgage trustees, receivers, and their counsel, contributed to make reorganization costs exorbitant, if not scandalous.[19] Reorganizations were dominated all too frequently by investment banking interests who, through their influence over protective committees, were enabled to shape reorganization plans to their own ends.[20] Protective committees, assuming to represent various classes of security-holders, often had interests which conflicted with those of their depositors.[21] Too frequently reorganizations were financially unsound.[22] Fixed charges often were not adequately reduced,[23] and it was not uncommon for a reorganized company to emerge from reorganization with a larger total capitalization than that of its predecessor.[24] Nor did the authority of the ICC over the issuance of securities result in material improvement of the financial structures of the reorganized companies. The Commission's control was brought to bear so late in the proceedings that it usually gave its reluctant approval to unsound capital structures in order to avoid the costs of prolonged receivership.[25] Reorganization plans, too, were frequently unfair. The judges were too busy carefully to examine the plans proposed,[26] and they, like the ICC, were brought into the proceedings at the very end of the process, at a time when they were reluctant to upset the result of years of labor.

The rumblings of discontent over the equity system reached a climax in the last days of the Hoover regime, when a dangerously large number of railroads were either already in receivership or on the verge. Congress then enacted under its federal bankruptcy power a comprehensive system of statutory reorganization for the railroads of the country.

THE STATUTORY SCHEME

Institution of Proceedings and Control of the Properties

The new reorganization statute, known as Section 77 of the Bankruptcy Act,[27] provided that interstate railroads which were insolvent or unable to meet their debts as they matured, might be reorganized in the federal bankruptcy courts.[28] The rehabilitation proceedings could be instituted through filing a petition requesting reorganization in a federal bankruptcy court by the carrier itself, or, where approval of the ICC was first obtained, by creditors having 5% of its total outstanding indebtedness (§77a). On approval of the petition the debtor might be left in possession of its property, or one or more trustees might be appointed to take over its operation

[19] See testimony of Commissioner Joseph B. Eastman, *Hearings before Committee on the Judiciary on H. R. 6429*, 74th Cong., 1st Sess. (1935) 14.

[20] REPORT TO SECURITIES AND EXCHANGE COMMISSION ON THE STUDY AND INVESTIGATION OF THE WORK, ACTIVITIES, PERSONNEL AND FUNCTIONS OF PROTECTIVE AND REORGANIZATION COMMITTEES (1937) 863 *et seq.*

[21] REPORT TO SECURITIES AND EXCHANGE COMMISSION, *supra* note 20, at 863 *et seq.*

[22] MOULTON *et al.*, THE AMERICAN TRANSPORTATION PROBLEM (1933) 321.

[23] 3A SHARFMAN, THE INTERSTATE COMMERCE COMMISSION (1935) 584.

[24] DEWING, *op. cit. supra* note 1, at 1159.

[25] MOULTON *et al.*, *op. cit. supra* note 22, at 350, 356.

[26] Frank, *Some Realistic Reflections on Some Aspects of Corporate Reorganization* (1933) 19 VA. L. REV. 541, 565.

[27] 47 STAT. 1474 (1933).

[28] The statute did not abolish the equity receivership. See §77k.

(§77c). The provision allowing the debtor to continue in possession where no trustee was appointed was an innovation in reorganization practice. It was based on the theory that financial misfortunes occasioning reorganization may be due neither to inefficiency nor to culpability of the debtor's management, and that in such circumstances the properties should be left in the hands of those familiar with its operation. Where trustees were appointed, however, they were to be selected from a panel of standing trustees, designated in advance by the ICC (§77c).

Once the initiatory proceedings received the court's blessing,[29] the debtor or trustees, as the case might be, were vested with title to the property and authority to operate the business, subject, however, to the control of the judge and of the ICC, as provided in the Interstate Commerce Act (§77c). The reorganization court was likewise vested with exclusive jurisdiction over all of the property of the debtor, even though portions might lie in other judicial districts (§77a), thereby eliminating the necessity for expensive and relatively inefficient ancillary proceedings characteristic of the equity reorganization process. Appropriate provisions also operated to stay creditor actions affecting the debtor's property (§77l). Creditors and stockholders were required to file their claims (§77c(5)) and the judge was ordered to classify them for voting on the reorganization plan later to be formulated (§77c(5)).

Procedure for Formulation of Reorganization Plans

The basic objective of the new statute was to provide machinery which would avoid the undue delay and inordinate costs of the equity reorganization process and at the same time assure the development of fair, equitable, and financially sound reorganization plans by means of administrative and judicial safeguards which were lacking or inadequate in the equity reorganization process. The ICC was required to hold public hearings after due notice, at which creditors or stockholders were entitled to be heard on proposed reorganization plans (§77c(9)) before they could be finally asked to accept any reorganization plan (§77d). At these hearings the debtor was directed to present its proposed plan, and trustees of the debtor and persons representing not less than 10% in amount of the claims of any class of creditors might likewise propose reorganization plans (§77d). Following a hearing on proposed plans, the Commission was directed to render a report recommending a plan of reorganization which might differ from any plan which had been submitted to it (§77d). No plan might become effective without the prior approval of the Commission (§77d, e, f), nor could one be approved by the Commission or the court unless it was equitable, did not discriminate unfairly in favor of any class of creditors or stockholders, was financially feasible, and in the public interest (§77d, f, g). The influence of the principle of equity reorganizations, that the reorganization plan shall be fair and equitable, is to be clearly discerned in these provisions.[30]

[29] The judge was required to approve the petition if he was satisfied that it was filed in good faith and complied with the technical requirements of the Act. §77a.

[30] The words "fair and equitable" as used in the statute are words of art which have acquired a fixed meaning through judicial interpretation in the field of equity receivership reorganization. *Cf.* Case v. Los Angeles Lumber Co., 308 U. S. 106, 115 (1939).

Provisions Relating to Creditor and Stockholder Acceptance of Reorganization Plans

A great practical difficulty of the equity reorganization process lay in the necessity of having available sufficient cash to pay reorganization expenses, provide new capital, and satisfy the claims of the unpredictable number of creditors who might refuse to participate in the reorganization.[31] Accordingly it was felt that the reorganization process should be democratized, so that creditor and stockholder minorities would be bound by majority decision. Section 77 therefore provided that a plan of securities readjustment which was approved by the ICC, confirmed by the court, and accepted by a two-thirds majority in amount of any class of creditors or stockholders, should become binding upon the remainder of the class (§77c, g, h).

Congress recognized, however, that it was unlikely that the acquiescence of a majority of all classes of creditors and stockholders could be obtained in all situations. Obstructionist tactics on the part of dissenting classes, not to mention the bona fide dissent of investors who would feel that they were being unjustly dealt with, appeared inevitable. In order to prevent dissenting classes of either stockholders or creditors from blocking reorganization unless their demands were met—demands which might easily become extortionate—steam-roller provisions were included in the statute which made their acquiescence unnecessary in certain circumstances (§77e). The consent of any class or classes of creditors or stockholders was dispensed with where (1) a plan of reorganization provided for the payment in cash, at the claimant's option, either of the value of his claim or the value of the securities allocated under the plan to his interest in the old company, or (2) where provision was made in the reorganization plan for a sale of the debtor's property to the reorganized company at a price not less than that to be fixed by the ICC, called the upset price (§77g, e). Where reorganization was based on sale at an upset price, non-acquiescing classes of creditors and stockholders were entitled to cash payment of such proportion of the sale price as was allocable to their interests.[32] Shareholder acquiescence was likewise dispensed with under the steam-roller provisions where it was established that their equity in the enterprise was gone (§77g, e).[33] And bondholder acceptance was made unnecessary where the reorganization plan provided for a sale of the debtor's property subject to their liens (§77g).

Proceedings for Confirmation and Consummation of Reorganization Plans

A plan of reorganization which was approved by the Interstate Commerce Commission and accepted by the requisite majorities of creditors and stockholders, unless that consent was made unnecessary, was required to be certified to the court by the

[31] See Swaine, *Corporate Reorganization under the Federal Bankruptcy Power* (1933) 19 VA. L. REV. 317, 326.

[32] The upset-price provision, it might be noted, was borrowed from the equity reorganization process where it was habitually set so low as to have the effect of driving dissatisfied minorities into reorganization plans. Weiner, *Conflicting Functions of the Upset Price in a Corporate Reorganization* (1927) 27 COL. L. REV. 132, 137, n. 28.

[33] Their consent could also be dispensed with where their interests were not to be adversely affected by the plan, or where by authorized corporate action the plan had been accepted by their company and they were bound by its acceptance. §77e.

Commission, together with the latter's report of the proceedings (§77f). After such certification, the judge held public hearings on the approved plan, at which time he considered the stockholders' and creditors' objections, and confirmed the plan if it complied with the requirements of the Act (§77g). The provisions for the court hearings were undoubtedly introduced to minimize the chance of a successful challenge of the statute's validity on constitutional grounds. It is to be doubted, though, that the draftsmen of the Act expected that the judges would, except possibly on rare occasions, concern themselves with a detailed examination of reorganization plans theretofore approved, and perhaps formulated, by the ICC after the full hearings required by the Act.[34]

A plan of reorganization which was confirmed by the court was made binding on the debtor and on all of its creditors and stockholders (§77h). The property of the insolvent was thereafter transferred to the reorganized company which received it free from all obligations of the old enterprise, save as otherwise provided in the reorganization plan (77j). The costly and essentially ritualistic sale on foreclosure was eliminated through a provision permitting the debtor's property to be retained by it or transferred to another corporation without foreclosure (§77j).

The Protective Committee and the New Legislation

Under the new legislation the protective committee system was shorn of a considerable amount of the power which it possessed in the equity reorganization. Court and administrative controls over the formulation of reorganization plans were introduced at a sufficiently early stage of the reorganization process to make their existence effective (§§77d, e, f). Then, too, the committee system was weakened by the referendum set-up of the statute. The ICC was required to refer its recommended plan directly to stockholders and creditors (§77d).[35] If securities had been deposited with a protective committee before the Commission's recommended plan was announced, the committee apparently was permitted to vote on deposited securities only in the event it was authorized to do so by a new authority executed after promulgation of the plan (§77e).[36] This provision, in the opinion of the writer, was introduced to prevent voting power from falling into the hands of protective committees through sheer inertia on the part of depositors, and because it was undoubtedly thought that the prestige of plans recommended by the ICC would be sufficient to influence investors to accept them even though they should be opposed by such committees. The new legislation, however, made no attempt to regulate the protective committee system with respect to possible unfair solicitation practices, the use of one-sided deposit agreements, and its failure to provide disinterested depositor representation.[37]

[34] This view is supported by the fact that court consideration of the plan was not brought to bear until after there had been a submission to creditor and stock interests. §77d, f.

[35] It might also, if it saw fit, submit any other plan which had been filed in the proceedings. §77d.

[36] For a contrary point of view, see Rogers and Groom, *Reorganization of Railroad Corporations under Section 77 of the Bankruptcy Act* (1933) 33 COL. L. REV. 571, 610.

[37] The Securities Act of 1933 (48 STAT. 74) applied to certificates of deposit issued by protective committees. It did not, though, attempt to regulate the terms of such agreements or the personnel of the committees. Committees were, however, compelled to disclose important information, such as their past

Miscellaneous Provisions

Limitations of space prevent more than a brief reference to some miscellaneous provisions for reorganization control which were introduced by the new legislation. Expenses to be paid from the estate of the debtor, including compensation to trustees and their counsel, to reorganization committees, managers, and other creditor and stockholder representatives, were required to be fixed by the court within maximum limits prescribed by the ICC (§77c(8)). It was thought that these limitations did not prevent protective committees from making private arrangements with their depositors concerning their remuneration and expenses.[38] Claims for personal injury to employees were made preferred claims, outranking even first mortgages (§77s). Judges and trustees were prohibited from recognizing "yellow dog" contracts (§77p), from promoting company unions (§77p) or, with certain restrictions, from changing employees' wages or working conditions (§77o).

THE AMENDMENTS OF 1935

General Scheme of the Amended Act

The experience with Section 77 indicated the desirability of further reorganization reform and in 1935 the Federal Coordinator of Transportation recommended a comprehensive revision of the Act. In the same year, after extensive hearings, Congress enacted the proposed legislation in general accordance with the Coordinator's recommendations.

Although the original Act was overhauled from stem to stern—scarcely a sentence of the original Act remaining unchanged—its underlying conception was retained. Proceedings under the new Act may be instituted by a carrier in the same way and are subject to the same conditions (§77a). Creditors, however, may now institute proceedings without the prior approval of the ICC (§77a).[39] The appointment of trustees for the debtor is required under the amended Act (§77c),[40] the trustees to be selected, not from a panel as before, but by the judges subject to the approval of the Commission.[41] The Commission retains its key position with respect to the formulation of and veto over reorganization plans (§77d) and control over reorganization expenses (§77c(12)). In order to expedite reorganizations where that is desirable, the debtor is directed to present a proposed reorganization plan within six months after the approval of the reorganization petition (§77d).[42] Permission to file

affiliations, the circumstances surrounding their organization, etc. See SEC, Form D-1. They could, however, obtain an exemption under the Securities Act, §3(a)(2), by obtaining court approval of the terms of their deposit agreement in advance of solicitation. Under the Securities Exchange Act of 1934 (48 STAT. 881) committees were required to file a listing application in conformance with that Act, if their certificates of deposit were to be listed on a national security exchange.

[38] Rogers and Groom, *supra* note 36, at 587.

[39] This change was made because the original Act provided no standard for determining the circumstances in which such approval should be given or withheld.

[40] An exception was made with respect to small carriers whose annual operating revenues were less than $1,000,000 a year.

[41] One reason for this change was the difficulty experienced by the Commission located in Washington in selecting for the panel suitable persons living in other parts of the country.

[42] This period may be extended, for cause shown, for intervals not exceeding six months each. §77d.

proposed plans is extended to stockholders having not less than 10% of any class of stock, and to other interested parties who obtain the consent of the Commission (§77d). The order of procedure for reference on reorganization plans is greatly improved.[43] The amended Act provides that a proposed reorganization plan shall be certified to the court after approval by the Commission and before it is submitted to creditors and stockholders (§77d). If court approval is withheld, the plan may be merely returned to the Commission for further consideration (§77e). Under the original scheme a costly and time-consuming submission to creditors and stockholders would have been rendered useless where the court refused to approve the submitted plan.

The amended Act retains the provisions for majority creditor and stockholder control of reorganization (§77e). Continued also, although amended in certain respects, are the steam-roller provisions permitting the effectuation of reorganizations over the objections of non-acquiescing classes of creditors and stockholders (§77e). The changes made in this connection, together with the new so-called "cram-down" provisions of the amended Act, will be discussed later. And, as under the original Act, the reorganized company obtains the properties of the debtor free from all old debts save as otherwise provided in the confirmed reorganization plan (§77f).

Defects in the Valuation and Upset Price Provisions of the Original Statute

The steam-roller provisions of the original statute, which were designed to permit reorganization over the objections of dissenting classes of creditors or stockholders, were key provisions of the legislation (§77e). Unless they possessed a high degree of practicability, the new reorganization technique was likely to be ineffective in an important number of instances, because reorganization plans proposed thereunder probably would not be acceptable to all classes of creditors and stockholders. Under one of the steam-roller provisions the consent of classes was dispensed with where the reorganization plan provided for a sale of the debtor's property at not less than a fair upset price (§77g). This provision was thought to be defective and of little practical utility. Both courts and scholars were in wide disagreement concerning the proper basis for determining the upset price.[44] The chaotic condition of the law and the uncertainty concerning the principles applicable to upset-price determination were regarded as making it unsound to rely on the upset-price technique as a principal means of implementing reorganization. The jumbled state of the law, too, was all too likely to encourage costly and undesirable obstructive litigation.

The other important provision dispensing with investor acquiescence was based on the payment in cash of the value, if any, of the interest of dissenting classes. Shareholder consent was made unnecessary both where the company was found to be insolvent (§77e), *i.e.*, where the value of its assets was less than the aggregate of its debts, and where the reorganization plan provided for appraisal of their interests

[43] For procedure under original statute, see pp. 385-387, *supra*.

[44] Bonbright and Bergerman, *Two Rival Theories of Priority Rights of Security Holders in a Corporate Reorganization* (1928) 28 COL. L. REV. 127.

and for cash payment of the value thereof (§77g). The latter provisions also applied to dissenting classes of corporate creditors (§77g). These provisions for eliminating creditor and stockholder acquiescence were regarded as unsatisfactory because it was feared that, in the absence of applicable legislation, principles of valuation as applied in rate-making proceedings might be invoked.[45] The difficulties inherent in the valuation of great railroad properties on the basis of rate-making principles, together with the enormous costs and intolerable delays accompanying their application, would have made a dead letter of the appraisal provisions. With the upset-price provisions impracticable and the appraisal provisions ineffective, the likelihood seemed great that the Act would fail as an effective reorganization vehicle. Accordingly a highly important innovation was included in the amended legislation. The method of approach was to make the appraisal provisions workable. This was done through incorporation of a comprehensive formula specifying the basis upon which valuations were to be made. In the formula the emphasis was shifted from the factors giving rise to the difficulties in rate-making valuations to the ultimate economic basis of all industrial plant valuation—the earning power of the properties (§77e).

The "Cram-Down" Provisions of the 1935 Amendments

Under the amended Act a plan of securities readjustment may become binding on dissenting classes of creditors or stockholders, even though they are offered no alternative of cash payment for their interests in the old company (§77e). These so-called "cram-down" provisions may be invoked, however, only where the court finds, after hearing, that the reorganization plan makes adequate provision for the dissenters' interests and that their rejection of the approved scheme of securities readjustment is not reasonably justified. It was expected that these provisions would be used only in extraordinary situations. They were added because it was thought that particular reorganizations might be seriously impeded or prevented through inability to raise the amount of cash which would otherwise be necessary. While these provisions provoked charges of unconstitutionality,[46] they were defended on the seemingly sound basis that the accomplishment of fair and sound reorganizations, which are required both in the public and private interest, would be rendered difficult if not impossible if cash payment to dissenting classes were an invariable requirement.[47]

Amendments Pertaining to Classification of Creditors and Stockholders

As originally enacted, Section 77 was thought to be defective in that it elevated dissenting groups to a position of undeserved strength. It required a division of creditors and stockholders into separate classes according to the nature of their respective interests (§77c(5)). This provision was interpreted by the courts in such a

[45] In the *Hearings before the Committee on Judiciary on H. R. 6249*, 74th Cong., 1st Sess. (1935) 152, 215 *et seq.*, 291 *et seq.*, the equity interest vigorously advanced this point of view.

[46] Friendly, *Amendment of the Railroad Reorganization Act* (1936) 36 COL. L. REV. 27, 32.

[47] For a more elaborate argument supporting the constitutionality of these provisions, see Craven and Fuller, *The 1935 Amendments of the Railroad Bankruptcy Act* (1936) 49 HARV. L. REV. 1254.

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way as to encourage proliferation of classes, which naturally resulted in an undue strengthening of minority groups.[48] The opportunities of such groups for quick and aggressive opposition were greater where individual classes consisted of a single or perhaps a few creditors, than would have been true if they had been submerged in the membership of a large class. The amended statute was designed to discourage such over-classification.

The Protective Committee and the Amended Act

The amended Act envisaged an increase in the influence of the protective committee system. Under its terms proposed plans of reorganization may be submitted directly to protective committees as representatives for security depositors (§77c, p). The relaxing of the stringency of the old Act in this respect, however, was more than compensated for by the introduction of new and highly important provisions subjecting such committees to strict regulation (§77p). It was made unlawful for any person to solicit proxies or authority to represent creditor or stockholder interests in connection with pending reorganization proceedings without first obtaining the approval of the ICC. In passing on applications under this section, the Commission considers, among other things, such relevant matters as the manner of proposed solicitation, the rate of compensation to be charged by the applicant, his business connections and other committee interests which might be inconsistent with disinterested representation, and the terms of the proxy authorization or deposit agreement under which the applicant proposes to act.[49]

Miscellaneous Provisions under the Amended Act

A number of particularly important miscellaneous changes in the original Act should be mentioned in passing. Section 77 was interpreted by the Supreme Court as requiring prompt reorganization, even though conditions were such that a slow tempo might be in the better interests of all concerned.[50] Accordingly the statute was amended to ease the requirement of prompt reorganization and to permit court retention of the proceedings so long as there was not an undue delay (§77g).

The provision permitting the allowance of compensation (§77c(8)) to protective committees and reorganization managers out of the debtor's estate was eliminated. Under the amended Act such committees might obtain from the estate of the debtor only their actual and reasonable expense, including reasonable attorney's fees (§77c(12)).[51] Other amendments permit mortgage trustees to file claims on behalf of bondholders who have failed to act in their own behalf (§77c(7)). The original Act required the compilation from the records of the debtor of a list of all its

[48] In the pending Missouri Pacific case, the stock and creditor interests were originally classified into 72 different groups.

[49] See Fennell, *Protective Committees and Deposit Agreements in Railroad Reorganization* (1939) 49 YALE L. J. 224, 230 *et seq.*; Fennell, *The Protection of Security-Holders' Interests under Section 77*, *infra* p. 477 *et seq.*

[50] Continental Illinois National Bank & Trust Co. v. Chicago Pacific Railway, 294 U. S. 648 (1935).

[51] The wisdom of this change is not clear, but, at the time the bill was enacted, Congressional disapproval of committee charges was too great to permit an objective approach to the problem.

creditors and stockholders and this list was open to inspection by designated parties in interest (§77c(9)). The utility of this provision was limited by the fact that bondholder lists were likely to be in the hands of persons other than the debtor, such as the paying agents under the debtor's mortgages, for example. Accordingly the statute was amended to provide that any person having such a list should be under the duty to supply it (§77c(5)).

The railroad reorganization process, as it developed from the earliest stages, has been characterized by a constant endeavor on the part of courts and lawyers to adjust, adapt and evolve legal machinery which would adequately cope with the enormously difficult problems of the insolvent carrier. The progress which was made was slow and halting for many years, for shaping antiquated legal machinery to meet the new needs was a formidable task. Had legislative aid been forthcoming at the outset, the problem would have been greatly simplified. When it did come, though after many years, a long step was made toward the goal of sound, fair and reasonably inexpensive railroad reorganizations. Experience with the statute, however, revealed important deficiencies. This was hardly a surprise, as perfection in new legislation concerned with such complex problems was hardly to be expected. Extensive amendments attacking these deficiencies constituted a further stride toward the reorganization goal. Now that the barricade of legislative indifference has been shattered, it is to be hoped that such shortcomings as may have been revealed in the existing legislation will receive the prompt Congressional attention required by the importance to the country of a sound system of railroad transportation.

PICTORIAL SUPPLEMENT TO

DENVER SOUTH PARK & PACIFIC

R. H. KINDIG

E. J. HALL

H. C. POOR

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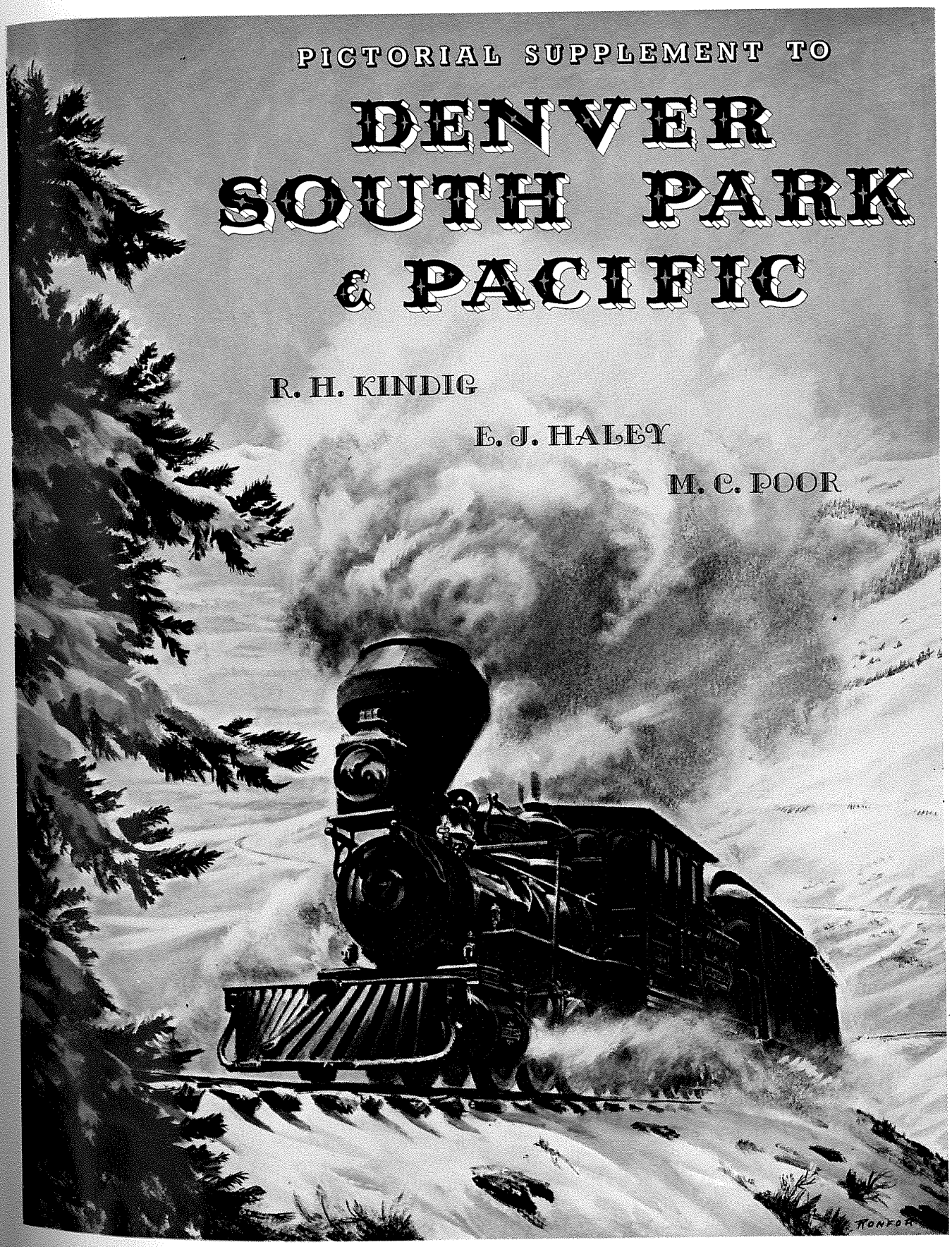
PICTORIAL SUPPLEMENT TO

DENVER SOUTH PARK & PACIFIC

R. H. KINDIG

E. J. HALEY

M. C. POOR



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Chapter I

A CONDENSED HISTORY OF THE DENVER SOUTH PARK & PACIFIC RAILROAD

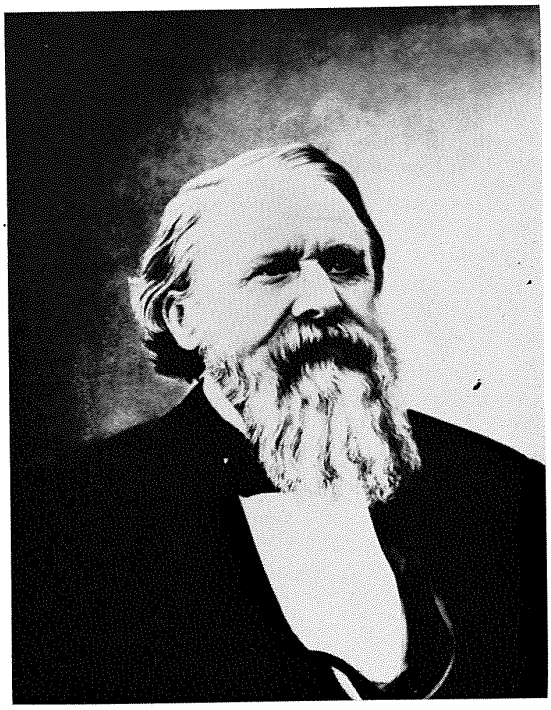
R. H. KINDIG

Simply spending a few moments contemplating the railroad's name, "Denver South Park & Pacific," might bring to the mind of one familiar with Colorado a vision of tracks departing from Denver, struggling through the canons and high passes between the lofty peaks of the Rockies to the great flat expanse of South Park, then beginning an even greater struggle in its attempt to reach the Pacific Ocean—although completion of the line to that distant shore was never accomplished.

In truth, the little narrow gauge railroad was tangible evidence of the success of many struggles —of obtaining financial backing for construction of the line; the actual physical obstacles which were overcome during its construction; competition from other railroads which tended to reduce the traffic available to the South Park line; and the struggle to operate trains in spite of difficulties arising from the whims of nature. Among these hindrances were such items as the fury of raging blizzards in the winter months, and the associated hazard of snowslides; floods which damaged the roadbed and track; and the ever-present danger of falling rocks or landslides which sometimes obstructed the railroad.

However, in spite of all these hindrances, the railroad operated with reasonable reliability for almost 70 years, considering its active life as a narrow gauge common carrier. Much of its success in the early days of its existence was due to the indomitable drive of Governor John Evans, who was not only one of the founders of the line, but was also the railroad's first president.

As early as 1868, a survey had been made which covered part of the South Park line's subsequent construction, even though it was not built until several years after this survey. Although the survey envisioned a railroad extending from Denver to Santa Fe, the portion from Denver through Platte Canon, over Kenosha Pass, across South Park, and down Trout Creek Canon as far as the Valley of the Arkansas River was the route actually followed when the Denver South Park & Pacific Railroad was built. At this point it diverged from the route toward Santa Fe, as Leadville and Gunnison became more important destinations.



University of Colorado.

GOVERNOR JOHN EVANS

In the 1873 "Articles of Association" of the Denver South Park & Pacific Railroad Company, the line was to continue southward along the Arkansas River Valley for a short distance, then over

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Poncha Pass into the San Luis Valley, to the town of Del Norte, ". . . and thence by the most feasible route to the San Juan mining districts in South Western Colorado—to be extended thence to the Pacific Ocean . . . also to Summit County, to be extended via the Middle Park to the Pacific Ocean."

Although the officials of the railroad probably didn't expect to complete *two* railroad lines to the Pacific Ocean, they were evidently trying to secure claims to the most likely routes, and hoped eventually to complete one of them. However, various conditions eventually prevented the railroad track from ever leaving Colorado, and the San Juan district was reached by the narrow gauge rails of the Denver & Rio Grande rather than the D. S. P. & P.

Governor Evans made numerous horseback trips into the mountains southwest of Denver, and became quite familiar with the areas known as Platte Canon and South Park. The Park itself is a vast flat surface, surrounded by mountains, nearly 50 miles long and varying up to 20 miles in width. The Governor noted the tremendous natural resources of this territory, and had the vision to see how valuable a railroad would be in this area, together with the determination to see that such a line was built.

Associated with Governor Evans in this ambitious project were numerous other men whose names are now prominent in early Colorado history —such men as Joseph Bates, Jerome Chaffee, W. S. Cheesman, Frederick A. Clark, Henry Crow, Leonard H. Eicholtz, S. H. Elbert, Bela M. Hughes, George W. Kassler, Charles B. Kountze, David H. Moffat, Jr., and F. Z. Saloman.

The decision to build the railroad as a narrow gauge line (3 feet between the rails, compared to 4 feet, 8½ inches, which had become the standard gauge in the United States and other countries) was reached after careful consideration of the type of country the track was expected to penetrate. The slim gauge could be built on a narrower roadbed, thus decreasing the cost of construction, especially where rocks had to be blasted or cuts dug through projecting hillsides. Also, the narrow gauge track could successfully negotiate sharper curves, and climb somewhat steeper grades than were commonly used by standard gauge railroads.

Construction actually began in August, 1873. A separate construction company, known as The Denver Railway Association, was organized and later incorporated. Governor Evans had to overcome considerable opposition before his company was in a position to begin construction. One of his principal opponents was General William J. Palmer of the Denver & Rio Grande Railroad, who resisted construction of the South Park line because its proposed routes conflicted with some of the D. & R. G.'s intended destinations. Another antagonist was W. A. H. Loveland, one of the major executives of the Colorado Central Railway, which was at this time already in operation between Denver and Blackhawk, with a branch to Floyd Hill. Too, financial backing was not easily obtained by the South Park company. Governor Evans proposed that Arapahoe County vote a bond issue of $300,000, these bonds to be exchanged for $300,000 of the railroad's $3,500,000 capital stock. After much argument, the bond issue was approved by a vote of the people in July, 1873, and the officials of the Denver South Park & Pacific Railroad immediately began plans to construct the line.

Setting up a separate construction company was the usual procedure at that time. Although officers of the construction companies were not always the same as officials of the railroads involved, there is no doubt that control of the finances of the construction company was maintained by those who controlled the associated railroad. A contract was therefore negotiated between the Denver South Park & Pacific Railroad Company and the Denver Railway Association, providing for the construction company to build a first class 3-foot gauge railroad from Denver to the Arkansas River Valley, with a branch to Morrison. The total mileage was 150, and the Denver Railway Association was to build not only the main track and sidings, but also all depots, freight houses, machine shops and other buildings which were required. As various sections of the railroad were completed, they were to be turned over the D. S. P. & P., and the construction company was to be remunerated with fully paid capital stock of the railroad, amounting to a total payment of $1,900,000 for the 150 miles of proposed railroad, upon its completion.

Most of the right of way of the first part, from Denver to Morrison, was prepared in late 1873 and early 1874, and in April, 1874, actual laying of the rails began. By late June, the line was completed to Morrison, 16 miles from Denver. Two locomotives, a 2-6-0 named "Fairplay," and a 4-4-0 named "Platte Canon," provided the motive power during the railroad's first years. A small number of passenger and freight cars completed the equipment roster at this time. The principal freight

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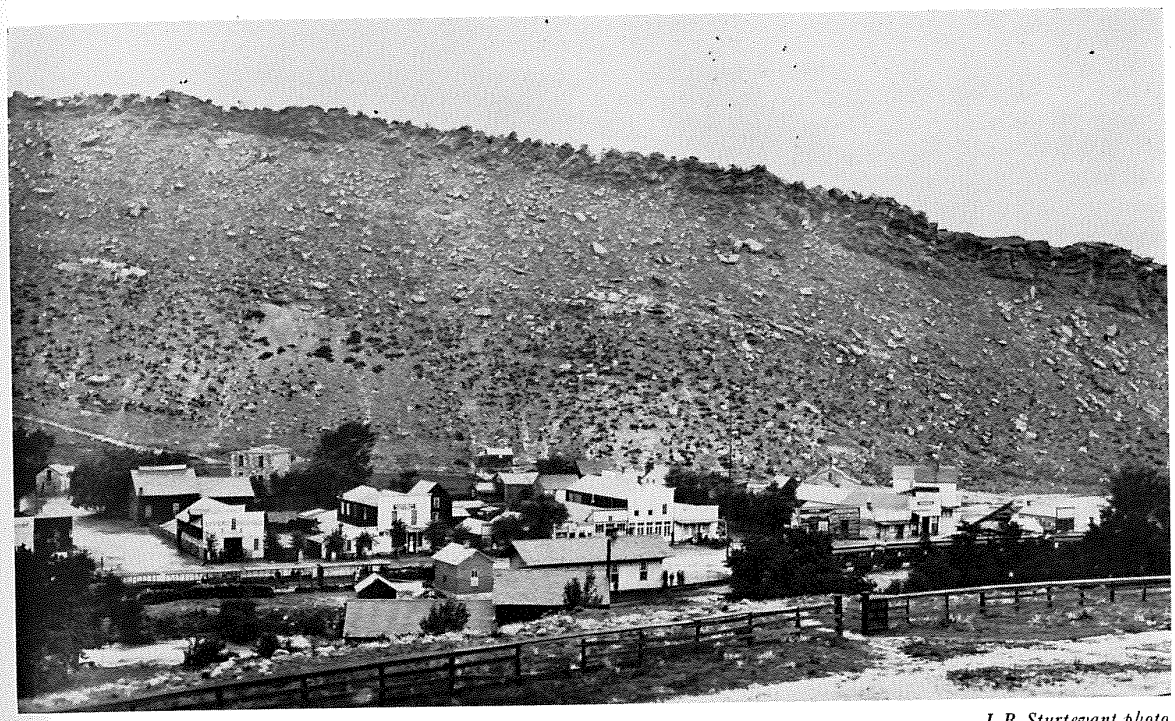
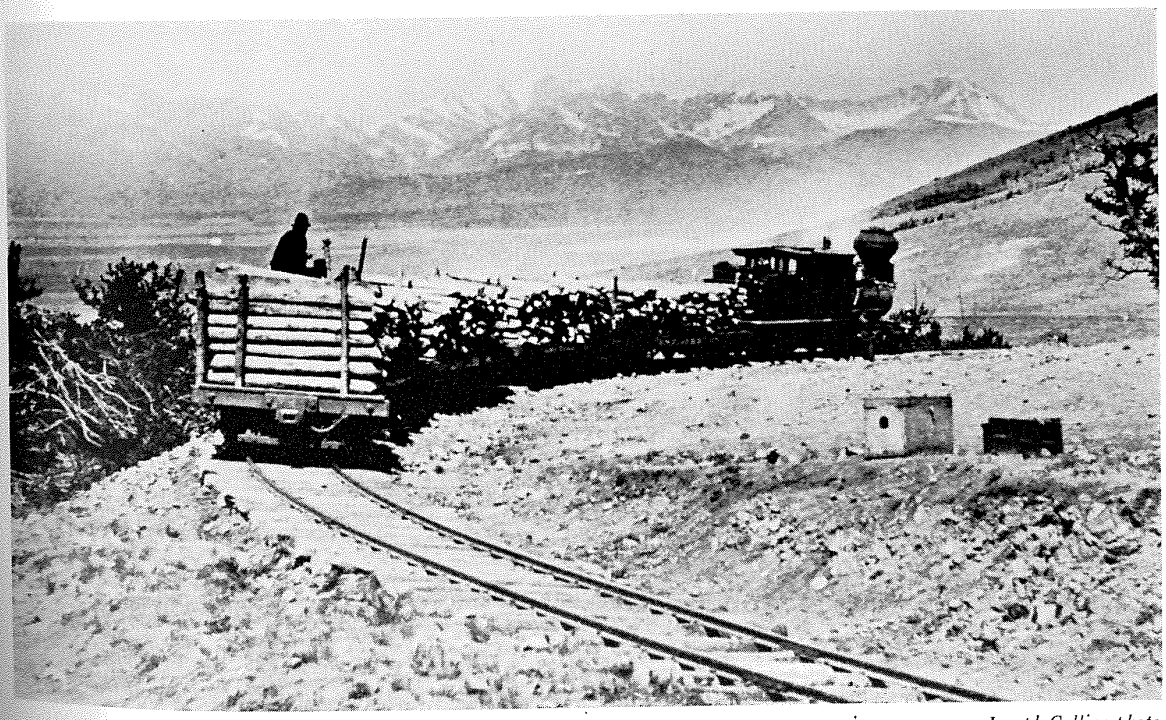


J. B. Sturtevant photo,
from M. R. Parsons Collection.

In this very early view of Morrison, Colorado, we see a Denver South Park & Pacific excursion train after a sudden afternoon shower. The excursionists are seeking shelter in the livery stable, hotel, and in the passenger cars. The rather primitive excursion cars along Bear Creek at the lower left are made from Colorado Central flat cars with temporary roofs and sides, while regular D. S. P. & P. coaches are seen to the right.



Joseph Collier photo,
from F. B. Rizzari Collection.

One of the D. S. P. & P.'s Mason bogies heads down into South Park from the summit of Kenosha Pass with five flat cars loaded with new ties to be used in construction across South Park in 1879. Note the cases for Collier's cumbersome photographic equipment, at the right.

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hauled out of Morrison consisted of stone and lumber products, and a little coal, from a mine at Mt. Carbon, near Morrison. Passenger business was brisk, being augmented by frequent excursions to Morrison. In 1875 there were two regular passenger trains each way between Denver and Morrison, requiring from an hour to an hour and a half in either direction; no doubt some of the trains consisted of mixed passenger and freight equipment. The railroad appears to have been well-constructed, using 30-pound iron rail and pine ties.

The results of the financial panic of 1873 caused an abrupt halt in the railroad's optimistic plans for further construction. Cooperation with the Spotswood & McClellan stage lines helped augment the South Park's passenger business, and a train leaving Denver at 7:00 A. M. arrived at Morrison at 8:10 A. M., connecting with a stage that reached Fairplay that evening; similar service was operated in the other direction. However, during the duration of the depression, the South Park line had all it could do to make ends meet on its Denver-Morrison section, and additional expansion was not to be thought of.

The first construction company was reorganized as the Denver Railway & Enterprise Company in May, 1875, but this company was dissolved the next year, with almost nothing accomplished in the way of railroad construction. In July, 1876, a third company was established to build the Denver South Park & Pacific Railroad; this one was called the Denver & San Juan Construction Company. This organization was a little more successful than the second construction company, and did actually build a right of way to the mouth of Platte Canon and accomplish some work in the lower part of the canon. Building a railroad up the canon, however, turned out to be a fantastically difficult and expensive operation. By 1877, the third construction company was running low on funds, so a fourth was organized—this was called the Denver & South Park Railroad Construction & Land Company. With improving financial conditions, the bewildering series of construction companies came to an end for the time being, and building of the railroad was resumed. By late 1878, the track had reached Bailey's, a little over 56 miles from Denver. This segment of the railroad followed the twists and turns of Platte Canon—benches were blasted out of the canon walls, fills were built along one side of the river bed itself, and cuts were blasted and dug through rock walls to hold curvature to a degree which the little trains would be able to negotiate successfully. Miracles of construction were performed by the enterprising and hardy men of that frontier age. Where the canon walls were too steep to provide any sort of foothold, men were lowered by ropes from above, and held while they laboriously drilled holes in the solid rock. Large iron pins were driven into these holes, and boards laid across the pins to provide a hazardous platform for additional drilling and preparations for blasting. Sudden rises in the river level, from melting snows in the spring or mountain thunderstorms in summer months, might wash away the results of days of labor. Only the dogged persistence of Chief Engineer Eicholtz and his men enabled construction to continue in spite of all these obstacles.

Although it had not been the original intention of the founders of the railroad to include Leadville on the route of the South Park line, the tremendous mining boom which began there at this time caused a change in the planned route. Even while the railroad was being built, it began to haul freight, most of it destined for the Leadville area. Freight was hauled by rail as far as possible, then transferred to wagons for the remainder of the journey. Early in 1879, the end of track was at Webster, the east side of Kenosha Pass, and by spring it was said that the railroad was earning over $1,200 a day from freight and passenger operations, with expenses of only about $480 a day.

The augmented business only served to increase the determination of the railroad's officials to extend the line as rapidly as possible. Since the railroad was still eventually expected to reach the San Juan region, in Southwestern Colorado, the route via South Park and Trout Creek was still the preferred one, although an alternate line, running more directly toward Leadville, was considered for a short time.

By March, 1879, the construction crews were again at work—this time building a right of way up over a pass, rather than through the narrow canons they had conquered up to this point. Some of the grade climbed at a maximum rate of 4% before the summit of Kenosha Pass was reached, on May 19, 1879. The elevation at this point was 9,991 feet, and the construction men could expect easier going from this location, as the relatively level expanse of South Park was spread out before them.

"Picturesque Colorado," a booklet published in

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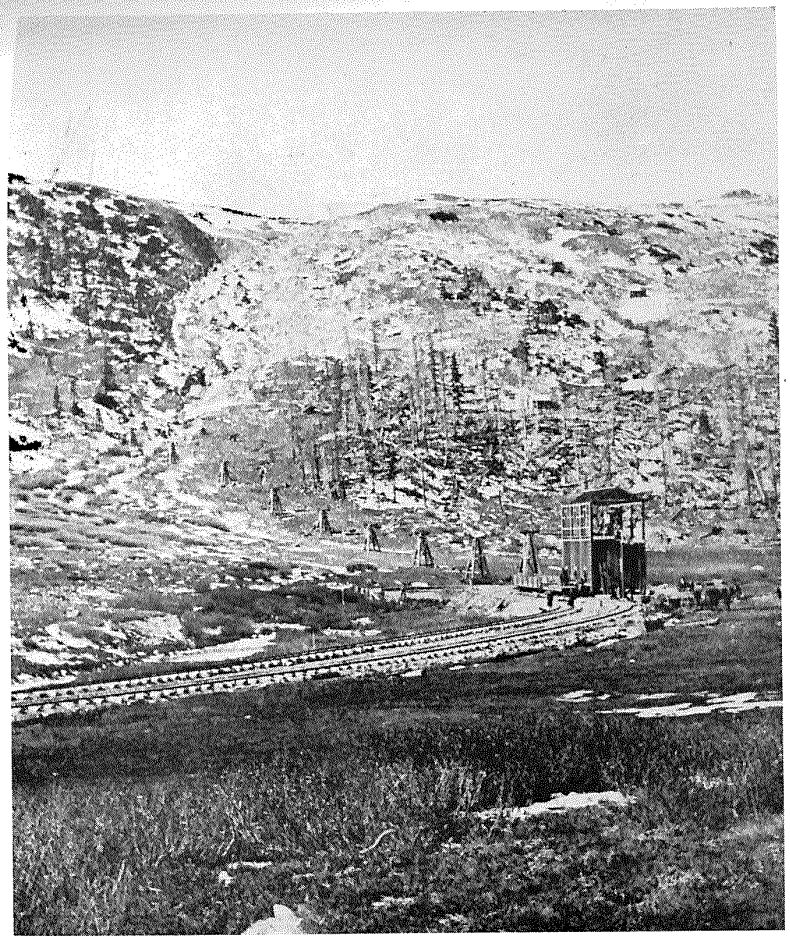
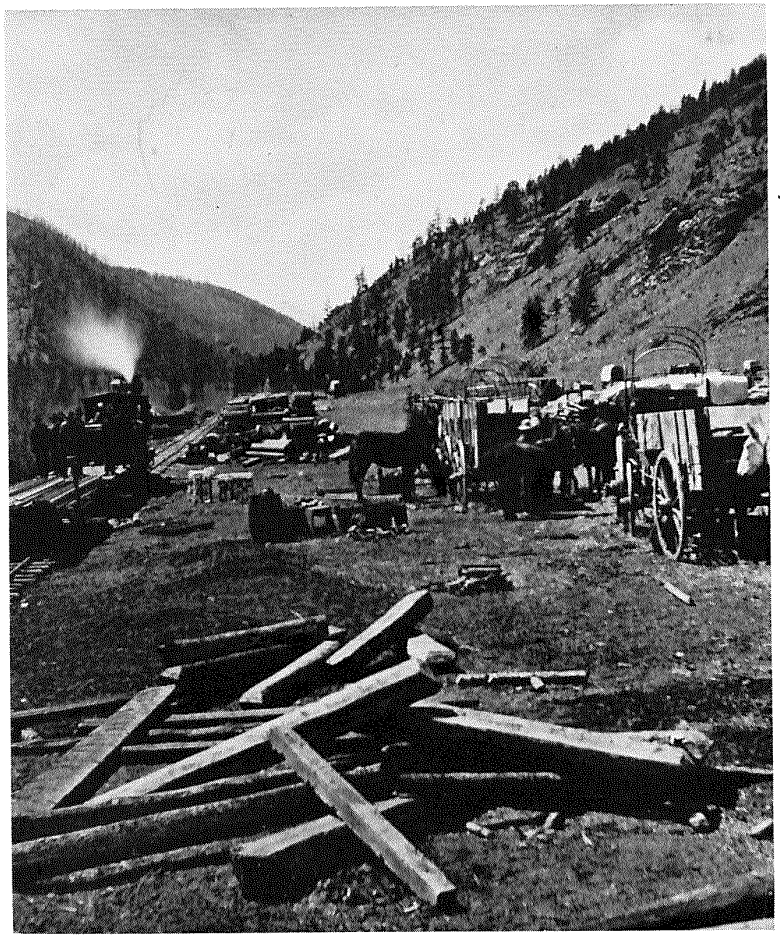


T. C. Miller photo, from F. B. Rizzari Collection.

Shown here is the end of track on the London, South Park & Leadville Railroad in North Mosquito Creek Valley. Buckets of ore descending from the North London Mine on the aerial tramway were dumped into loading chutes, which in turn were used to load the ore into waiting gondolas for shipment over the South Park to various smelters.



Chas. Weitfle photo, from F. B. Rizzari Collection.

A Mason bogie, either D. S. P. & P. 3 or 5, heads west from a construction camp, over newly laid rail, in upper Platte Canon in 1878.

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1900 by the Colorado & Southern Railway, gives a rather lavish description of this area:

"South Park! How the words thrill the memory and arouse the imagination. . . . The place where every mood in man finds answering mood in nature. The glorious accomplishment of the painter's dream —the spot where serried peaks and variegated plain awake in the beholder sentiments of profoundest admiration.

"Imagine yourself standing upon the summit of a mountain overlooking a plateau nearly twice as large as the state of Connecticut. Surrounding this area, with its undulating hills, green meadows and many glittering lakes, are scores of mountains, whose sides are so steep that the early discoverers sought long and anxiously for a trail through the labyrinth of peaks. On the right, nature has thrown up a mighty barrier, whose highest point marks the crest of the continent. On the left, the rim of the basin resembles the teeth of a saw, each tooth distinctly outlined against the deep blue sky. In front, as far as the eye can penetrate, spreads out a carpet of green, yellow, brown and dark red, the patches of the carpet representing the various phases of vegetation of this highly elevated region. In the east you behold the noble crest of Pike's Peak. In the west Mount Lincoln seems to gaze with benign countenance upon the entrancing scene, while in the north looms up Long's Peak, and far away in the opposite direction the Spanish Peaks stand outlined in ethereal blue, completing an ensemble of transcendent beauty."

Impatient to reach Leadville as quickly as possible, the South Park officials put the construction men to work immediately on the grade down the west side of Kenosha Pass and across South Park itself. It is reported that work proceeded 24 hours a day, with long processions of torches to light up the grade and enable the men to work at night. By October, 1879, the track had reached Weston, near the southern end of South Park. From this point to the top of Trout Creek Pass and down into Arkansas Valley, the work was more difficult, and the line did not proceed as rapidly as it had across the flatlands of South Park.

Freight and passenger traffic had been increasing by leaps and bounds during this time, and the trainloads of construction materials climbing up Platte Canon and over Kenosha Pass were interspersed with revenue freight trains. This resulted in the fantastic spectacle of an unfinished railroad hauling so much freight that the income was paying for the cost of extending the line! New motive power and more cars were being acquired, but the business was still more than the railroad could handle. Supplies and machinery were hauled to a point near the end of track, and loaded on wagons for the remainder of the trip to Leadville, generally over Mosquito Pass or Weston Pass, and the returning wagons brought sacks of ore and pigs of bullion for the railroad to haul to Denver. A branch to the King Coal Mines, in South Park near Como, was built, and coal augmented the eastbound traffic over the railroad.

By this time, Jay Gould, an eastern railway broker, had become interested in Colorado developments, and he began a campaign to secure control of the Denver South Park & Pacific Railroad. In the east, his speculations in gold had brought about the financial panic known as "Black Friday," on September 24, 1869. Some years later he gained control of the Union Pacific Railroad, and by late 1879 he owned a half interest in the Denver & Rio Grande; he was now working diligently to gain control of the South Park line.

Gould managed to arrange a contract, known as the "Joint Operating Agreement," between the D. & R. G. and the D. S. P. & P. This contract stipulated that the D. & R. G. was to build the line in the Arkansas Valley from Buena Vista to Leadville, and the D. S. P. & P. was to have operating rights over this trackage. The South Park was authorized to build a line over Alpine Pass to Gunnison, and the D. & R. G. was to have trackage rights over that line. No restrictions appeared, however, concerning the D. & R. G.'s right to build its own line into Gunnison if it so desired. Gould probably intended that this contract would result in a co-operating alliance of railroads, not overlapping or competing to any extent, with himself in control of the entire operation.

From the top of Trout Creek Pass to the Valley of the Arkansas River, the railroad was built close to the bed of the stream. Although this provided relatively simple construction, it was a route which subsequently gave much trouble to the railroad because of extensive floods down Trout Creek in later years. The tracks reached the banks of the Arkansas River in February, 1880, and a high bridge was constructed across that stream. A joint station was built with the D. & R. G. at Buena Vista.

Extension of the track to Buena Vista relieved some of the difficulties in reaching Leadville with freight and passengers, as wagon traffic over the two steep and difficult passes, Weston and Mosquito, could be virtually eliminated in favor of the much easier Arkansas Valley route. This had the effect of still further increasing the South Park's

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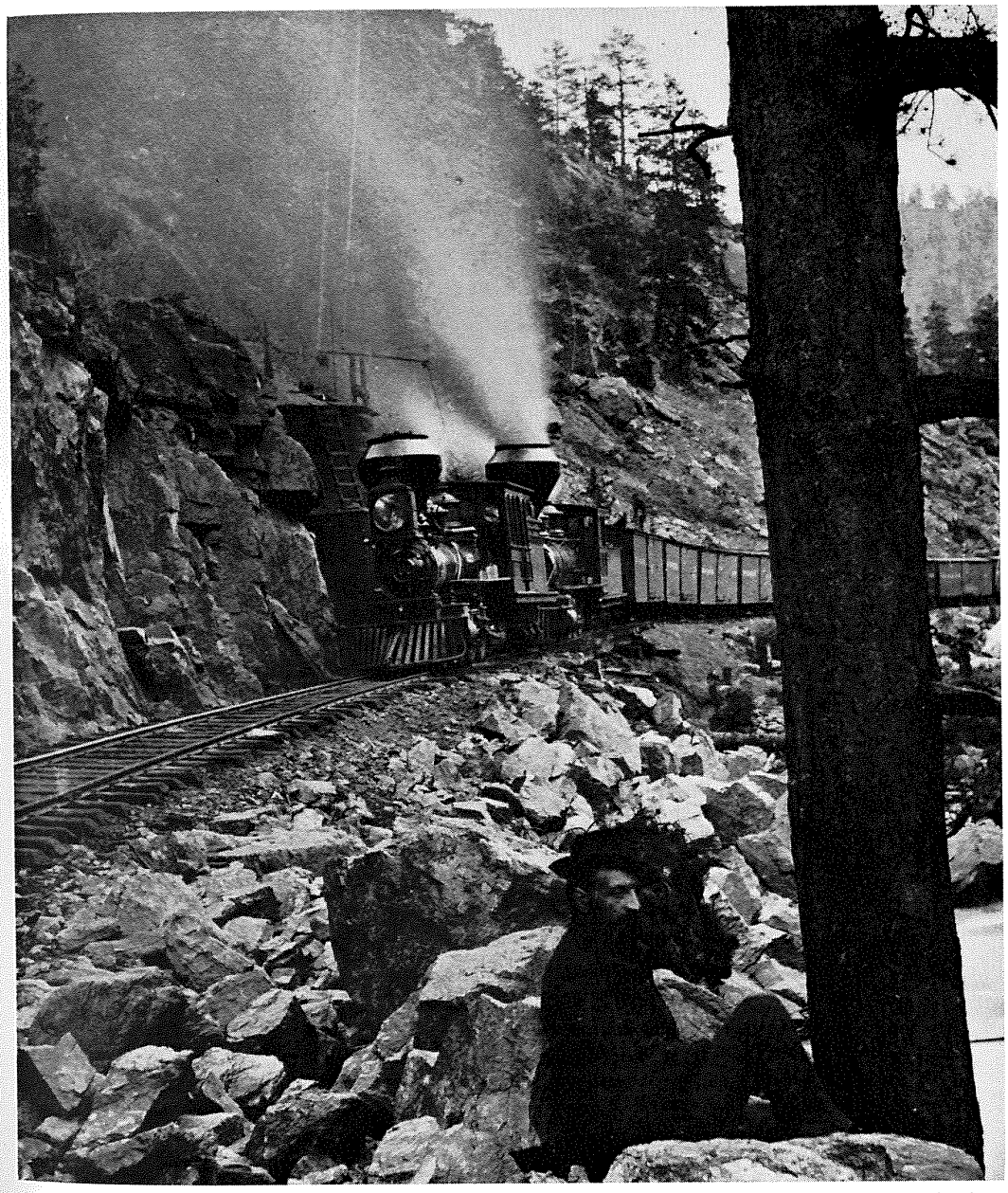

W. G. Chamberlain photo, from F. B. Rizzari Collection.

A thin haze of smoke from twin balloon stacks blankets the mountain side as a westbound double-headed freight stops for water at Deer Creek tank in Platte Canon, in the early 1880's. The lead engine, D. S. P. & P. 12, is a Mason bogie named "Como," built in 1879, and it is followed by a Baldwin 2-8-0 received by the railroad in 1880.

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freight business. The joint trackage from Buena Vista to Leadville was built by the D. & R. G., and completed by late 1880. At this time the D. S. P. & P. had a total of 36 locomotives in service, but even these were hard-pressed to handle the great volume of business which descended on the young railroad.

Meanwhile, Jay Gould continued his efforts to acquire control of the South Park line. Some years previously, the Denver & San Juan Construction Co. had borrowed some money from the Kansas Pacific Railroad, which at that time was an independent company. By early 1880, Gould had obtained control of the Union Pacific, along with the Kansas Pacific, Denver Pacific, and Colorado Central lines in Colorado; this gave him partial control of the South Park railroad through acquisition of the Kansas Pacific's interest. Gould at first tried sending representatives to purchase the stock of the D. S. P. & P., then later decided to enter the negotiations personally. By November, 1880, the Gould interests had purchased all the available South Park railroad stock and construction company stock, and thus gained complete control of the railroad. He immediately moved to make the splendid little South Park railroad a mere branch of the vast Union Pacific lines, and it became known as the Union Pacific's South Park Division. Henceforth its interests were to be subordinate to the parent road, and it was considered as a feeder to the standard gauge Union Pacific at Denver.

However, construction of the narrow gauge railroad did not end with its acquisition by the Union Pacific. Although the D. S. P. & P. provided the U. P. with an entry into the fabulous Leadville mineral district, there were other areas in Colorado which showed promise of mineral development, and the eastern financiers were willing to extend trackage in any direction which showed likelihood of sufficient monetary returns to justify the original investment. At this time, the Gunnison region was entering a period of expansion which indicated the beginning of a mining boom of considerable proportions. In addition to gold and silver deposits, such minerals as coal, limestone, and iron ore were being discovered in quantities which indicated that commercial development and exploitation would be financially desirable. Both the D. & R. G. and the D. S. P. & P. began building trackage toward this new goal—the Gunnison District.

Since it was necessary to cross the Continental Divide to reach the Gunnison valley, it was realized that construction would be difficult, but the problems in extending the South Park Division across the Divide were even greater than anyone anticipated. The Denver & Rio Grande's route diverged from its own line at Salida, and with a great deal of winding track, together with a continuous 4% grade, managed to reach the summit of Marshall Pass; then with more twisting, meandering track down the western slope, finally reached the Gunnison valley by way of Tomichi Creek. The South Park railroad was projected along a more direct route, leaving the Arkansas Valley a short distance south of Buena Vista, and heading up Chalk Creek toward the formidable ramparts of the Saguache Range. An 1800-foot tunnel was to be dug under Alpine Pass to reach the other side of the Continental Divide, and it was this tunnel which brought much fame to the South Park line in later years, although it brought only grief and near-insoluble problems to those to whom its construction was delegated.

During the year 1880, while the Gould interests were still negotiating for control of the South Park line, the Evans management had already begun construction in Chalk Creek Canon, and by the end of 1880, trains were being operated a short distance up the canon, where connections were made with stage lines for the trip into Gunnison and nearby communities.

Major James Evans, assistant to Chief Engineer Eicholtz, was assigned to supervise the construction of the line from Buena Vista to Gunnison, and while it was expected that many construction problems would be encountered, no one had any idea of the vast difficulties which would have to be overcome before Alpine Tunnel could be completed. As a result, the D. & R. G. interests were able to complete their line over Marshall Pass and put their trains into operation into Gunnison a full year before the D. S. P. & P. was able to reach that destination.

Actual tunnel construction was put in charge of P. F. Barr, and as early as January, 1880, a small crew was at work digging the tunnel, although at this time the end of the South Park track was somewhere in Trout Creek Canon, far to the east. Even reaching the tunnel site with supplies was a major problem—everything had to be freighted in by wagon, along crude roads which were often impassable in winter and spring. On the west side of Alpine Pass, the construction company had to build many miles of wagon road for its own use.

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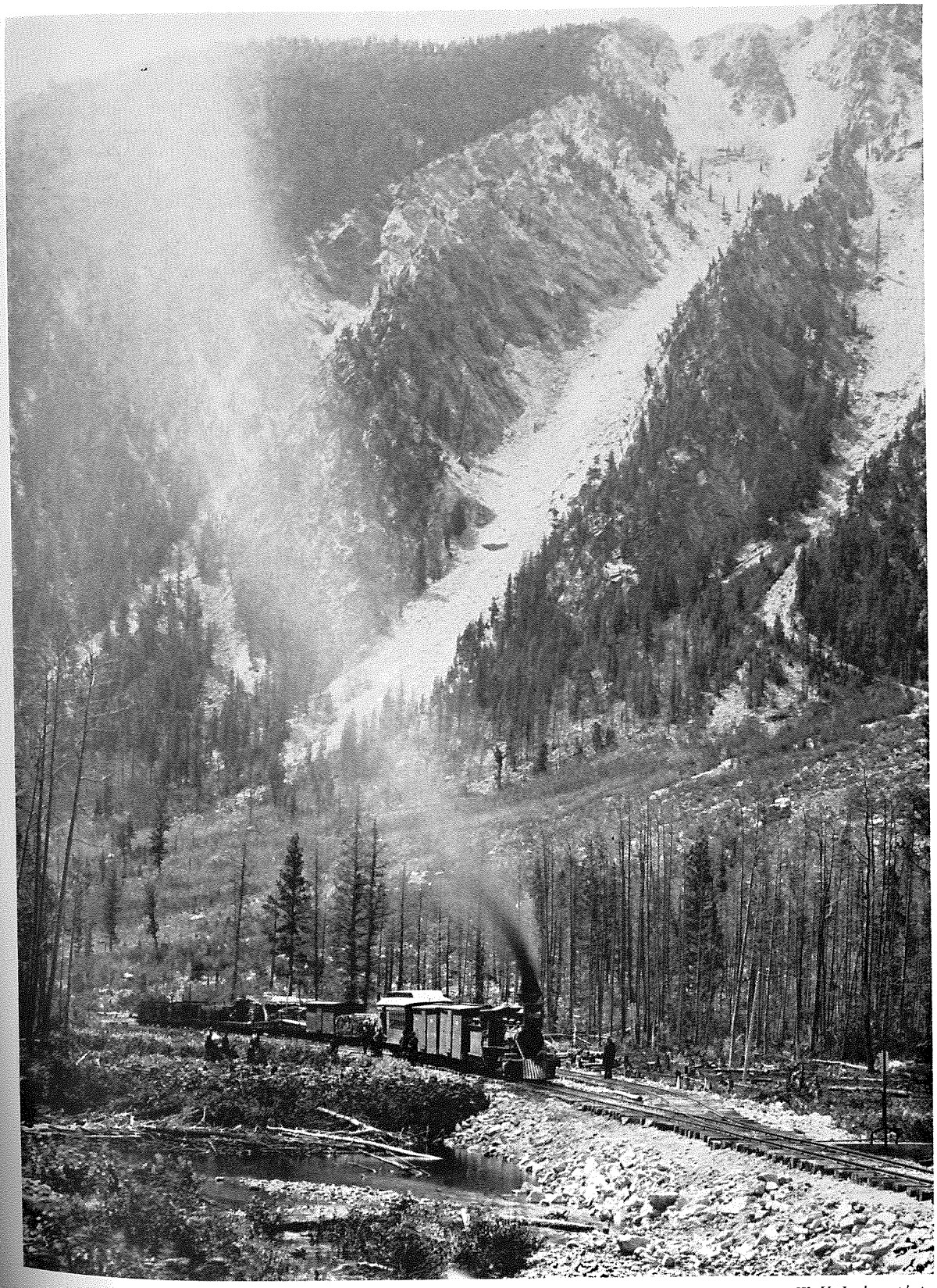

W. H. Jackson photo,
from R. A. Ronzio Collection.

This engine appears to be Denver South Park & Pacific 19, a 2-6-0 built by Dawson & Bailey in 1879, with a mixed train, standing at a siding below St. Elmo in Chalk Creek Canon, in 1883. At the right of the picture is a harp type switch stand of unusual design.

UPRRIG-000376

The labor problem was one of the principal obstacles which slowed down tunnel construction. The intense winter cold, the rarified atmosphere at the 11,600-foot elevation, and the absence of personal comforts made it extremely difficult to keep laborers on the job. Even the offer of relatively high wages was not sufficient to prevent frequent desertions during the winter. Several log cabins were built near both the east and the west portals of the tunnel, and digging began in both directions. Instead of encountering solid granite, as was expected, the mountain was found to be made up of loose rock formations with several underground streams. Timbering was required, therefore, for almost the entire length of the tunnel. California redwood timbers, 12x12 inches in cross-section, were used for this purpose, and did the job so well that 80 years after the tunnel was built (and 50 years after it was abandoned), most of it was still intact, although the east portal was completely closed and the west entrance could be penetrated only with considerable difficulty.

Digging proceeded very slowly—sometimes only a few feet were added to the tunnel's length in a full day—and it was over 18 months from the starting date in January, 1880, before the crews on the east and west sides met inside the mountain! Several additional months were required before the track was finished and the tunnel was ready for operation. Extensive snowsheds were built to protect the entrances at each end. The tunnel was built on a slight upgrade from each end to assure satisfactory drainage; it reached an apex 1,203 feet from the east portal, and 602 feet from the west entrance. When the tunnel was in operation, a red signal lamp was kept burning at this point, to enable locomotive engineers to tell when they reached the apex so they could shut off their engines at the proper time. Since practically the entire tunnel was built by hand, it is a monument to the endurance and fortitude of those who did stay on the job until it was completed. The elevation of the railroad at the apex of the tunnel—11,612 feet—gave it the distinction of being the highest railroad in the United States at the time it was completed, although it was later exceeded by one or two other lines.

Even with the completion of the tunnel, Major Evans faced appalling difficulties in providing a grade to descend from the west portal to the valley of the Gunnison River. The line clung closely to the side of the mountain as it began the descent, and immense rock walls had to be constructed along the face of some sheer cliffs; the resulting channel between the cliff and the rock wall was filled with loose rock and dirt until it presented a narrow shelf along the cliff face. An outstanding example of this type of construction occurred at the Palisades, one of the most notable rock formations on the route. The shelf was wide enough to provide a roadbed for the railroad, and a sturdy and reasonably safe grade for the railroad track was established. Even today, the massive retaining wall and cinder-covered right of way along the face of the Palisades is virtually intact, indicating the care which was used to construct a permanent roadbed past this enormous vertical cliff.

The grade continued to wind along the mountain, descending toward the valley for another mile or so, then made an abrupt curve which turned the track in the opposite direction, and headed it down Quartz Creek Valley in the vicinity of the little settlement called Woodstock. The 24° curve which changed the direction of the railroad was first known as Woodstock Loop,* and was one of the notable scenic landmarks of an area which abounded in scenery. Continuing its descent, the railroad passed below the Palisades and turned westward, still some distance above the bed of Quartz Creek. With much additional winding grade, including occasional cuts and fills, the line reached Pitkin, and finally approached Parlin, in the wide valley threaded by Tomichi Creek. At Parlin the builders of the South Park line encountered the track of the Denver & Rio Grande Railroad, which had been in operation for several months. Construction was a great deal easier by this time, and the work was hastened so that South Park trains could be operating into Gunnison as soon as possible, and share the heavy traffic which was still available.

Even with the quickened pace of construction, it was not until the first day of September, 1882, that the first whistle of a South Park locomotive was heard in Gunnison, compared to the D. & R. G.'s arrival date of August 8, 1881. A stone station, wye, 6-stall roundhouse, and hand-operated turntable were built, and the railroad was formally opened for business between Gunnison and Denver, in late 1882.

Gunnison was not to be the end of the line,

* This curve was later called "Sherrod Curve," after a short-lived mining boom in 1903, which resulted in the construction of a 200-foot spur nearby. The spur was named for William Sherrod, who operated some mining property in the vicinity.

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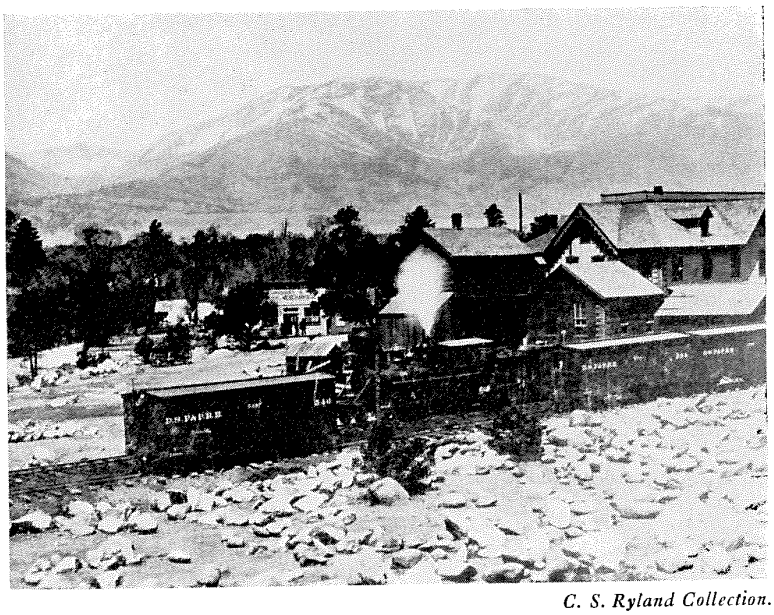

C. S. Ryland Collection.

This view shows a D. S. P. & P. switcher working the joint transfer yards at Buena Vista in 1884. At the right is the two-story wooden depot of the Denver & Rio Grande Railway, while 14,172-foot Mt. Yale towers in the background.

W. H. Jackson photo,
from Library, State Historical Society of Colorado.

Looking south from the summit of Alpine Pass, at an elevation of 11,940 feet, during the construction of Alpine Tunnel, in the early 1880's. To the left of bottom center of the picture are the log buildings for housing the tunnel workers. At the lower right is the unfinished grade as it emerges from the tunnel, and a pile of loose granite which had been recently removed from the tunnel.

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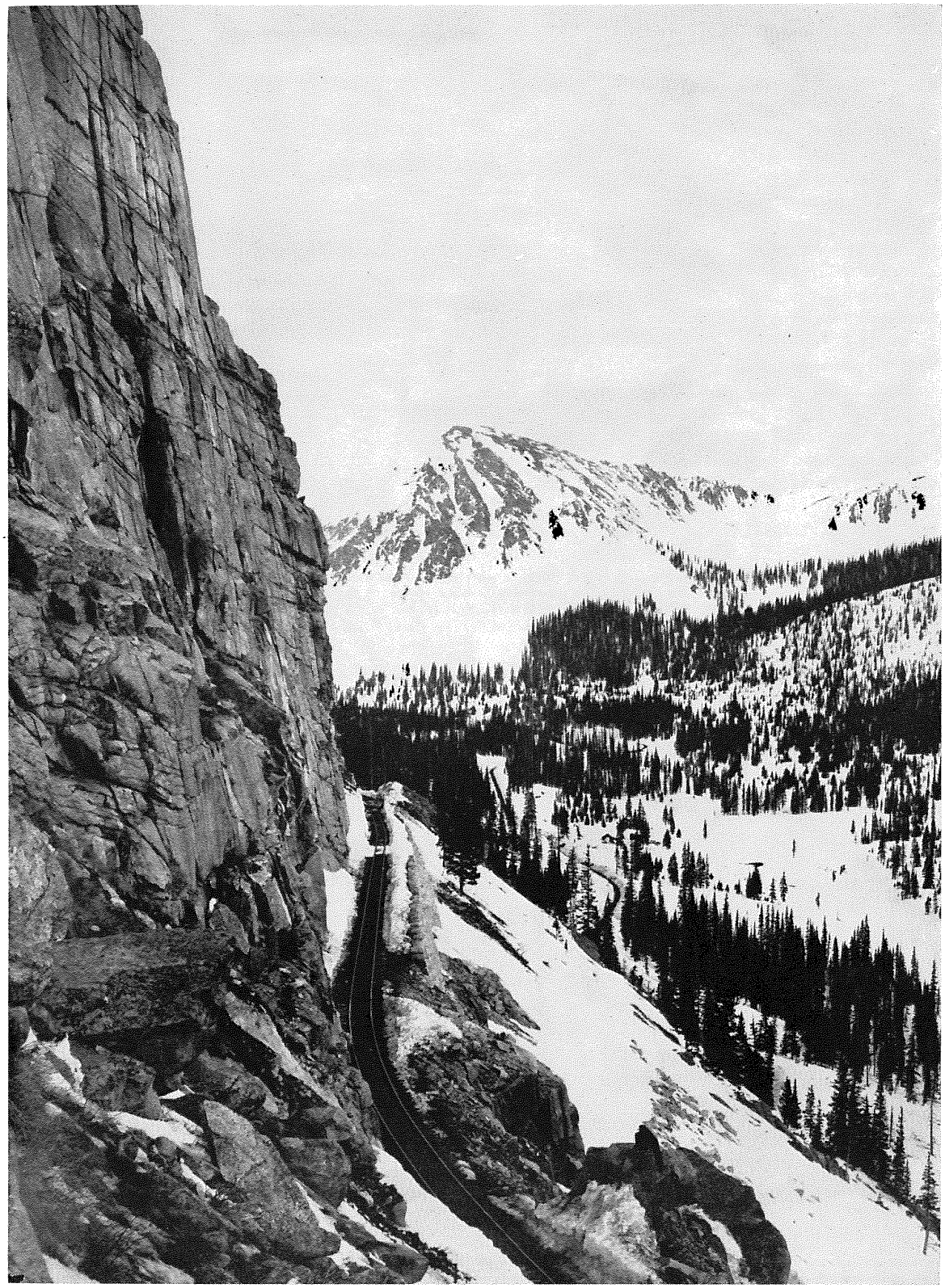

W. H. Jackson photo,
from J. R. McGann Collection.

An unusual view of the famous Palisades, taken in the spring of 1883. The massive stone retaining wall that carried the rails past the sheer rock cliff may be seen to the right of the roadbed. The lower level of track winds upgrade through the settlement of Woodstock, and rounds Woodstock Loop at the foot of snow-covered Paywell Mountain.

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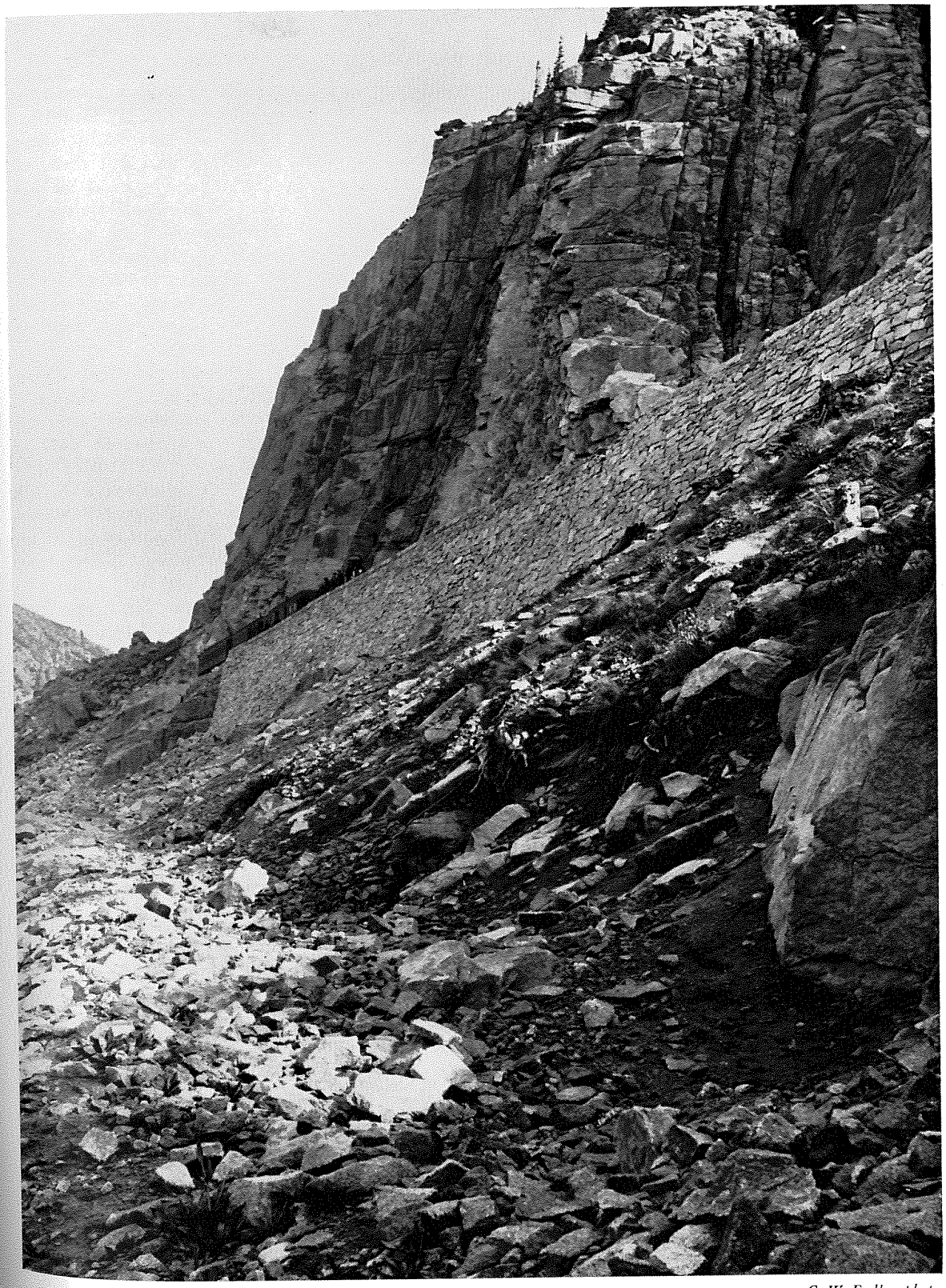
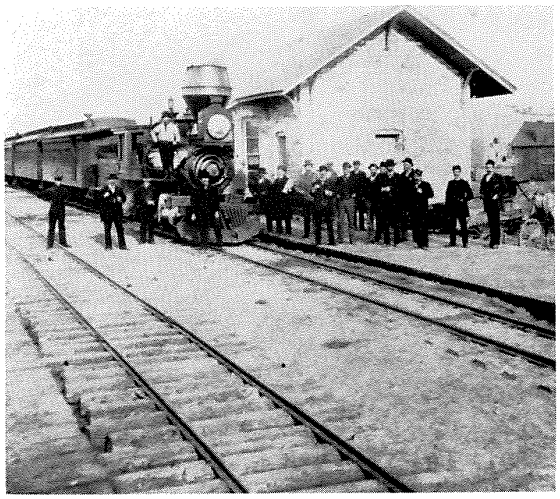


C. W. Erdlen photo,
from R. A. LeMassena Collection.

Photographed from the abandoned Williams Pass stage road, this view of the Palisades emphasizes the vast size of the rock wall which supported the track. Constructed entirely of fitted rocks, without the use of mortar or other cementing material, this wall represents the countless hours of labor required to cut and fit the thousands of stones necessary for its formation. D. S. P. & P. 157, with a three-car passenger train, stands at the base of the Palisades.

UPRRIG-000380

however. Plans were quickly begun to extend the line toward Utah, and the immediate destinations included the coal fields at Baldwin and Castleton. From that area, the railroad was to be built over Ohio Pass to the new Elk Mountain coal fields, and the name "Ohio Pass Extension" was applied to the proposed line. By the end of 1883,



Oscar Perschbacker Collection.

A Cooke mogul with a 3-car passenger train, together with passengers and crew, stands elaborately posed beside the Gunnison station in 1884. This depot was erected in 1882, and was torn down in August, 1956, to make room for a new highway through Gunnison.

the track had reached the Baldwin Mines, but the beginning of the decline of the Gunnison boom made the Union Pacific wary of further construction, and the track never went farther in that direction. Some very interesting right of way construction was done in the Ohio Creek area, although no track was ever laid, and this project is treated more fully elsewhere in this volume.

Meanwhile, things were not working out as smoothly as had been expected on the joint D. & R. G. - D. S. P. & P. track between Buena Vista and Leadville. Dissension over the uneven division of traffic between the two railroads (the Denver & Rio Grande was getting the lion's share of the business) led to discord over division of the profits. The Joint Operating Agreement between the two railroads stated that the gross profits were to be pooled and the resulting total divided equally. Since the D. & R. G. usually hauled from 75% to 80% of the freight traffic between Leadville and Buena Vista, General Palmer and his associates thought the profits should be divided accordingly, regardless of the agreement which Jay Gould had engineered between the two railroads. In return, the Union Pacific officials decided that their side of the agreement, which required payment for their trackage rights as well as payment of half the cost of maintaining and repairing the line, should be reduced. With deteriorating relations between the two railroads, officials of the Union Pacific decided that the South Park Division should have its own track into Leadville, and began considering the various proposed routes.

William A. H. Loveland's Colorado Central Railroad had reached Georgetown in 1877, and a new corporation, called the Georgetown Breckenridge and Leadville Railway, was formed in 1881 to extend the line beyond Georgetown. During 1882, 1883 and 1884, grade was finished and track was laid from Georgetown through Silver Plume to Bakerville (later Graymont), a total of 8½ miles. This portion included the well-known "Georgetown Loop," which is described more fully in another section of this book. Numerous plans were considered by the Union Pacific for the extension of this railroad over or under the range into the Blue River Valley, which would then have given them a fairly short route into Leadville. However, the suggested routes would have required either a tunnel under the Continental Divide or unreasonably steep grades to go over it at Loveland Pass, and as a result the rails were never extended beyond Graymont. Although numerous railroads were incorporated for the purpose of digging a tunnel or constructing a line over Loveland Pass, the only company which did any considerable amount of construction was the Atlantic-Pacific Railway Tunnel Company. Incorporated in 1884 by M. M. Pomeroy, the company managed to get the tunnel dug into the mountain for about 4,000 feet on the east end, and 800 feet on the west end. The tunnel, if completed, would have been several miles long, but the financial panic of 1893 brought the project to an end.

Since the D. & R. G. had given notice that the joint track agreement between Buena Vista and Leadville would be ended in February, 1884, it was imperative that the Union Pacific should get started on a Leadville line for the D. S. P. & P. immediately. It was finally decided to build from Como, in South Park, across the Continental Divide at Boreas Pass, at an elevation of 11,493 feet, then down into the Blue River Valley at Breckenridge.

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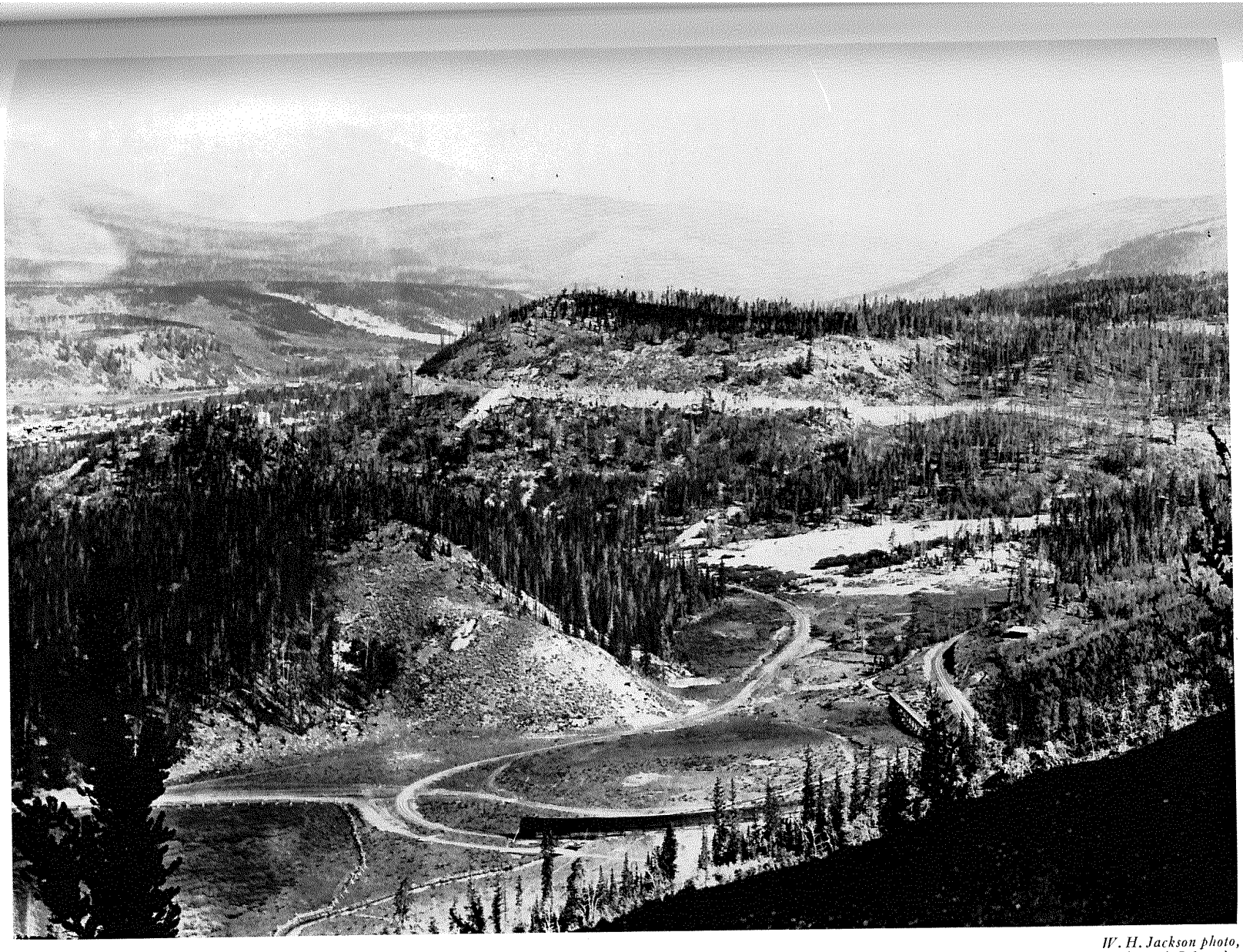

W. H. Jackson photo,
from Library, State Historical Society of Colorado.

In this sweeping panorama from Rocky Point, Mr. Jackson's camera records one of the most interesting sections of the D. S. P. & P. railroad, as it makes its tortuous descent into the Blue River Valley from Boreas Pass. The track enters the photo about two inches below the top right corner, at Mayo Spur, passes behind Nigger Hill, reappearing near the center of the photo and crossing Nigger Hill toward Illinois Gulch. The line again becomes visible as it rounds Hookeye Curve, partially covered by the snowshed, then passes Little Mountain and turns toward Breckenridge, seen at the left in this view.

UPRRIG-000382

From this point, the line was extended down the Blue River to Dillon and thence eastward to Keystone. Several months later construction was resumed on the main line toward Leadville. A junction, later known as Dickey, was established three miles south of Dillon, and from this point the rails headed west to the mouth of Tenmile Canon at Frisco. Here the railroad turned toward the southwest, through such mining towns as Wheeler (later called Solitude), Kokomo, and Robinson. This route made a second crossing of the Continental Divide at Climax (Fremont Pass, elevation 11,320 feet) and descended on an easy grade into Leadville. It was built high on the mountainside, along the valley of the North Fork of the Arkansas River, between Climax and Leadville.

However, at the same time the D. S. P. & P. started for the Blue River Valley from its junction at Como, the D. & R. G. began a line of its own from Leadville toward the Blue River mining district. The D. & R. G. rushed its branch to completion from Leadville to Dillon in 1882, with resulting disagreements between the D. & R. G. and the D. S. P. & P. when the South Park grade was pushed into the same territory a short time later. When both lines were completed and in service in this area, it was discovered that there was not enough business to support two railroads between Leadville and Dillon. The Denver & Rio Grande's Blue River Branch was abandoned in 1910, 27 years before the South Park's railroad through the Blue River Valley came to an end.

The Boreas Pass route was noted for its exceptional scenery. While it was not as spectacular as the Alpine Pass route, it had numerous trestles, sharp curves, and steep grades. There were several interesting panoramas on both sides of the pass—on the east side, superb views of South Park could be seen as the trains labored up the grade toward the summit, and on the west side the scenes included Tenmile Range, together with sweeping views of Breckenridge and the Blue River Valley. Altogether, the trip was a memorable one.

Although numerous branch lines were projected during the D. S. P. & P.'s early days, relatively few of them were actually constructed. One of the major branches was the 15-mile-long Alma Branch in South Park, which in turn provided a connection to the 9-mile-long Leavick Branch. The Alma Branch served the towns of Fairplay and Alma, and also connected with the London South Park & Leadville Railroad, 7 miles in length, which ended near the London Mine. The Leavick Branch operated into the Horseshoe Mining District, and was noted for having the steepest grade on the entire South Park railroad—5.85%, near the end of the branch. The Morrison Branch, Keystone Branch, and Baldwin Branch have been previously mentioned; in addition to these, short branches to Silica, Nighthawk, Wilfley, and Kubler were built at various times during the railroad's existence, to reach promising mining areas.

Control of the South Park line by the Union Pacific evidently failed to serve the little railroad's best interests. Management of the line was transferred from Denver to the Union Pacific's main offices at Omaha, and this absentee management was quite out of touch with the South Park's various problems and operating difficulties. The Omaha interests seemed to consider local traffic on the D. S. P. & P. a nuisance, and put restrictions on it in the form of increased rates and other harassments. They wanted the line to be used as a feeder for the big railroad, with carload lots of freight which could be received from or transferred to the Union Pacific at Denver.

In addition to the ruinous policies which were forced on the narrow gauge line, a decline in the mineral production of the Leadville and Gunnison districts in the late 1880's added to the little railroad's difficulties. After showing a profit during the years 1880 to 1883, a series of deficits followed during the remainder of the decade, and finally in August, 1889, the Denver South Park & Pacific Railroad went into receivership. It was reorganized as the Denver Leadville & Gunnison Railway Company, with the Union Pacific still the owner of the stock.

The Union Pacific's next step was the consolidation of a number of Colorado and Wyoming railroads into a new corporation, called the Union Pacific Denver & Gulf Railway Company, in April, 1890. The Denver Leadville & Gunnison was permitted to retain its own identity at this time, but it was strictly controlled by the new corporation, and therefore by the Union Pacific itself. This state of affairs continued for a few years, but was brought to an abrupt end with the financial panic of 1893. A sudden drop in the price of silver had extremely serious effects upon the silver mining districts of Colorado, and the closing of many mines and smelters adversely affected the fortunes of the railroads which served them. On October 13, 1893, the entire Union Pacific Railroad was placed

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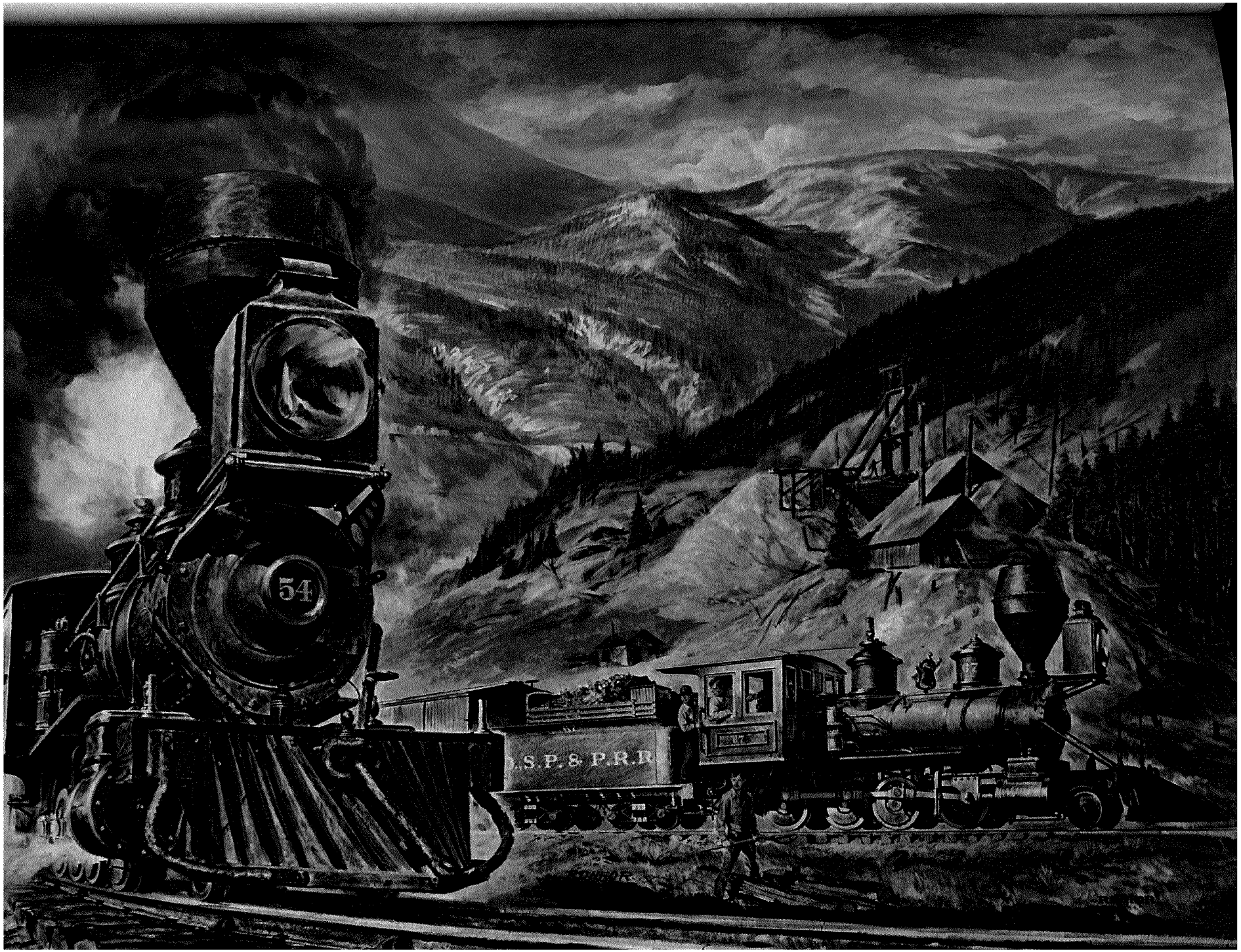

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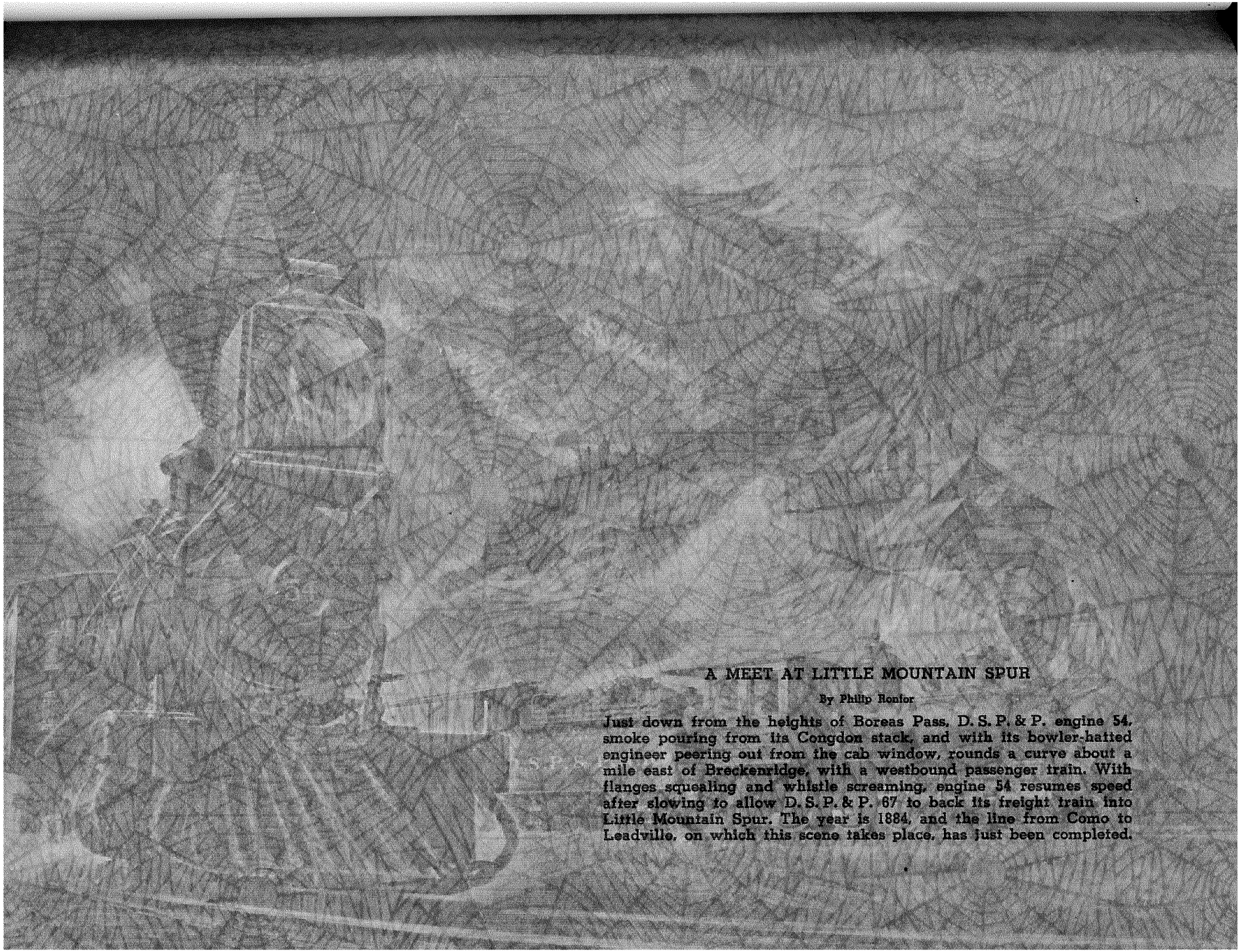

A MEET AT LITTLE MOUNTAIN SPUR

By Philip Ronfor

Just down from the heights of Boreas Pass, D. S. P. & P. engine 54, smoke pouring from its Congdon stack, and with its bowler-hatted engineer peering out from the cab window, rounds a curve about a mile east of Breckenridge, with a westbound passenger train. With flanges squealing and whistle screaming, engine 54 resumes speed after slowing to allow D. S. P. & P. 67 to back its freight train into Little Mountain Spur. The year is 1884, and the line from Como to Leadville, on which this scene takes place, has just been completed.

UPRRIG-000385

W. H. Jackson photo,
from Library, State Historical Society of Colorado.

Denver South Park & Pacific 217 heads a westbound 5-car freight on the "High Line" approaching Leadville. The grade from Fremont Pass may be seen, high on the south slopes of the upper Arkansas Valley. Engine 217, a 2-8-0 type, was renumbered from D. S. P. & P. 68 in 1885, and later became Denver, Leadville & Gunnison 217; it was finally renumbered Colorado & Southern 56. D. S. P. & P. refrigerator car 1061 is a good example of the Tiffany Summer & Winter cars in use during this period—the late 1880's.

UPRRIG-000386

No. 16

CERTIFICATE OF DEPOSIT OF FIRST MORTGAGE BONDS

$268,000

—OF THE—

DENVER, SOUTH PARK & PACIFIC RAILROAD CO.

This is to Certify, That Union Pacific Railway Co has deposited with the Farmers' Loan and Trust Company Two hundred & sixty eight thousand Dollars, par value, of the First Mortgage Bonds of the Denver, South Park and Pacific Railroad Company, secured by a Mortgage or Deed of Trust to the said the Farmers' Loan and Trust Company, as Trustee, dated the First day of August, 1878, being bonds numbered 13-48/52-54/5-73/5-80-92-136/7-140-143/4-146/51-153/4-180-195/6-208-210/2-22[illegible]-272/3-[illegible]/6-300-346-350-381/5-391/5-418/20-432/5-445/467-474/5-500-504/8-534/5-585-591-597-599/600-602/3-[illegible]/9-645-654-656/8-662/4-667/8-739-741-748-756/7-759-797/800-827-832-839/40-851/4-860-879-885-901/2-904/5-916-926/50-958/9-968/70-975-995/6-1001/4-1010/14-1039/43-1050-1059/65-1075-1084/7-1092/3-1100-1103-1113/19-1143/5-1163-1169-1212-1239/42 for One Thousand Dollars each, together with the Interest Coupons belonging to the said bonds, maturing on and after the First day of November, 1888.

The aforesaid deposit of bonds is made pursuant and subject to an agreement between certain holders of bonds secured by the mortgage described, and Frederick D. Tappen, Wm. H. Hollister, and Francis L. Leland, as a Bondholders' Committee, bearing date the Seventh day of March, 1889, and the Union Pacific Railway Co., one of the original copies of which is filed with the undersigned.

The acceptance of this Certificate shall have the same effect as if the holder or holders thereof had actually signed the said agreement. 1250/5-1286/7-1295-1340-1349/50-1352-1354-1391-1393/7-1406/8-1420/2-1433-1438-1468/9-1489/93-1500-1502-1505/7-1517/20-1524/5-1546-1561/4-1572-1592/4-1597/8-1602/3-1604/8-1624/6-1632/3-1635-1665/6-1698-1703-1705-1708/19-1721/3.

In Witness Whereof, The said Farmers' Loan and Trust Company, has hereunto subscribed its name this ..... day of ..... one thousand eight hundred and eighty-nine.

FARMERS' LOAN AND TRUST CO.,

Per [illegible]

V.-President.

ARTHUR & BONNELL, NEW YORK.

NOTE.—This Certificate is exchangeable for an Engraved Certificate, as soon as the same shall be ready.

In 1888, the Union Pacific refused to advance funds to meet interest charges on the First Mortgage Bonds of the Denver South Park & Pacific Railroad, and default was consequently made on interest due in November, 1888. To protect the rights of the bondholders, a committee was formed, and the temporary "Certificate of Deposit" shown above was issued to each bondholder, in exchange for the bonds indicated on the certificate. A new "Trust Certificate," shown below, was issued, and in turn exchanged for the "Certificate of Deposit." (This was the first of 268 certificates issued to the Union Pacific Railway in this exchange.) A plan of reorganization was agreed upon, and a new company was organized, under the name of the Denver Leadville & Gunnison Railway Company; that company issued $11,100 per mile 4½% bonds, and the Union Pacific issued against them $10,000 per mile of its 4½% collateral trust bonds. Perhaps this move was to relieve the apprehensions of the bondholders, who might have been wary of the bonds of the newly-organized D. L. & G.; at any rate, the Union Pacific held all the capital stock in the new company, giving $1,000 of its bonds for each $1,110 represented by the D. S. P. & P. Trust Certificates. The final result, of course, was that the Union Pacific now held complete control of the new D. L. & G.; it seems possible that this was their intention during the entire transaction. At the time each exchange occurred, the previous security was cancelled, which accounts for the holes punched through the name of the Trust Company's Vice-President.

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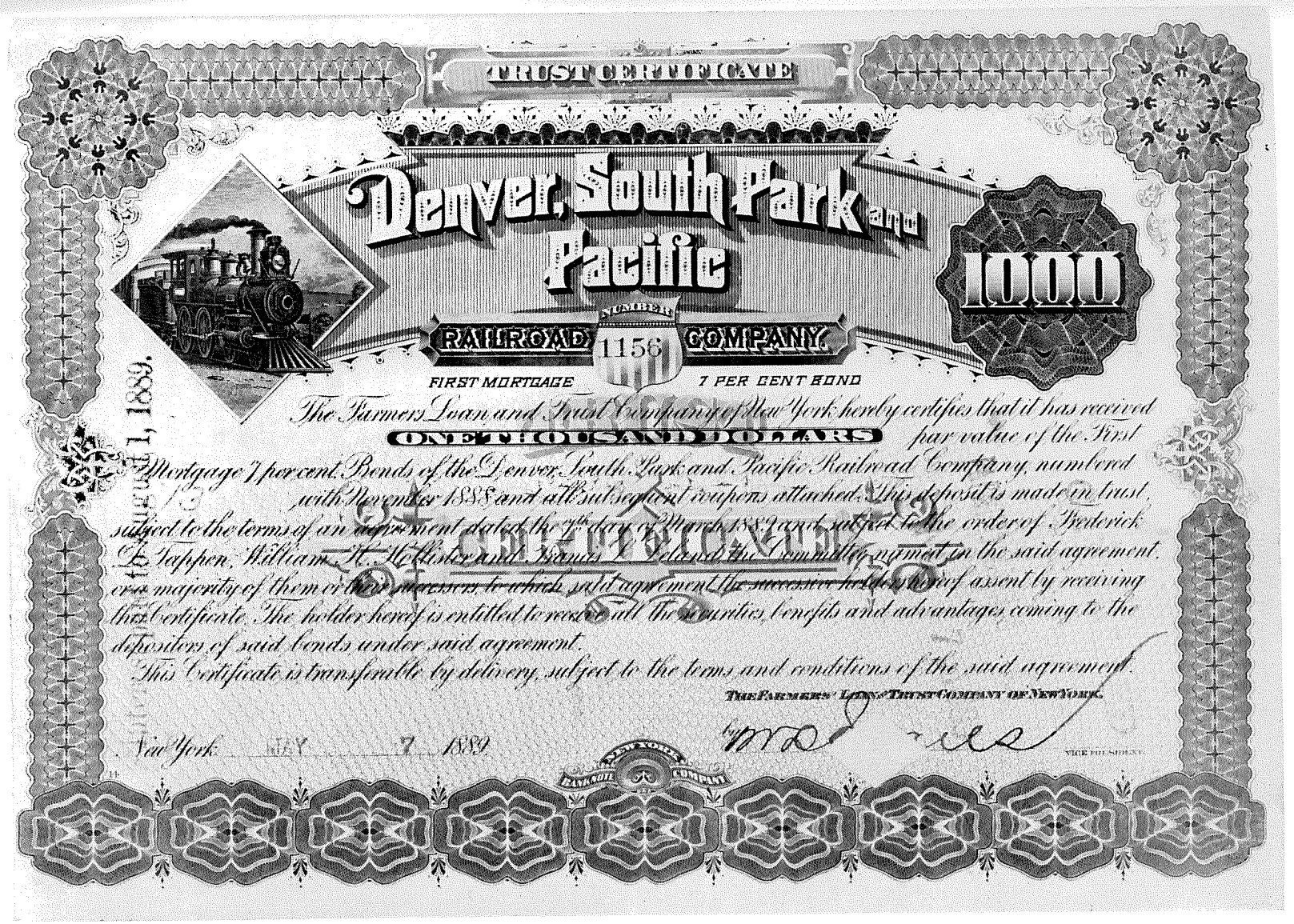

TRUST CERTIFICATE

Denver, South Park and Pacific

RAILROAD COMPANY

NUMBER 1156

1000

FIRST MORTGAGE 7 PER CENT BOND

The Farmers Loan and Trust Company of New York hereby certifies that it has received ONE THOUSAND DOLLARS par value of the First Mortgage 7 per cent. Bonds of the Denver, South Park and Pacific Railroad Company, numbered with November 1888 and all subsequent coupons attached. This deposit is made in trust, subject to the terms of an agreement dated the 7th day of March 1889 and subject to the order of Frederick L. Tappen, William H. Hollister and Francis L. Leland, the Committee named in the said agreement, or a majority of them or their successors, to which said agreement the successive holders hereof assent by receiving this Certificate. The holder hereof is entitled to receive all the securities, benefits and advantages coming to the depositors of said bonds under said agreement.

This Certificate is transferable by delivery, subject to the terms and conditions of the said agreement.

THE FARMERS' LOAN & TRUST COMPANY OF NEW YORK.

by W. D. [illegible]

VICE PRESIDENT.

New York MAY 7 1889.

NEW YORK RAILROAD COMPANY

[illegible] 1, 1889.

UPRRIG-000388

in receivership, and with it the U. P. D. & G. and D. L. & G. properties were also declared bankrupt. In the following year, the D. L. & G. was transferred to a separate receivership, and its 13-year period under Union Pacific control came to an end.

Under the able guidance of its new receiver, Frank Trumbull, the Denver Leadville & Gunnison began to show some improvement, although it still had to face many difficulties.

Mr. Trumbull had previous experience with a bankrupt railroad, having been receiver of the Texas & Pacific some years before he moved to Denver. He immediately began improving the railroad, and one of his first moves was to have Alpine Tunnel reopened. It had been closed since a cave-in, about 1887, and the previous management had made no effort to reopen it. Several D. L. & G. employees lost their lives in the first attempt to reopen the tunnel, on June 8, 1895, being overcome by gas and locomotive fumes, which could not escape from the blocked tunnel. A subsequent attempt was successful, however, and business was resumed on the entire Gunnison Branch in the summer of 1895.

In 1898 a committee was formed for the purpose of purchasing the Denver Leadville & Gunnison Railway Company and certain other lines, including the Union Pacific Denver & Gulf Railway Company, at foreclosure sales. After the formalities of the purchase had been completed, a new railroad corporation was formed—the Colorado & Southern Railway Company. Narrow gauge trackage included both the South Park line and the railroad up Clear Creek Canon, and totalled about 400 miles at the time the Colorado & Southern Railway was organized. The C. & S. also operated 762 miles of standard gauge track at this time. The company took possession of the U. P. D. & G. and the D. L. & G. properties and commenced operation as the C. & S. at midnight, January 11, 1899. Although many of the directors were easterners, Frank Trumbull, of Denver, was made president of the new organization, and most of the principal officers were also Denver men.

The first annual report of the Colorado & Southern Railway Company, covering the entire railroad's operation during the 18 months from January, 1899, to June, 1900, showed a net profit of about a million dollars, indicating that the new railroad was off to a good start. One of the first items undertaken was the construction of a new shop and roundhouse, near what is now 7th and Water Streets, in Denver. Begun in the spring of 1900, the new buildings were completed November 30, 1900, and the Colorado & Southern's lease of the Union Pacific shops and roundhouse was immediately terminated.

Economically, the first decade of the twentieth century was favorable for the Colorado & Southern Railway. Net income varied between one and three million dollars each year, and while most of this profit probably came from operation of the railroad's standard gauge lines, there is no doubt that the narrow gauge passenger and freight trains also contributed to this pleasant state of affairs.

T. E. Fisher, the railroad's enterprising General Passenger Agent, issued thousands of copies of booklets and folders, describing the narrow gauge routes into the mountains during this period, and these undoubtedly helped augment the passenger income on the narrow gauge Platte Canon and Clear Creek routes. The scenic wonders of the Georgetown Loop were presented in folders, newspapers and magazines, resulting in an excellent tourist traffic during the summer months of each year. The joys of fishing in the Platte River were extolled in booklets which also described the numerous attractive resorts and hotels along the banks of the stream. The journey up Platte Canon on the train for an enjoyable vacation was popular with Coloradoans as well as visitors from other states. In addition, "Fish Trains" proved to be quite popular on weekends, and would stop at any point between Denver and Grant to let off or pick up fishermen.

Improvements were made along the narrow gauge lines from time to time during this era of prosperity. One interesting bit of construction was the two-story frame boarding house built beside Alpine Tunnel Station in 1907. There was even talk of extending or standard-gauging some of the railroad's 3-foot trackage, but no major construction of this nature was actually undertaken. When the Colorado & Southern was first formed, plans were formulated to standard-gauge the Platte Canon line as far as South Platte, 30 miles from Denver, then build a new standard gauge track up the South Fork of the South Platte River, and thence southward into the Cripple Creek District. However, the only actual construction in this direction was the 4.28-mile Nighthawk Branch, completed in 1904, with narrow gauge track; it was abandoned 12 years later.

Control of the Colorado & Southern Railway

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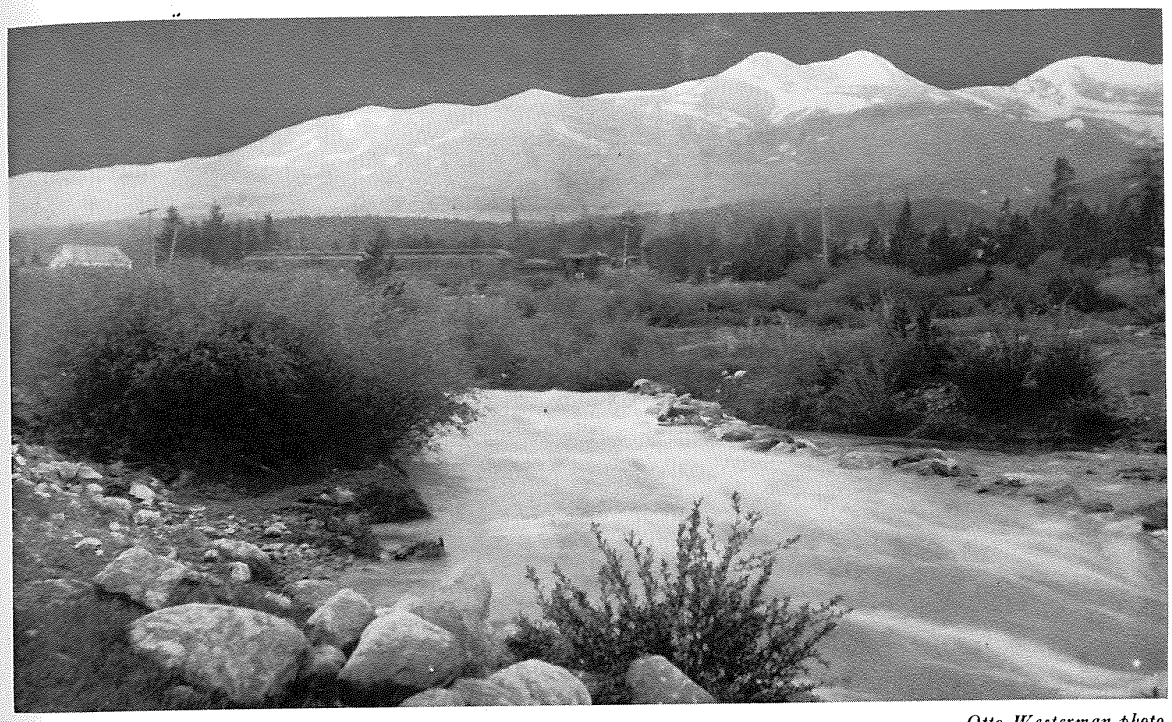

Otto Westerman photo, from Oscar Perschbacker Collection.

Colorado & Southern locomotive 61 with combo and coach runs north down the Blue River Valley toward Dillon, on its way to Leadville on June 26, 1912. At this time the C. & S. was attempting to abandon the line over Boreas Pass, and there had been no freight or passenger service between Como and Breckenridge for more than a year. However, the attempt was unsuccessful, and operation was resumed in January, 1913.

was acquired by the Chicago, Burlington & Quincy Railroad in 1908. At this time the narrow gauge mileage was 412, very near its peak, although abandonment of the Alpine Tunnel section two years later began a reduction in the 3-foot gauge rails which was to continue until 1943, when the last narrow gauge C. & S. trackage vanished.

During 1910, a minor cave-in inside Alpine Tunnel gave the management an opportunity to close this famous passageway under the Continental Divide. Probably the seriousness of the condition of the tunnel was exaggerated somewhat, since persons who entered the tunnel after 1940 report that there was no serious cave-in except at the east portal, and this is believed to have happened later than 1910. At any rate, service between Hancock and Quartz, a 14-mile segment which included the tunnel and such scenic attractions as the Palisades and Sherrod Curve, ceased in October, 1910, although rails were not removed until 1923. The C. & S. operated a mixed train between Buena Vista and Hancock for a short time, and then the route was shortened to Romley, about 2½ miles below Hancock. The Buena Vista-Romley service was discontinued in 1926.

In the same month that the last train ran through Alpine Tunnel, a disastrous flood struck the Trout Creek area. Although previous floods in this area had caused damage to the track, the line had always been repaired, and on one occasion a major relocation of a portion of this route had been undertaken. This time, however, the damage was claimed to be excessive, and the track from Garos to a point near Buena Vista was discontinued.

During 1911, two segments of the line came under the shadow of the abandonment axe, but only one of these attempts was successful. The track from Quartz to Gunnison and along the Baldwin Branch was entirely disconnected from the rest of the railroad when Alpine Tunnel was closed. Arrangements were made with the D. & R. G. to operate the Baldwin Branch, and in return the C. & S. agreed to operate the D. & R. G.'s Blue River Branch, between Leadville and Dillon. At

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this time the D. & R. G. also took over the C. & S. branch from Parlin to Pitkin, which was operated as a D. & R. G. branch until 1934, when it was abandoned. Since the D. & R. G. used its own line between Gunnison and Parlin, there was no need for the parallel C. & S. trackage merely to reach the Pitkin Branch, and the C. & S. Gunnison-Parlin segment was therefore abandoned. Similarly, the C. & S. had little use for the D. & R. G. line between Leadville and Dillon, since towns along that route could be adequately served by the C. & S.,

B. L. McFadden Collection.

Colorado & Southern engine 62 heads upgrade with its mixed train on the lonely journey through Chalk Creek Canon, on the surviving remnant of the Alpine Pass line. This photo was made below St. Elmo in the early 1920's, shortly before the branch was abandoned.

using its own track, so the D. & R. G. branch was seldom used after 1910, and was eventually torn up.

The abandonment attempt which failed concerned the track over Boreas Pass. The Colorado & Southern Railway abruptly discontinued service between Como and Breckenridge in late 1910 or early 1911. Timetables of the 1911-1912 period show service from Denver to Como and Alma, and from Leadville to Breckenridge, but no passenger or freight service over Boreas Pass. Determined efforts by the Breckenridge Chamber of Commerce and other interested parties, with eventual recourse to legal action, finally forced the C. & S. to resume service over Boreas Pass in January, 1913. Two years later the railroad applied for abandonment of the entire Denver-Leadville line, together with all branches, but the application was denied.

Deficits on the South Park line began to be the rule rather than the exception after 1910, and additional abandonment attempts were made from time to time during the 1920's. A vigorous effort to abandon all trackage from Waterton to Leadville was initiated in September, 1928, in which the C. & S. had the support of officials of the City and County of Denver, who wished to build a dam in South Platte Canon below the station of South Platte. This petition was considered carefully by the Interstate Commerce Commission, but in June, 1930, the decision was handed down, denying the abandonment application.

The officials of the Colorado & Southern Railway then offered to give the entire South Park line, free of charge, to anyone who would guarantee to operate it, provided the applicant proved satisfactory to some conditions set up by the railroad and the Interstate Commerce Commission. None of the several applicants who proposed to take over and operate the railroad was found to be completely suitable; however, Victor A. Miller of Denver made a valiant effort. Miller had operated the bankrupt Rio Grande Southern Railroad for some years, using the famous "Galloping Goose" motor cars for passenger service, and he proposed to use similar vehicles on the South Park line. His contract was presented to the C. & S. in 1932, and was turned down by the railroad company with a lengthy list of reasons for its rejection; it would seem that his proposal was at least given serious consideration by the railroad officials.

The next abandonment application was filed in 1935, and with additional deficits arising from lack of business during the depression, it stood a better chance of acceptance by the Interstate Commerce Commission than had the preceding applications. Too, trucks and buses were taking more and more business away from the railroad. The C. & S. was also able to point to a lack of patronage of the line by the very people who were loudly opposing its abandonment. In 1934, an addition was built to the school at Fairplay in Park County, and the railroad reduced rates on some materials for the school in an effort to obtain the business. However, the greater proportion of the material was hauled in

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Chicago, Burlington & Quincy R. R. photo, from M. C. Poor Collection.

This photo, taken August 25, 1943, a short distance below Climax, Colorado, shows Colorado & Southern 76 with the last narrow gauge train between Climax and Leadville. With the removal of the narrow gauge rails, shortly after this run, the last vestige of the once great Denver South Park & Pacific vanished.

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by truck, although the Colorado & Southern's taxes comprised over 30% of the total received by Park County that year, and $21,000 was for school taxes.

One change was made from previous abandonment requests—the railroad did not desire to abandon the profitable 14-mile section of track from Leadville to Climax, due to the growing importance of the molybdenum industry at Climax.

When the I. C. C. investigation was completed, in 1936, permission was given to the Colorado & Southern Railway to abandon the main track and branches between Waterton and Climax, effective December 11, 1936. (A 120-day delay was subsequently permitted to make the adjustment to bus and truck operation, so the final date became April 10, 1937.) One matter which was probably not brought to the attention of the I.C.C. during their deliberations was the fact that business had improved to such an extent that the Colorado & Southern's 17 narrow gauge locomotives were not sufficient to handle the traffic, and three engines were rented from the D. & R. G. W. to help move the freight business. These engines, D. & R. G. W. 343, 345 and 346, were loaded on standard gauge flatcars and sent to Denver in 1935, where they remained in use on the South Park line until shortly before the abandonment. They were returned to the D. &. R. G. W. in the spring of 1937.

The last narrow gauge passenger train left Denver Union Station for Leadville on Friday, April 9, 1937. The next day the final passenger run from Leadville to Denver was made. Freight trains were operated on April 11 to clean up most of the freight and miscellaneous equipment, and haul it to Denver or to Leadville.

Dismantling the line was postponed until 1938, when the firm of Platt-Rogers, Inc., contracted to remove the rails and other salvageable material. The contractors used four 2-8-0 type locomotives, C. & S. 58, 69, 71, and 73, along with miscellaneous passenger and freight cars. The passenger cars were equipped with bunks and a kitchen, and used as an outfit train for the wrecking crew. Locomotives and trains were operated by former C. & S. enginemen and trainmen, for the contractor. Actual dismantling began in May, 1938, and by October of that year the rails had been removed from Climax to South Platte, Colorado, including all branch lines on this segment. Feldspar shipments from South Platte accounted for the rails remaining on the 9-mile section above Waterton in Platte Canon, even though this track was technically abandoned. In 1941-42 the narrow gauge rails between South Platte and Denver were removed, including the Silica Branch, out of Waterton. A standard gauge rail had previously been laid between Denver and Chatfield, and this section remained in use a few years longer, with occasional trips by standard gauge switch engines out of Denver.

The Clear Creek line was abandoned in two sections—the upper end, from Silver Plume to Idaho Springs, being removed in 1939, and the remainder, from Idaho Springs to Golden (including the Blackhawk Branch) was taken up in 1941. The world-famous Georgetown Loop bridge was included in the 1939 abandonment, and it was dismantled during the summer of 1939. Today a modern highway occupies Clear Creek Canon, and it is a tribute to the early-day surveyors that no better route than the railroad grade could be located by modern engineers for most of the distance between Golden and Forks Creek. Most of the grade is completely buried by the highway, except where the engineers provided tunnels for the auto road to eliminate the most severe curves in the canon. Since there were no tunnels on the railroad in Clear Creek Canon, the railroad grade can generally be seen winding along the edge of the creek, around the rocky ramparts penetrated by the highway tunnels.

Only the 14-mile line between Leadville and Climax now remained of the vast Colorado & Southern narrow gauge empire, and this line was destined for a short life with 3-foot gauge equipment. Molybdenum, vital to the war effort, made it imperative that this line be retained, so it was decided to convert the branch to standard gauge. Instead of laying a third rail and utilizing one of the narrow gauge rails, heavier steel was used and two new rails were laid, one on each side of the 3-foot trackage; new ties were also installed at this time. On August 25, 1943, Colorado & Southern engine 76 made the last round-trip on the narrow gauge rails between Leadville and Climax, bringing to an end the colorful life of the wonderful little railroad, which had begun so bravely and with such great hopes, 70 years before.

In this brief summary, it has been possible only to touch the highlights of the fabulous South Park railroad. Anyone interested in a much more complete description of this railroad is referred to the magnificent definitive volume, *Denver, South Park & Pacific*, by M. C. Poor, published by the Rocky Mountain Railroad Club in 1949.

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Railroads and the Rockies

A RECORD OF LINES IN AND NEAR COLORADO

Robert M. Ormes

SAGE BOOKS, Denver

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PREFACE

This book represents a hobbyist's collection of assorted railroad facts. They were first put on cards, and filed in a box. By the time a decision had been reached to publish them, the fascination of putting in more material always outweighed the demand for going back over the ground and supplying the proper sort of documentation. Consequently only a vague and generalized acknowledgment has been made to even the most important sources. I would feel more grieved about this fact if I thought of the book as a serious history. Although a few guesses are presented which a proper historian might be willing to think about, they are not such as depend on the nice evaluation of differing sources. I think of the volume as a curio hunter's collection of the railroad information which has previously lain in a long, long shelf of books, several of them out of print, and others too unwieldy to have in a house.

Some repetitions are inevitable in a book organized in this manner. There will even be some contradictions which editing has not caught. But if there are enough people who find the book useful, it may be that I can profit as I did with the guide to the Colorado mountains—publish a cautiously small first printing and then use the criticims that come in to correct inaccuracies with a second edition.

The book is a fairly correct and compact source for the basic facts of corporate intention, of trackage history, and of organization. The two main areas of primary research were the actual roadbeds scattered over the land, and the vaults in the Capitol Building where one can read the several hundred railroad incorporation papers.

For a generalized picture of Colorado railroading, the reader will make use of the short articles in the first part of the volume on the surveys, coal, metal mining, mountain passes, etc., and then look at some of the longer summaries in the Index—especially those of the D&RG, the Union Pacific, and the Colorado and Southern.

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2 freight cars, indicating that it must have used mainly C&S cars. The line was owned by Victor-American Fuel Company.

COLORADO AND SOUTH-EASTERN RAILROAD COMPANY of May, 1904, was the predecessor of the same Southeastern Railroad Company and was operating trackage at the time the latter was organized with a renewed ambition for the longer line from Trinidad to Florence by way of Pueblo.

COLORADO AND SOUTHERN RAILROAD COMPANY backgrounds are covered in Richard C. Overton's *Gulf to the Rockies,* which tells of the joyful union of the Evans sponsored Denver and New Orleans with the stronger Texas railroad of Grenville Dodge, of the tie-in with the Union Pacific, and of the ultimate formation of a strong separate corporation, and in M. C. Poor's *Denver South Park and Pacific.* Page 362 of the Overton book contains a condensation of the corporate history in chart form, beginning with W.A.H. Loveland's Clear Creek and Guy Gulch Wagon Road, the Colorado and Pacific Wagon Telegraph and Railroad Company, the Golden City and Gilpin County Wagon and Rail Road Company, and the Apex and Gregory Wagon Road Company.

The C&S was formed on December 20, 1908, as successor to the Union Pacific Denver and Gulf and the Denver Leadville and Gunnison (the South Park line), both of whose properties had been in the orbit of the Union Pacific and been separated from it through the establishment of different receiverships in place of a receivership in common with that company. Frank Trumbull, the new receiver, became the president of the succeeding organization, whose control was thus kept within Colorado. The C&S was purchased by the Burlington in 1907, but has retained some identity as a separate organization.

The railroad's main line runs from Orin Junction, Wyoming, to Fort Worth, Texas, thus connecting the Burlington's road to the northwest with a joint Burlington and Rock Island line from Fort Worth to the Gulf. The part within Texas is in the Fort Worth and Denver City, from the New Mexico border to Fort Worth, and in the part owned Burlington-Rock Island and its subsidiaries. The C&S proper ends at the New Mexico-Texas border. The company's main stem began life as a rival of the D&RG, but with the latter road's reorientation to an east-west direction, the C&S inherited the original D&RG aim for a north-south road, angling however to the eastward and the Gulf from Colorado rather than to the westward and Mexico. By the time the C&S was in business, rivalry was so limited as to permit extensive cooperation.

Besides its own trackage in Colorado the C&S has operated three other trackages—the Colorado Railroad and its two subsidiaries, the tiny Walsenburg and Western and the Fort Collins Development Railway. It enjoys close and profitable relationship with the Colorado Fuel and Iron Company's Colorado and Wyoming, which brings iron

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ore out to the Burlington from Sunrise and coal from the line west of Trinidad.

From the UPD&Gulf, the C&S inherited a trackage arrangement with the D&RG for the line connecting Pueblo and Walsenburg, and the roadways of what had originally been twelve different companies. These comprised (1) the Gulf system and its coal roads in southern Colorado and northern New Mexico, (2) the Cheyenne and Northern, and (3) the group of northern Colorado roads that had been developed or taken over by the Union Pacific—chief of these being the Colorado Central.

There were eight divisions: the 154 miles from Cheyenne north to Orin Junction; the 149-mile Fort Collins Division, running north from Denver to Fort Collins and across to Greeley, with branches to various points; the Clear Creek District, covering the 65 miles of narrow-gauge track in the old Colorado Central mountain line and the Georgetown Breckenridge and Leadville extension to Silver Plume (the UPD&G had removed the track above Silver Plume in 1898); the Pueblo District, comprising the old Denver and New Orleans (afterward the Denver Texas and Gulf); the Trinidad District, trackage from Walsenburg to Trinidad and mine spurs off it; the New Mexico District, consisting of the Denver Texas and Fort Worth link between Trinidad and the border of Texas; and the Platte Canon, Leadville and Gunnison Districts, formed from the Denver Leadville and Gunnison, totaling 334 miles of narrow-gauge track. The road's total was 1142 miles including the 56 operated over D&RG rails between Gulf Junction, south of Pueblo, and Walsenburg.

The old Colorado Central line to Wyoming from Fort Collins had been pulled out—the north end, including all but 3/4 mile of the Colorado Central of Wyoming and 7-3/4 miles in Colorado, by the Colorado Central in 1888-9, and the remaining 3/4 mile in Wyoming and 25-1/4 in Colorado in 1890 by the UPD&Gulf. Grenville Dodge expected to get trackage rights for the C&S over the Union Pacific as the successor company of the Union Pacific Denver and Gulf, but the UP were not interested, and the C&S did not get the use of the UP for a through line until 1907. This agreement was canceled only four years later when the line out of Fort Collins to Wellington was lengthened 32 miles for a C&S link between the Wyoming Division and the Colorado lines. The 11-mile Wellington line built in 1903, and the mile and a half of extensions built in 1904, 1905 and 1906 as far as Dixon Spur were built by the Fort Collins Development Railway Company, formed in 1902 and acquired by the Colorado Railroad Company in 1908, and it was through its subsidiary Colorado Railroad that the C&S constructed in 1911 the remaining distance to Cheyenne Junction. The new grade to Cheyenne was some distance from the old one. Instead of north, it went east 3-1/2 miles and then north, using as starter the 13-mile line constructed in 1903-1906 through Wellington to Dixon. It kept generally 4 or 5 miles east of the old grade until the latter angled eastward. Half

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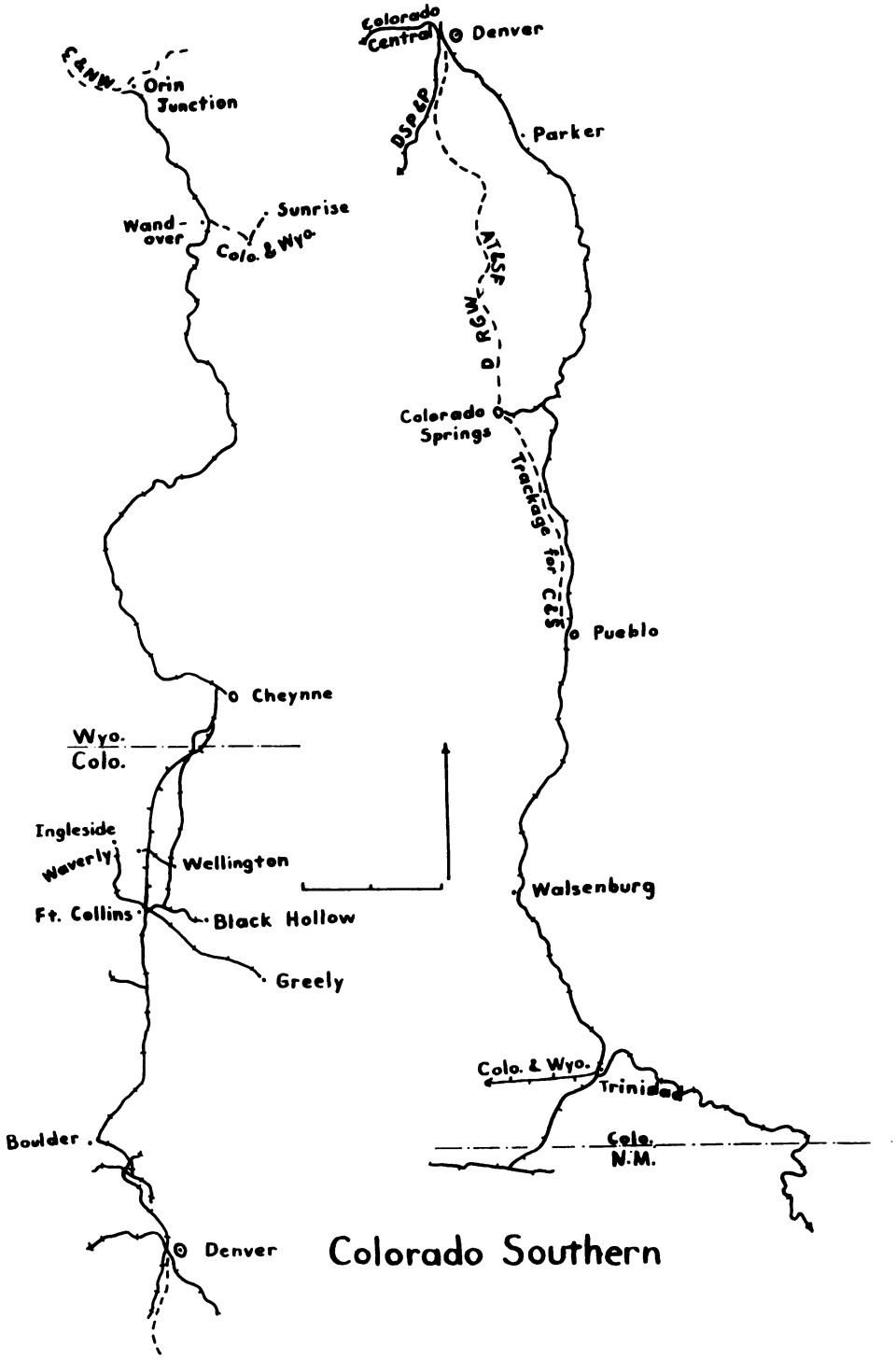

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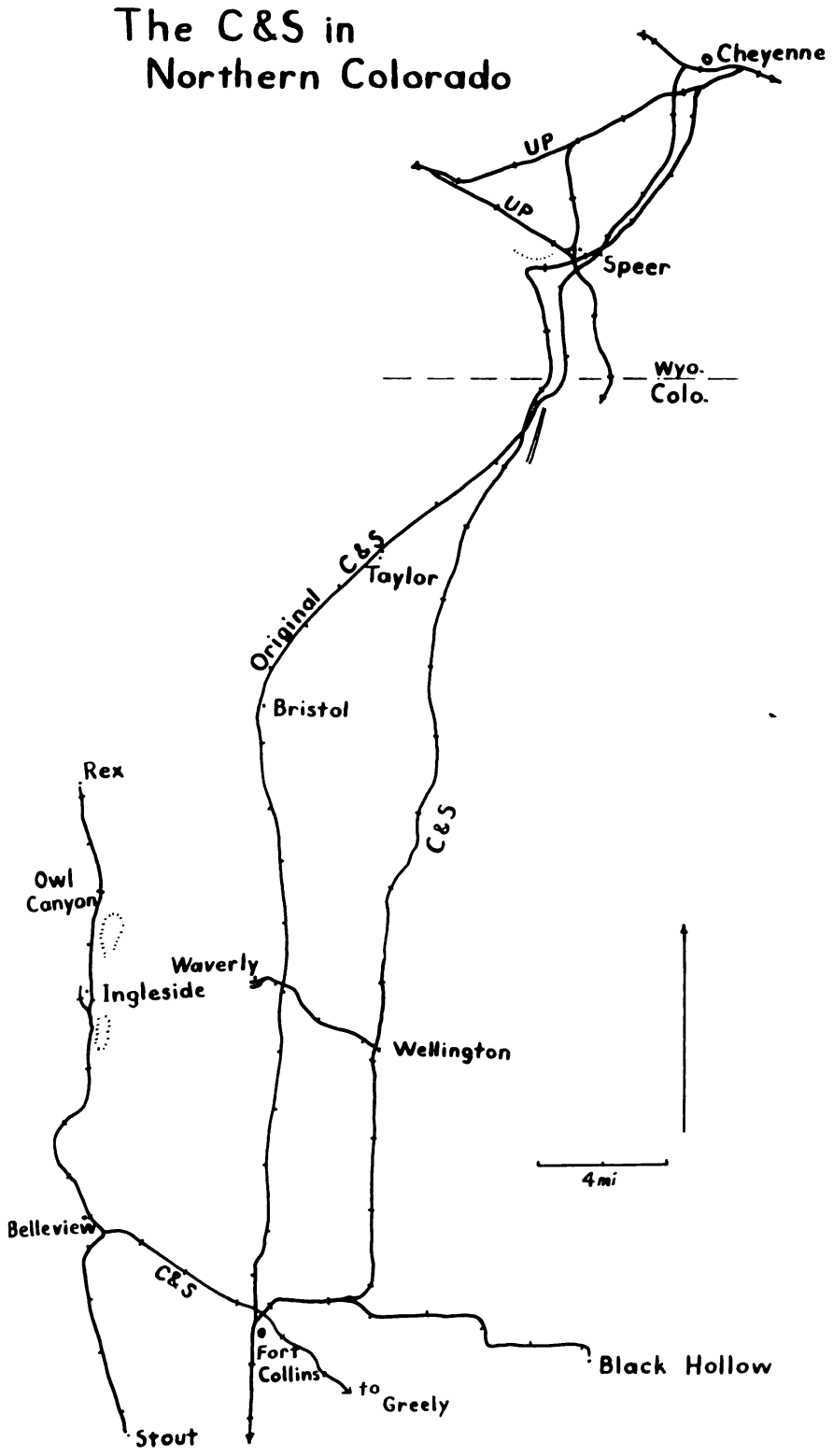

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a mile south and again 2 miles north of the Wyoming border, the new grade crosses the old. Then the new grade swings east to cross the Union Pacific's line south to Denver.

Another major addition to the C&S structure came with shift in 1911 from trackage rights on the D&RG's old 56-mile line between Pueblo and Walsenburg to a new grade 47 miles long. This was double track, built and operated jointly by the two companies.

The UPD&Gulf inherited an 8.7-mile line north and northwest from Golden to Glencoe. The 4 miles from Golden to Ralston was about 4 miles of the Colorado Central's "new" track of 1877 from Denver through Golden and Ralston to the junction with the old track from Golden Junction, east of Golden on the Golden-Denver line, to Longmont. The part from Ralston to Glencoe was the 4-1/2-mile Denver and Middle Park Railroad. The UPD&G took out the Denver and Middle Park track and over half of the line from Ralston to Golden, leaving the C&S a heritage of 1.7 miles from Golden to Church's Brick Yard.

The line from Greeley to Stout—the old Greeley Salt Lake and Pacific—became the Stout Branch west of Fort Collins, and between Fort Collins and Greeley the main line. The Stout Branch began as a 15-mile line reduced from the original 15-1/2 miles by the UPD&G in 1894; under the C&S it was further reduced in 1905 to 12, in 1909 to 8, and in 1918 to 5. The line down to Greeley from Fort Collins became the Greeley Branch when the main line was pushed north to Cheyenne in 1911.

Other branches in the Fort Collins District include the 8-1/4-mile rock and quarry line to Arkins from Loveland, built by the Greeley Salt Lake and Pacific in 1888, which was shortened 2-1/4 miles in 1926 and another 1/2 mile in 1937; the 3-1/4-mile spur from Louisville to the Alan Bond Mine, put in by the UPD&Gulf in 1893 and pulled out in 1902; the 3-1/2-mile Lowery Quarry Spur, built north from Wild on the Arkins line in 1907, removed in 1914; the 1-1/4-mile Dixon Spur, built at the end of the Fort Collins Development Railway in 1906, double tracked in 1911, and taken out in 1925-26; the 7-1/2-mile Crown Mine Spur from Boulder, taken out in 1932; the 1-1/2-mile Crown Mine to Superior, removed in 1936; the 4-1/2-mile line from Wellington northwest to Waverley, built in 1905 as part of the Fort Collins Development Railway and removed in 1954; and the 5-mile Denver West Side line, which the UPD&G built in 1892 and is still in operation. Boulder was reached on a short piece of UP trackage—the end of the Brighton to Boulder line—and within the town of Boulder a short connecting track ran to the Colorado and Northwestern, the railroad to Ward and Eldora. The stretch from Louisville to Lafayette, built by the Denver Marshall and Boulder in 1888, originally 3-1/4 miles long and afterward increased to nearly 4, was reduced to about 2 miles' length in 1951. C&S inherited the 3-mile Jersey Cutoff, between Jersey, the Colorado Central's terminal in Denver, and Argo Junction to the north of town, where the Central turned west toward Golden. This was the end piece of the

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line originally built as standard gauge and later 3-railed so that Central trains could go to Denver.

C&S mileage in northern Colorado does not include the Lyons Branch of the CB&Q, though the Q owns the C&S. Another track which in effect belongs in the Fort Collins District is the Colorado Railroad's Ingleside line, running north from Bellevue on the stretch between Fort Collins and Stout. This went as far as Bellevue on the old Greeley Salt Lake and Pacific and was extended 9 miles to Ingleside in 1906 and another mile in 1916, and reduced 2-1/4 miles in 1931. The 9-mile Black Hollow Branch, turning off east from the line to Wellington and Cheyenne at Plummer's Spur or Black Hollow Junction, runs about halfway to Ault. Except for an angling start it obediently follows the east-west section lines with two southward jogs for variety.

Two gauges, four rails, on the C&S. Photo courtesy State Historical Society ofColorado.

Rotary at work near Como. Photo courtesy State Historical Society of Colorado.

The Pueblo District had been successively the Denver and New Orleans, the Denver Texas and Gulf, and the Union Pacific Denver and Gulf. Under C&S management it was the 124-mile main track with the 9-mile side line from Manitou Junction in to Colorado Springs and a half-mile track to a freight house at Pueblo. The Franceville branch had been taken up before the C&S took the track

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over, and the Colorado Springs branch appears to have gone out very shortly afterward, since what produce came to Colorado Springs from the prairies gravitated toward the Rock Island after that road was built.

At Walsenburg the 1910 C&S added 1-3/4 miles of track from Broadhead Junction to Mine No. 4, and a 1/2-mile Broadhead Mine spur and operated with trackage rights 2-1/2 miles on the D&RG from Walsenburg to Robinson's Mine. This last was from the UPD&G's earlier trackage right over the whole line in through Walsenburg from Cuchara on the D&RG. The Broadhead Junction to Mine No. 4 line was later reduced to 1 mile and the terminus labeled Green Canon. In the thirties the Broadhead Junction becomes No. 4 Junction, and the same terminus is called the Beacon Mine.

C&S operated the Walsenburg and Western Railroad, a 1.35-mile railroad at Walsenburg, from 1910 to 1912.

Besides the track from Trinidad to the Texas border, the New Mexico Division includes two side lines, both inherited in part from the Denver Texas and Fort Worth. That road had built west from Trinidad to Long's Junction and southwest up Long's Canon to Martinsen, 14 miles, with a 1-1/4-mile spur to Thompson's Mine from Long's Junction, in 1888. The UPD&G had extended from Martinsen through Catskill in New Mexico and west to Vasquez in 1890. In 1891-1893 a branch went east from Catskill to Dunns, about 6-1/2 miles, and in 1898 it was extended to Newton for a total length of 9 miles. This made a total of about 50 miles. The C&S sold the Thompson Mine track to the new Colorado and Wyoming Railroad which was building west up the Purgatoire in 1901. In 1902 the C&S pulled out the track both east and west from Catskill and backed up four miles to Pels, leaving only 8-1/2 miles beyond Martinsen. 16 more miles came out in 1908, and in 1940 the remaining 5-1/2, from Longs Junction to Trinidad.

Trackage of .7 miles from Sopris, near Trinidad on this Vasquez line to Sopris mines, was built in 1887 either by the mining company or the DT&FW, and came into C&S possession in 1890. The other side line took off southward from Beshoar, a point about 9 miles east toward Texas from Trinidad, and went south. The first 6-1/2 miles were Denver Texas and Gulf construction of 1888; the UPD&G extended this to total about 8 miles to Grey Creek in 1892. This was reduced to a half-mile spur in 1925 and cleaned out 2 years later.

The Denver Leadville and Gunnison—formerly Denver South Park and Pacific—formed three divisions of the C&S. The Platte Canon District included the 88 miles from Denver over Kenosha Pass to Como, in South Park, with a 4-mile branch south from South Platte to Nighthawk, and the 10 miles from Sheridan Junction, near Littleton, to Morrison. The Leadville District ran from Como over Boreas Pass to Breckenridge and Dillon and over Fremont Pass to

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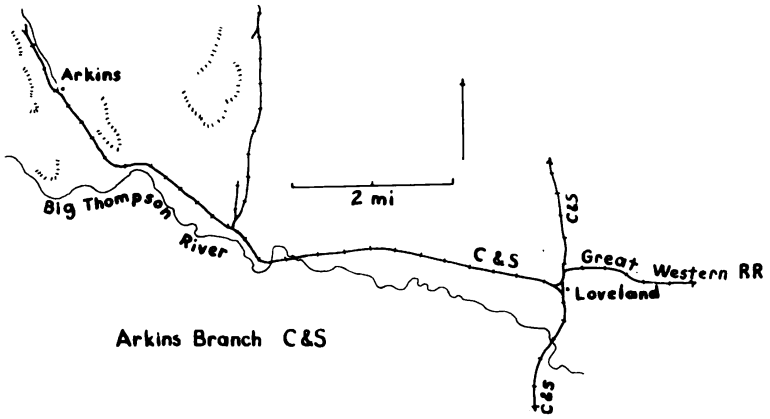
Leadville, 63 miles, the Dickey to Keystone 7-mile line and the 1-mile Kokomo branch. The Gunnison District ran from Como to Baldwin, by way of Garos, Trout Creek Pass, Chalk Creek, Alpine Pass and Gunnison, with a 15-1/2-mile branch to Fairplay and Alma and off that an 11-mile line to Leavick from Hill Top Junction, a 4-mile branch to Buena Vista, a 2-1/2-mile branch from Castleton to the Alpine Coal Company's mine, a 3-mile branch south to the King Coal Mines from just east of Como, and the 1-1/2-mile Kubler Branch, running east from about 2-1/2 miles short of the end of the line at Baldwin.



Except for the section between Leadville and Climax and some Mineral Belt Railroad track at Leadville which were standard-gauged and run as connecting lines with the D&RG, all this South Park railroad was dismantled. The C&S abandoned the King Coal Mine branch at Como in 1899, the Nighthawk line in 1916, and the Morrison Branch in three steps: 1/2 mile at the end in 1919, 6 miles in 1934, and in 1938 the remaining 4-1/2 miles between Sheridan Junction and Lakeland.

Folding of the main lines followed a curious pattern, which started with the mountain passes in the middle rather than with the ends. First to go was the line between Garos through Bath (approximately Antero Junction) over Trout Creek Pass to McCune, just south of Buena Vista, in 1922. (Trout Creek Pass, though not high, had suffered a washout in 1908, when the C&S had to replace 1.09 miles of track with a new section 1.55 miles long on the west side.) Second was the 13-mile segment between Hancock and Quartz, including Alpine Tunnel through the Sawatch Range. This and the stretch from Parlin to Gunnison, which paralleled narrow gauge track of the D&RG, were taken out in 1923. The line up Chalk Creek between Buena Vista and Hancock was pulled out in 1926, but the piece from Quartz, on the west side of the divide, down to Parlin, did not come out until 1934. In 1938 the Boreas Pass line came out—the 49 miles from Como to Climax—and with it the lines to Keystone

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and to Alma and the Denver South Park and Hill Top line up Horseshoe Gulch to Leavick. The main line retreated from Como to South Platte. Below South Platte the railroad stayed in place until 1942, shortly after the line from Waterton, below South Platte, to Silica, was taken out. At this time the 15-1/2 miles down to Chatfield were removed. In 1950, 6-1/2 miles of the remaining 14 miles, which had been standard-gauged, were removed.

The end of the Gunnison line, connecting mines at Baldwin and Kubler with the narrow-gauge line of the D&RG at Gunnison, was pulled out by the D&RG in the summer of 1937. C&S trackage at Leadville, including some from the Leadville Mineral Belt road, was standard-gauged as early as 1900. The line down from Climax on Fremont Pass down to Leadville, was standard-gauged to connect the Climax molybdenum operation with the D&RG at Leadville.

The Clear Creek Division was the descendant of the Colorado Central's narrow-gauge line and of the Georgetown Breckenridge and Leadville. First line to be pinched off was the track to Central City from Black Hawk, reduced half a mile in 1928 and the remaining 3-1/2 miles in 1931. 3-1/2 miles from Silver Plume to Graymont had been removed in 1898, before the C&S took over from the UPD&G; the remaining 17 miles down to Idaho Springs came out in March of 1939, and two years later everything above Golden was pulled up in preparation for the location of Highway 6.

In May of 1900, the C&S and the Rio Grande Western bought the Colorado Midland. This was a year before consolidation of the RGW into the D&RG, and constituted the threat of an aggressive mountain railroad combination which would rival the D&RG. At the consolidation the D&RG fell heir to the RGW half. The C&S and the D&RG owned the Midland jointly until the Carlton interests took it off their hands in 1917.

COLORADO AND SOUTHWESTERN RAILROAD COMPANY was incorporated in August of 1925 to succeed to the unrealized purposes of the Dolores Paradox and Grand Junction, planned in 1913 to run (1) from Dolores northeast to Horse Creek Divide, (2) north (presumably from Paradox) to Grand Junction, and (3) south (presumably from Dolores) to a junction in New Mexico with one of the transcontinental railroads. Statehouse records show the company was disbanded by 1936.

COLORADO & TEXAS RAILWAY CONSTRUCTION COMPANY was organized in 1883 to build the gulf route's section from Pueblo to the Texas-New Mexico line.

COLORADO AND TEXAS RAILWAY IMPROVEMENT COMPANY was incorporated in 1881 by Grenville Dodge as a construction company for the gulf line. Evans wanted to know why when he was himself selling shares in a venture for the same purpose he had not been told by Dodge of the company's formation. The name was shortly

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second track. At that time it underwent reorganization as the Denver and Inter-Mountain Railway, which operated on steam power (3 locomotives) to Golden with a box car, 30 coal cars, and 5 passenger coaches. The Denver and Inter-Mountain succeeded in 1907 to the Intermountain, which extended the electrified part of the line out to Golden and after February, 1909, cut out all except passenger service.

DENVER LARAMIE AND NORTHERN RAILROAD COMPANY was formed in the summer of 1917 to take over the Denver Laramie and Northwestern Railroad Company formed in 1910, and was in turn succeeded in 1919 by the Denver Laramie and Northwestern Railway Company. However the line ceased to operate in 1917, before the last reorganization, and was not revived.

DENVER LARAMIE AND NORTHWESTERN RAILROAD COMPANY was incorporated and opened in 1910 with 52 miles of its own track, Utah Junction to Greeley, and 3 miles on the Denver & Salt Lake at Denver and a mile or so in Greeley on the Greeley Terminal. It was a Wyoming corporation with designs on running 750 miles to Boise, Idaho, for a connection with the northwest. Ed Bollinger in his book *Rails That Climb* states that it ran generally four passenger trains daily and up to six at one time. It appears on the state topographical map as the Denver Laramie River and Northwestern. It became the Denver Laramie and Northern in 1917, after a 1912 receivership, but went out of operation and was dismantled September 2, 1917.

DENVER LEADVILLE AND ALMA RAILROAD COMPANY was formed in 1932 to acquire the portion of the Colorado and Southern running to Leadville—i.e. the Denver Leadville and Gunnison. The Interstate Commerce Commission denied the application to operate and the company was dissolved. Branches described were these: Sheridan Junction to Morrison, Waterton to Silica, Como to Garos to Alma, Hilltop Junction to Leavick, Kokomo to Willfly's Mill, Dickey to Dillon and east to Keystone, and the 3-rail line from Leadville to the Blind Tom Mine.

DENVER LEADVILLE AND GUNNISON RAILWAY COMPANY was the successor to the Denver South Park and Pacific Railroad which became part of the C&S with sale of the Union Pacific Denver and Gulf late in 1898. The incorporation papers restate intentions of the DSP&P with some amending. The line was to go to South Park and the Salt Springs, thence across the Arkansas and through Poncha Pass and the San Luis Valley to Del Norte and the San Juan mining area, and thence to the Pacific Ocean. Branches were to go to Morrison and to Summit County, the latter to be extended to the Pacific Ocean. Branches were to go to Dudley and Horseshoe in South Park and to the head of the Arkansas Valley, and from the Arkansas Valley over Saguache Creek to Quartz Creek and down the

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Tomichi and the Gunnison, with branches to Ouray and Lake City. A line would run up Ohio Creek to the coal and silver mining areas of the Elk Mountains. A branch from the line to Ouray would go to the west boundary of the state by way of the San Miguel River and the Dolores River, this to be called the Arizona Extension. The Ohio Creek branch to the Elk Mountains would also send a line down the north fork of the Gunnison to the Grand and the west boundary of the state, and there would be a branch on the Roaring Fork down to the Grand. There would be an extension from a point on the main line to Colorado Springs, Canon City, Silver Cliff, and Rosita. A branch would connect the line down Tomichi Creek with Cochetopa Pass and Saguache. The Ohio Creek branch would be extended to Crested Butte. The Dudley Branch (Dudley is a mile or so north of Alma) would go to Hoosier Pass and Breckenridge and from Summit County by way of the Eagle and Grand River Valleys to Glenwood Springs and by way of Weston Pass to Leadville and Aspen and reach Glenwood Springs by way of the Roaring Fork. From Como the line would go over Boreas Pass to Breckenridge, and thence to Keystone by way of Dillon and eastward over Loveland Pass to Graymont and Georgetown. A line would run down the Blue from Dillon to the Grand, and up Muddy Creek on the other side to Troublesome Creek and to Muddy Pass near Whiteley's Peak, and thence to North Park and a connection with the Union Pacific. A line would run along the Grand from the mouth of the Blue to Dotson. A line would run from Gunnison to the west boundary of the state. A line would run from Schwanders to Leadville and from the Gunnison River to the coal fields in Gunnison County. Lines would reach Lake City and Silverton from the Gunnison.

DENVER LONGMONT AND NOLAND STONE AND RAILWAY COMPANY was formed in 1893 by Denver and Chicago men to build from Longmont to Noland and to work stone lands in Boulder and Larimer Counties. Poor's 1898 Manual states that the road was completed from Noland to Zoo Park, from Noland to Shady Side, for a total of 37 miles and was operating with 2 locomotives and 29 cars, 2 of them coaches. Poor's 1903 Manual states that no road was ever built. The Company succeeded the Stone Mountain Railroad and Quarry Company formed in 1890—a 3-1/2-mile switching road between Tower in Boulder County and Lyons and Noland in Larimer County with branches to three or four quarries. Both the Tower and the Lyons termini were Burlington stations.

DENVER LONGMONT AND NORTHWESTERN RAILROAD COMPANY was formed on March 14, 1881, to succeed the Longmont and Erie of 1878, and built the former projected line, ten miles long, running from Longmont south to the Rob Roy Coal Bank and then east to Erie. The connection with Denver was through the Colorado Central at Longmont. This road became the Colorado Northern in 1883.

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DENVER SHORT LINE RAILWAY COMPANY was an 1889 plan of David Moffat, Cheesman, and others to run a line west from some point between Acequia and Littleton on the D&RG to the Colorado Midland station of Lidderdale in South Park (just inside Eleven Mile Canon), and then west and southwest to the D&RG near Buena Vista. It would continue west to Grand Junction and Salt Lake and the town of Elko in Nevada.

DENVER SIDE RAPID TRANSIT AND IMPROVEMENT COMPANY was intended as a street railway. Among the possible motive powers to be used is listed the dummy engine, which uses its steam exhaust to heat the boiler water.

DENVER SIOUX CITY AND DULUTH was probably a name given by mistake to the Denver Sioux City Lake Superior and Chicago.

DENVER SIOUX CITY LAKE SUPERIOR AND CHICAGO RAILROAD was part of John Evans' paper railroad empire of the nineties. The line was to run from Denver to Niobrara, Nebraska, to Sioux City and Dubuque in Iowa, to Minneapolis, St. Paul, and Duluth in Minnesota, to Winnipeg in Manitoba, to Superior and Milwaukee in Wisconsin, and to Galena and Chicago in Illinois. Contacts would be made with various roads—the Sioux City and Pacific Short Line, the Great Northern, the Chicago Milwaukee and St. Paul, the Illinois Central, and the Union Pacific or the Union Pacific and Gulf, and part of the trackage of the new road was to be on these lines. This was an 1894 incorporation.

DENVER SOUTHERN RAILWAY COMPANY was formed in 1881 to run to Colorado Springs and Pueblo, covering the coal banks near Colorado Springs.

DENVER SOUTH PARK AND HILLTOP RAILWAY ran from Hilltop Junction, between Fairplay and Alma on the Denver South Park and Pacific, west to Leavick, a distance of 11 miles. The charter, dated September 1, 1896, called for a road from Fairplay to Leavick, and the road was built in that year. It was merged with the Denver Leadville and Gunnison a year later and became part of the C&S in the beginning of 1899. The branch is included in the line to be revived by the 1932 attempt—the Denver Leadville and Alma Railroad. M. S. Wolle states that the road profited by the 1901 boom as a carrier of tie lumber and also brought down high-grade zinc carbonate ore from the mine at Leavick.

DENVER SOUTH PARK AND PACIFIC RAILROAD COMPANY was incorporated September 13, 1872, about 9 months earlier than the railway company of the same name. The stated intention was merely to go from Denver to South Park. Those interested were essentially

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the same Denver group that incorporated later—among them Evans, Kountze, Cheesman, and others.

DENVER SOUTH PARK AND PACIFIC RAILWAY COMPANY was formed June 14, 1873, by a group including Hallack, Kountze, Cheesman, Clayton, J. W. Smith, and John Evans, the last its president and main drive. It was capitalized at $3,000,000, was raised to $5,000,000 and then $20,000,000. It was one of two spokes actually constructed by Evans in a vast wheel of which Denver was to be the hub, and aimed at a junction with the Southern Pacific at Fort Yuma in Arizona. The book, *Denver South Park and Pacific*, in which M. C. Poor relates the road's history, was published by the Colorado Railroad Club in 1949. It was soon out of print and now commands high prices as a railroaders' classic and collectors' item.

This road adopted 3-foot gauge like the D&RG and in 1878-80 plunged across South Park on a two-pass shortcut from Denver to the upper Arkansas, where the D&RG was fighting the battle of its life against the Santa Fe for access to Leadville and the Gunnison side of the San Juan. Evans' road made a traffic arrangement with D&RG for a share of the Leadville business, which was voluminous, and then put its own track in to Gunnison and a coal region to the north. Relations with the D&RG were strained and the South Park built its own track to Leadville. The D&RG was longer but it had reached both Leadville and Gunnison earlier and on easier grades, and the prosperity of the Denver South Park and Pacific proved brief. By the time the D&RG standard-gauged DSP&P was pretty well out of the competition and dependent on the mines of Chalk Creek, South Park, and the Breckenridge area. The line through Alpine Tunnel ceased to operate in 1910, Chalk Creek in the 1920's, and most of the remainder in the thirties, all under the Colorado and Southern management.

Like the Colorado Central, this road became part of the Union Pacific System, and then, along with the Union Pacific Denver and Gulf, part of the Colorado and Southern, and thus a Burlington possession. The first transfer came when Jay Gould bought the controlling interest and in 1880 sold it at par to the Union Pacific under the threat that he was leaving the directorate of the UP and would form a rival line with the Kansas Pacific, the Denver Pacific and the South Park. Poor shows that Palmer would have been willing to purchase the DSP&P for the same amount as Gould but that Evans gave preference to Gould's offer because he felt that Palmer had broken faith with him in building the D&RG into the Gunnison Valley. The two roads had set up an agreement during the period of the Rio Grande's war with the Santa Fe and the period of the DSP&P's progress across South Park (1879) by which the DSP&P was to have rights from near Buena Vista to Leadville on D&RG track, and D&RG could have rights on DSP&P track into the Gunnison region. But neither road agreed not to build track into territory

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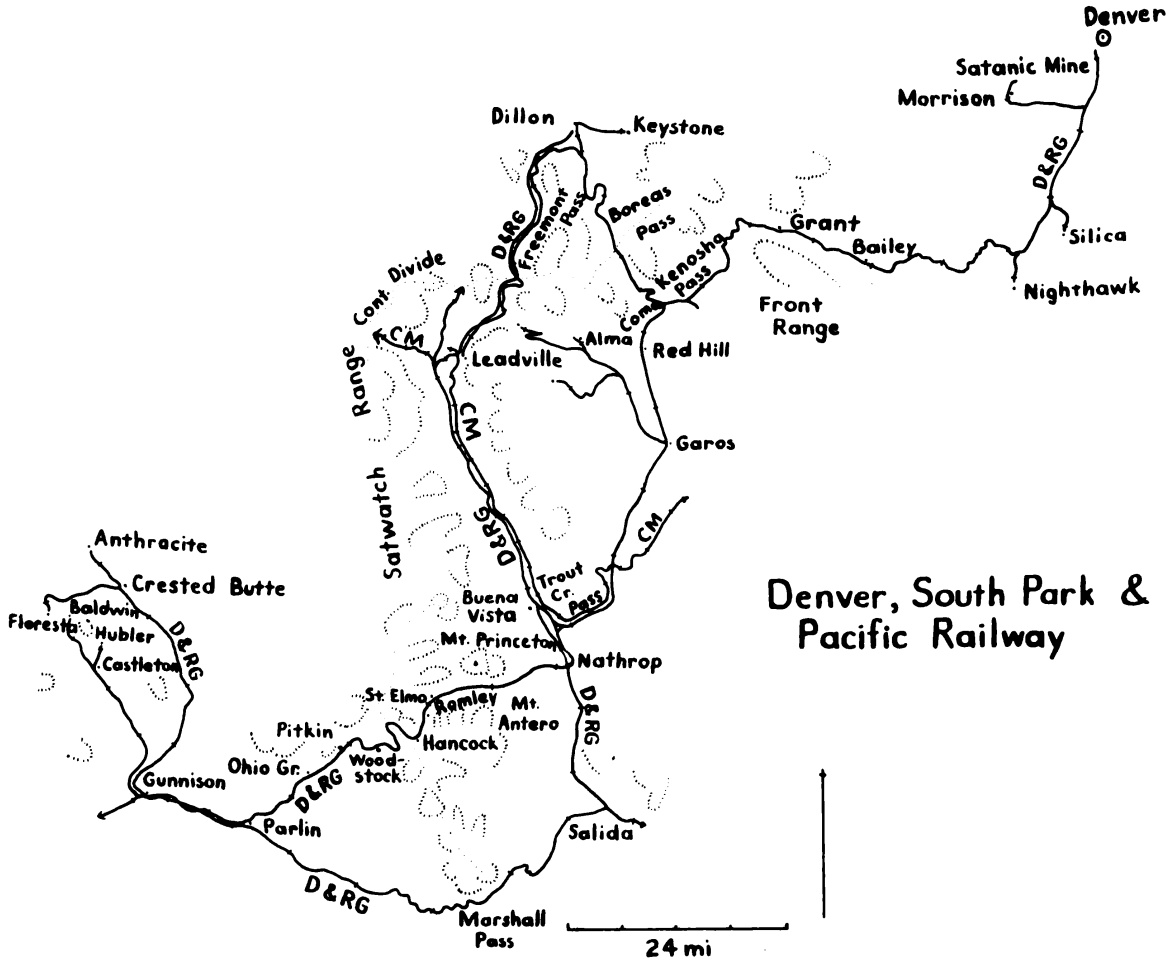

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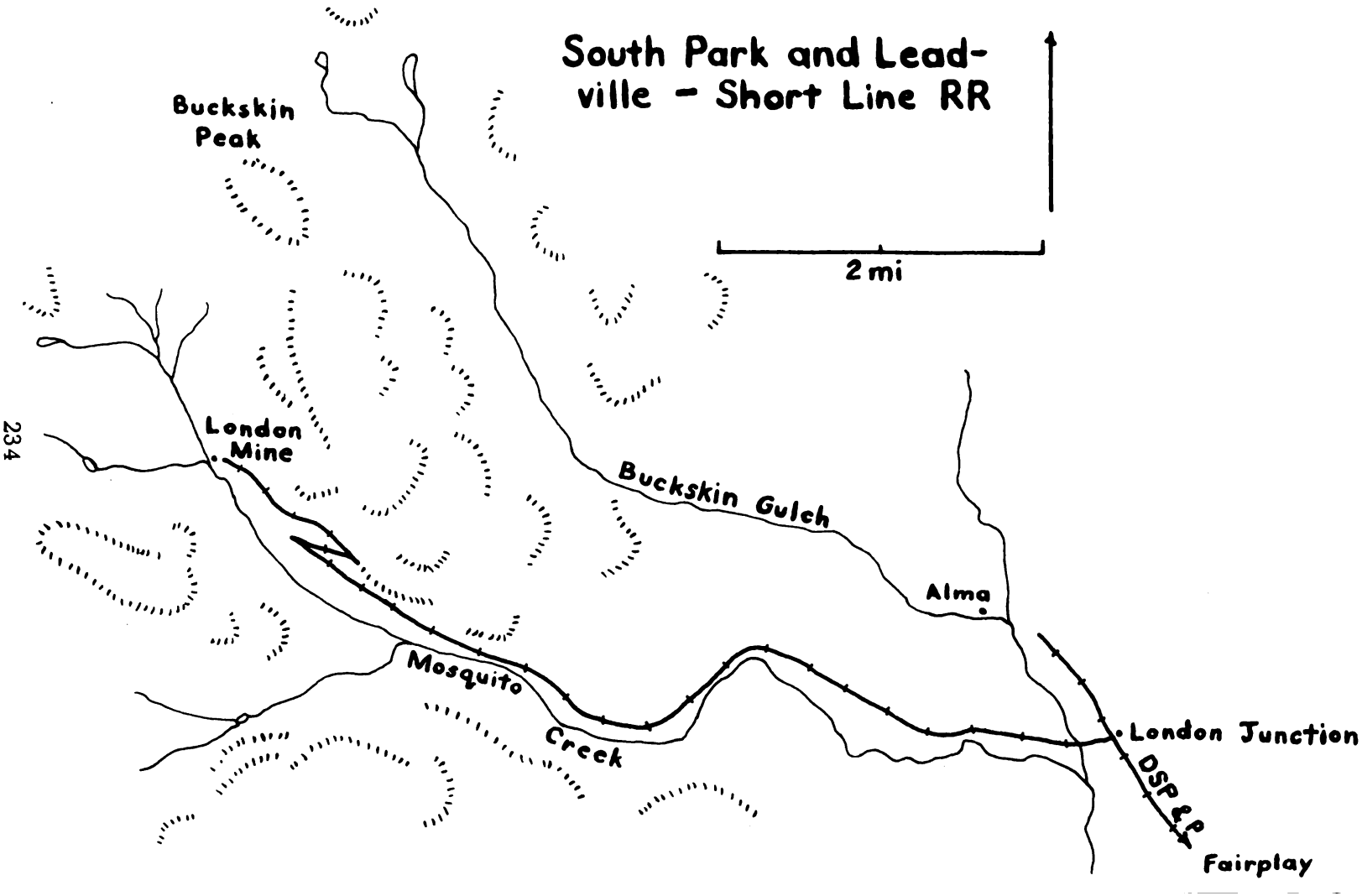

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occupied by the other. Palmer maintained, however, that since the Union Pacific had acquired the South Park line in 1880, the latter was subject to the tripartite agreement among the D&RG, Santa Fe, and UP roads and had violated the provision that no road would go into the territory of another. Consequently as the South Park line was finishing the long job of building to Gunnison, the D&RG president put the DSP&P's trackage right to Leadville on a 6-month-renewal basis and promptly gave notice of cancellation. In the same year, 1883, the South Park began work on its own to Leadville, not by way of the easy grades up the Arkansas as the Colorado Midland did in another parallel to the D&RG a few years later, but by the snowy and mountainous double traverse of the continental divide at Boreas and Fremont Passes.

After the cancellation of trackage rights to Leadville, the South Park was in financial difficulties, and by 1889 it was foreclosed and purchased by Union Pacific interests as the Denver, Leadville and Gunnison for $3,000,000. The Union Pacific Denver and Gulf organization took place in 1890, the two properties—UPD&G and DL&G—were reorganized as the Colorado Southern.

The Denver South Park and Pacific was run out to Morrison from Denver in 1874. The last 10 miles of this became the Morrison Branch when the main line continued from Bear Creek Junction. Construction was resumed in 1876, and in 1878 track went to Pine Grove in July and Bailey's, 56 miles from Denver, in October. At the end of the year two railroads were incorporated by the directors to take the line to the Arkansas. The Denver South Park and Leadville was to utilize Trout Creek Pass and then go north to Leadville; the Denver South Park and Ten Mile was to go by way of what became Dillon and Ten Mile Creek to Leadville and continue down the Arkansas Valley to Twin Lakes. These incorporations were not used though the road followed the more important part of each of the routes. The line went over Kenosha Pass and reached Como in June of 1879; it continued on the south of the two proposed lines, crossing South Park and Trout Creek Pass and reaching the Arkansas River and Buena Vista in February of 1879. The last 3-3/4 miles to Buena Vista was on a spur from Schwanders at the Arkansas crossing. In Buena Vista the DSP&P were four months ahead of the D&RG, which however had graded heavily all along the Arkansas to Leadville in its struggle with the Santa Fe. The South Park road entered into the agreement to use D&RG trackage to Leadville, and continued its construction west toward Gunnison as the San Juan was being heavily prospected and new camps were burgeoning. Engineers selected Alpine Pass (earlier named Altman Pass) as the best tunnel route for the continental divide crossing—in preference to Tincup Pass to the north, and Williams Pass a little to the southeast, and South Pass farther south—and while the ridge is very thin at Alpine Pass, so that a mere 1800 feet of tunnel saved a great deal of climbing, there were many difficulties and delays to finishing the route. Labor was hard to get and harder still to hold, since the

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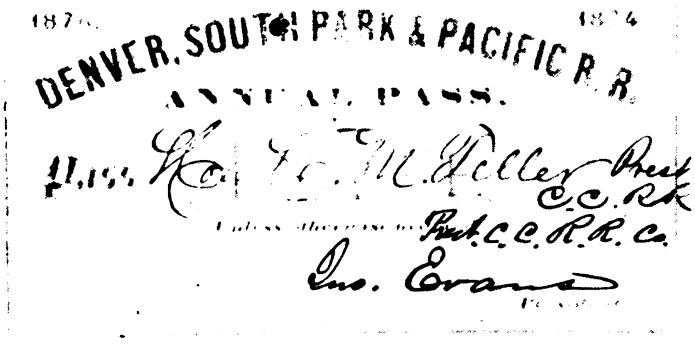
mines which were the attraction for the railroad also attracted the laborers as fast as they were recruited and transported to the tunnel area at high cost. The tunnel itself had to be shored up with redwood 12x12's, and on the west approach the line had to be blasted and



Free rides for VIP's.
Photo courtesy State Historical Society of Colorado

cribbed up across the cliff face at vast expense. The road cost $100,000 a mile between Sherrod Curve and the west portal station of Alpine Tunnel. The tunnel bore went through in July of 1881, but track completion did not take place until December. Trains reached Gunnison in September, 1882, more than a full year after the D&RG, which had gone all over the place in 1881.

Various extensions had been planned in amended articles: M. C. Poor tells us that in 1879 the directors had intended to go south over Poncha Pass; a Utah extension was described vaguely as going to the head of Anthracite Creek and thence to the Utah line, and branches were to be run also to Silver Cliff and Rosita, to Cochetopa and Saguache in the San Luis Valley, to Crested Butte, to Lake City, to the Uncompahgre and Ouray and even across to Rico, and by Fairplay, Alma, Dudley, and Hoosier Pass to Breckenridge; there was to be a standard-gauge line from Denver to Pueblo which would be of advantage to the Santa Fe; and there was to be an extension of the South Platte line to Canon City (on a line later planned for the Denver railroad to Cripple Creek).

The only actual extension of the Gunnison line went 17 miles up Ohio Creek in 1883 to the Mount Carbon coal district. The station, at first called Baldwin and later Castleton, was at the confluence of Ohio and Carbon Creeks. In 1896 a 3-mile extension known as the Baldwin and later as the Kubler Branch, went up Carbon Creek to the Kubler Mine, the first half of it the railroad's, the second half the property of the Rocky Mountain Fuel Company. On Ohio Creek another 3-mile extension went northwest to the New Baldwin Mine in 1883, and was lengthened a little way in 1914.

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The Denver South Park and Pacific Supplement, by R. H. Kindig, E. J. Haley and M. C. Poor, published in 1959 by the Colorado Railroad Club, tells the story of R. W. Richardson's discovery of the great stone wall built for a projected extension of the Ohio Creek line and the exploration of this project by M. C. Poor. The D&RG operated the Ohio Creek line after 1911, when the Alpine Tunnel route was abandoned.

Although the independent line to Leadville had been projected during the late 1870's when the railroad was crossing Kenosha Pass, it appears from Poor's book that the grading of Boreas Pass, which was started in 1881, was mainly with the purpose of reaching Keystone and perhaps Montezuma on the Snake River and perhaps making connection with the Georgetown Breckenridge and Leadville through Argentine Pass. The road went to Dillon, 30.7 miles from Como, in December of 1882 and made the turn from Dickey east 7 miles to Keystone in January, 1883. The D&RG had no sooner reached Leadville than it came over Fremont Pass and down the Ten Mile to Dillon. They graded stretches down the Blue River on a line described in an early incorporation called the Western Colorado, and were very much on the ground when the South Park officials decided to lay a parallel track into Leadville. The latter incurred litigation over the right of way, which was in part too close to that of the D&RG, and at Kokomo they overpassed the D&RG.

The 15-1/2-mile Garos to Alma line, which in the original thinking might well have served as the springboard for the Blue River and Leadville extension via Hoosier Pass, was instead terminated with two tracks that climbed high into the Mosquito Range. One was the 11-1/3-mile Horseshoe or Leavick Branch, surveyed in 1888 but not built until 1896 under the charter Denver South Park and Hilltop Railway and merged into the Denver Leadville and Gunnison under Frank Trumbull's management of the same. The other was known as the London South Park and Leadville Railroad, reorganized in April, 1885, after financial difficulties as the South Park and Leadville Short Line Railroad. It ran up the Mosquito Pass road 7-1/2 miles from London Junction near Alma, and as incorporation articles stated, was intended to tunnel through the range and drop to Leadville. Though Poor's Manual states that the Union Pacific advanced materials for the road in 1882-3, it was constructed as a separate organization and remained so. It was not constantly in use even through 1890, and before 1900 a new South Portal to the London Mine rendered it useless. Secondary motor roads now run on or next to both of these high valley railroad beds. Two short coal feeders went in near Como. The first according to M. C. Poor was named the Leckner Branch for its discoverer. It left the main line in a mile-long spur running northwest, and later became the start of the Boreas Pass route. The second started 3/4 mile short of Como and went south 3 miles to the King Mines. Both mines became the property of the South Park Coal Company which the railroad officials organized.

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Two of the lines came into the sphere of the D&RG operation: the Baldwin line, mentioned above as D&RG-operated after the closing of Alpine Tunnel, and the line between Climax, on Fremont Pass, and Leadville, which was a standard-gauged and D&RG-connected at Leadville.

The DSP&P competed for the Aspen trade with a survey over Independence Pass in the latter eighties, but as the mother company, the UP was surveying and planning for a road south from Fort Steele, Wyoming, that would reach Aspen, the DSP&P project was abandoned.

The South Park line had one of the worst slide disasters in Colorado history when an avalanche crushed the station at Woodstock, on the west side of Alpine Pass, and killed 13 of 18 people who were swept down. In a suit by Mrs. Marcelle Doyle, who lost her family of three sons and three daughters, it was plausibly stated that the railroad company had created the hazard by cutting out the heavy timber above the station. There were tales of hardship caused by the deep snow on the east side, too, including a slide which knocked out a long section of the snowshed approach to the tunnel. On Boreas Pass, also, the highest snowfence I have seen still stands as a testament to the violence of winter on the Leadville line. In Trout Creek a flood took out a full mile of track in 1908.

The most famous of the DSP&P legends is that of the circus elephants which were taken from their cars and set to work at the back end as helpers. M. C. Poor runs three versions of the story which agree as to what happened but assign different locations.

DENVER SOUTH PARK AND RIO GRANDE RAILROAD AND TELEGRAPH COMPANY was a plan formed in January of 1868 by men from Arapahoe, Park, and Summit Counties to run a road from Denver to South Park to Poncha Pass and down the Rio Grande to the state line. A branch was to go over to the Blue and down that and the Grand to Middle Park. The company is related to another formed in November with the word Railway substituted for Railroad and Evans included among the incorporators.

DENVER SOUTH PARK AND RIO GRANDE RAILWAY AND TELEGRAPH COMPANY was an Evans plan based on the same Rail Road and Telegraph Company of the previous January. The routes and the capitalization of $2,000,000 were unchanged in this second document. This plan is an early step in the formation of the Denver South Park and Pacific in 1873.

DENVER SOUTH PARK AND TEN-MILE RAILROAD COMPANY was an 1878 company of John Evans and associates formed to run a branch of single or double narrow-gauge track from a feasible point of connection with the Denver South Park and Pacific by way of the confluence of Ten-Mile Creek with the Blue River, through Ten-Mile Creek and by way of the Valley of the Arkansas via Leadville to Twin Lakes.

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FINANCE DOCKET NO. 21478[1]

GREAT NORTHERN PACIFIC & BURLINGTON LINES, INC.–MERGER, ETC.–GREAT NORTHERN RAILWAY COMPANY, ET AL.

Decided November 30, 1967

Upon reconsideration and further hearing:

1. In Finance Docket No. 21478, (a) merger of the properties and franchises of the Great Northern Railway Company, the Northern Pacific Railway Company, the Pacific Coast R. R. Company and the Chicago, Burlington & Quincy Railroad Company into the Great Northern Pacific & Burlington Lines, Inc., for ownership, management and operation; (b) acquisition by the surviving company of sole or joint control of carriers subsidiary to or affiliated with the merging carriers, through stock ownership or otherwise, and of all leasehold, trackage, joint use and joint ownership rights in the lines of railroad of other carriers, and the terminals incident thereto, held by the merging carriers; (c) lease by the surviving company of the lines of railroad and other properties owned, used, or operated by the Spokane, Portland & Seattle Railway Company for a period of 10 years and through the terms of such lease, acquisition by the lessee of sole or joint control of carriers subsidiary to or affiliated with the lessor and all leasehold, trackage, joint ownership and joint use rights in any railroad line or lines and terminals incidental thereto held by lessor, approved and authorized. Conditions prescribed. Findings in prior report 328 I.C.C. 460, reversed.
2. In Finance Docket No. 21479, authority granted (a) to Chicago, Burlington & Quincy Railroad Company to issue not exceeding $70 million principal amount of its first and refunding 4 percent bonds, due August 1, 2010; (b) to Great Northern Pacific & Burlington Lines, Inc., to issue not exceeding 17.5 million shares of common capital stock without par value, not exceeding 3,102,333 shares of preferred stock, of the par value of $10 each share and not exceeding $71.5 million principal amount series A consolidated mortgage 4 percent bonds, due October 1, 1984; (c) to Great Northern Pacific & Burlington Lines, Inc., to assume all obligations, liabilities and guarantees

[1]This report embraces also Finance Docket No. 21479, Chicago, Burlington & Quincy Railroad Company, et al.–Stock Issuance, Etc. and Finance Docket No. 21480. Great Northern Pacific & Burlington Lines, Inc., et al.–Construction and Abandonment.

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with respect to securities issued, assumed or guaranteed by the Great Northern Railway Company, Northern Pacific Railway Company, Pacific Coast R. R. Co., and the Chicago, Burlington & Quincy Railroad Company and companies subsidiary to or affiliated therewith, including obligations contingently guaranteed by the foregoing either solely or jointly with other guarantors, and during the term of the lease of the Spokane, Portland & Seattle Railway Company and companies subsidiary to or affiliated therewith, to assume all obligations, liabilities and guarantees with respect to securities issued by the lessor companies, including obligations contingently guaranteed either solely or jointly with other guarantors; (d) to Great Northern Pacific & Burlington Lines, Inc., to pledge $71.5 million principal amount of its series A consolidated mortgage 4 percent bonds, due October 1, 1984; and (e) to Great Northern Pacific & Burlington Lines, Inc., to modify the status of the Northern Pacific Railway Company's collateral trust bonds through a supplemental indenture, all for the purposes set forth herein in connection with the merger, acquisitions of control and leases referred to above. Conditions prescribed. Application dismissed in all other respects.

3. In Finance Docket No. 21480, order issued authorizing the Great Northern Pacific & Burlington Lines, Inc., to abandon portions of lines of railroad in Wilkin and Clay Counties, Minn., Lewis and Clark County, Mont., and Spokane County, Wash., and by Spokane, Portland and Seattle Railway Company in Spokane County, Wash., and to construct connecting tracks in Douglas County, Wis., Pine, Stearns, Wadena, Wilkin, Clay, and Polk Counties, Minn., Cass, and Grand Forks Counties, N. Dak., Lewis and Clark County, Mont., Bonner County, Idaho, Spokane, Whitman and King County, Wash., Multnomah County, Oreg.

Appearances as shown in prior report, and in addition:

Lee B. McTurnan, for applicants.

Kenneth G. Bueche, Samuel R. Freeman, W. H. Parsons and *Ernest Porter,* for intervening rail carriers.

John H. Dougherty, Jack Pearce and *Edwin M. Zimmerman,* for United States Department of Justice, intervener in opposition.

Lou Boedecker, William J. Hickey, Douglas M Head, William E. O'Leary and *Lloyd Wandtke,* for other interveners in opposition.

REPORT OF THE COMMISSION ON RECONSIDERATION AND FURTHER HEARING

BY THE COMMISSION:

The *prior report* in these proceedings, 328 I.C.C. 460, dated March 31, 1966, denied joint applications, filed February 17, 1961, by Great Northern Railway Company (Great Northern or GN) and Northern Pacific Railway Company (Northern Pacific or NP),

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both of St. Paul, Minn., hereinafter sometimes called the Northern Lines, and by Pacific Coast R. R. Co. (PC), of Seattle, Wash., Chicago, Burlington & Quincy Railroad Company (Burlington or CBQ), of Chicago, Ill., and Spokane, Portland and Seattle Railway Company (SP&S), of Portland, Oreg., all common carriers by railroad subject to part I of the Interstate Commerce Act, and Great Northern Pacific & Burlington Lines, Inc. (New Company or NuCo), a corporation of Wilmington, Del., not yet a carrier, in which authority is sought for the merger of GN, NP, PC, and CBQ into NuCo, the lease by the latter of SP&S together with the acquisition of control of subsidiaries, issuances of common stock, assumptions of obligation and liability, abandonment and construction of lines and other authority related to and necessary for the effectuation of the mergers and lease.

The proposed transactions are described in the *prior report*, and in greater detail in the recommended report of the examiner, served August 24, 1964, after extensive public hearings before the examiner ending in July 1962. In recommending approval of the proposed unification, the examiner found that numerous benefits would flow by way of savings, efficiencies, economies and improved service, and that, suitably conditioned to protect carrier employees and connecting and competing railroads in the territory, applicants' proposal satisfies the statutory requirements. The Commission found in the *prior report*, however, that the disadvantages of unification, namely, a drastic lessening of competition and adverse effects on carrier employees, outweigh the benefits that might be derived therefrom by applicants and the shipping public, and accordingly, concluded that the proposed transactions would not be consistent with the public interest. The Commission found that there would be substantial hardship inflicted upon carrier employees through loss of jobs; and that with imposition of all of the conditions necessary to protect the traffic of other railroads[2] particularly those for the Milwaukee and North Western, the benefits to be produced would be minimal and might preclude consummation. While no dollar figure could be placed upon the value of intramodal rail competition, the value thereof was found not negligible but worth at least $12.7 to $25.2 million in gross annual savings which would accrue to applicants from the merger.

[2]Reference in this report to an intervening railroad will be by the distinctive portion of its corporate title as follows: Chicago, Milwaukee St. Paul & Pacific Railroad Company (Milwaukee), Chicago and North Western Railway Company (North Western or CNW), Chicago, Rock Island and Pacific Railroad Company (Rock Island), The Atchison, Topeka and Santa Fe Railway Company (Santa Fe), Soo Line Railroad Company (Soo), The Western Pacific Railroad Company (Western Pacific or WP), Union Pacific Railroad Company (Union Pacific or UP), Southern Pacific Company (Southern Pacific or SP), and The Denver and Rio Grande Western Railroad Company (Rio Grande or DRGW).

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Applicants, on July 27, 1966, requested reconsideration of the *prior report* on the grounds that they had reached agreements with various employee representatives, and were negotiating with others, for effecting merger-actuated work-force reductions through natural and normal attrition; that they had concluded agreements with Milwaukee and CNW respecting traffic diversion and were agreeable to all conditions found necessary in the *prior report* to protect the traffic of other railroads; and that even after considering the cost of labor and traffic conditions, the annual savings from their proposed unification would be substantially greater than estimated in the *prior report*.

A petition was simultaneously filed by Northern Pacific Stockholders' Protective Committee (NPSC), an intervener, seeking further hearings with respect to the justness and reasonableness of the terms and conditions of applicants' merger agreements, and a petition was subsequently filed by Rio Grande seeking an investigation into the agreements entered into by applicants with Milwaukee and North Western. Applicants replied to the latter petitions, and we received replies by numerous parties to applicants' petition.

After consideration of the foregoing petitions and replies, and other matters, on January 4, 1967, these proceedings were reopened by the Commission for reconsideration, oral argument, and limited further hearing. The order referred these matters to an examiner for hearing and outlined the procedures to be followed, but noted that due and timely execution of our functions imperatively and unavoidably required the omission of an examiner's report, and provided for certification of the record to us for initial decision. Although the order by its terms reopened the proceeding for reconsideration and oral argument on all issues, the further hearing was limited solely to determining, on the basis of the most current information readily available, the amount of estimated savings resulting from the proposed merger in the light of (1) agreements entered into between the applicants, on the one hand, and, on the other, the Milwaukee and the North Western and (2) the effect of relevant financial, operational and other changes related to savings, which have occurred subsequent to the close of hearings.

BACKGROUND

Briefly, by these applications there are proposed transactions through which New Company would ultimately achieve unified

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control, management and operation of the properties and franchises of the applicant railroads. A rail network would be created of almost 27,000 miles of track extending from the Great Lakes and the Mississippi River through the northern tier of Western States to the Pacific Northwest and California, and by affiliation[3] reaching the Gulf of Mexico. The rail lines of New Company would traverse 16 States and 2 Canadian Provinces.[4] New Company would control extensive motor carrier properties and operations, and its control, in whole or in part, would extend to numerous terminal, rail equipment, and other companies. Its holdings would include title in fee to more than 2.2 million acres of land and mineral rights in an additional 6 million acres. GN and NP's major transcontinental routes extend generally through the same northern tier States between the Twin Cities (St. Paul and Minneapolis, Minn.) and Head-of-Lakes (Duluth-Superior, Minn.), and the Pacific Northwest, with the lines of SP&S forming part of the through routes to and from West Coast terminals. The main lines of GN and NP are both parallel and complimentary in that the greater part of NP's mileage is in the western part of its system while most of GN's mileage is in its eastern portion. West of Minnesota, GN serves primarily those communities lying to the north while NP serves the southern parts of these States. Of the two, only GN serves southern Minnesota and the States of Iowa and South Dakota. Only GN reaches California.

Except at their eastern and western extremities, the areas served by the Northern Lines are characterized by an extremely light population density. The area served is extensive, over 1,700 miles in length and 900 miles in breadth, and is rich in animal, mineral, agricultural and forest resources, but offers a limited market for its products. For this reason, the producers in the area are heavily dependent upon transportation. Because of the nature of the products and the distances involved, rail transportation to centers of population at costs low enough to permit participation in these markets is of primary importance. There is an imbalance of traffic. The West has historically been a market for the finished products of the Midwest and the East, and a supplier to those areas of basic raw materials. The lower-rated

[3]With The Colorado and Southern Railway Company (C&S) and Fort Worth and Denver Railway Company (FW&D), both controlled by Burlington.

[4]The States of California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oregon, South Dakota, Washington, Wisconsin, and Wyoming, and the Provinces of British Columbia and Manitoba. The lines of C&S and FW&D, in addition, traverse the States of New Mexico and Texas in forming a rail route between Denver, Colo., and Galveston, Tex.

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traffic in its long haul east is not as vulnerable to incursions by intermodal competitors of the Northern Lines as the higher-rated manufactured articles moving into the area served by these lines for consumption. The latter, both from the East and from the west coast, are vulnerable to motor carrier competitors and others, and it is this traffic which the rail carriers must retain to balance their operations.

The Northern Lines, as seen, largely serve the same eastern terminals and western ports as traditional competitors, and the traffic which they carry is similar in consist and in volume, differing only in areas where their lines are widely separated. There is no substantial competition, however, between either of the Northern Lines and the Burlington, since the latter's lines are in great part complementary to those of its parents, the Great Northern and Northern Pacific. Burlington's traffic differs, also, in that forest products comprise a much smaller proportion, and manufactures and miscellaneous traffic a much larger proportion, of its total traffic. Burlington's service area is more heavily populated than that of the Northern Lines, and constitutes an important market for producers located in the latter area. Burlington serves, among other points, the Twin Cities, Sioux City, Iowa, and Laurel, Mont., common points at which large volumes of traffic are interchanged with the Northern Lines. Burlington connects at Chicago, Peoria, Ill., and St. Louis, Mo., with other trunk and terminal lines serving large manufacturing centers which market their products in Northern Lines territory, and it serves many packinghouses in the Midwest at Chicago, St. Louis, Omaha, Nebr., Kansas City, Mo., and other points, which use the animal products grown in Northern Lines territory.

A combination of these and other factors has long convinced Northern Lines management that these railroads, together with CBQ, SP&S and PC, which they control,[5] should be unified under NuCo's direction and control. With an enlarged pool of rolling equipment of varied types and the means of coordinating that equipment more efficiently to serve the needs of the combined service area, with elimination of duplicative functions, facilities and personnel through attrition, and with routing, transit and other services more finely tuned to the needs of the shipping public,

[5]SP&S, like Burlington, is jointly controlled by the Northern Lines. Located in Washington and Oregon, SP&S operates over 599.53 miles of track, principally between Portland and Spokane, Wash. Pacific Coast is controlled by Great Northern, and operates over 32.03 miles of track between Seattle and various points in Washington.

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NuCo would be a more proficient railroad than the applicants separately. The whole, therefore, would in fact be greater (better) than the sum of the component parts. The stronger road, it is advanced, would be better able to cope with the increased intermodal competition from motor and water carriers, both regulated and unregulated, which has intensified as a result of constantly improved highways and waterways. Moreover, NuCo would be better able to adjust to and cope with seasonal and economic fluctuations in traffic, in one commodity or another in one area or another, and thus to maintain a better overall balance.

Active preparation for these proceedings commenced early in 1956 with the formation of a joint consolidation committee of directors of the Northern Lines, and with the employment in July 1956 of an independent transportation engineering firm, hereinafter called Wyer, to study and analyze operating and financial aspects of a unification of applicants' lines and to report on the operating advantages and monetary savings which could be realized therefrom. A detailed "Report on Economics of Proposed Consolidation" was completed by Wyer in December 1957, and was revised in November 1960 to reflect changes in cost and rate levels, physical facilities, and operating conditions as of July 1, 1960. The Wyer report embraced 20 separate studies of different aspects of unification, and included review and analysis of protective services, normalized maintenance, freight costs, and a waybill study. The Wyer report was described and analyzed in the examiner's report, and was reviewed in the *prior report*. It will be further discussed hereinafter, in the light of the evidence adduced at the further hearings. In substance, the Wyer report indicated numerous economies and efficiencies to be achieved through unification, and contained recommendations for improvements in service and the strengthening of applicants' transportation system through unification. On the basis of the Wyer report, the joint consolidation committee decided to proceed with plans for unification. Accordingly, in January 1961, the principals executed agreements under which New Company was formed and the terms and conditions of the proposed unification of the separate lines under New Company's control were formalized.

FURTHER HEARING

The further hearings herein were relatively brief. Applicants' case-in-chief consumed 3 days of hearing in March, and all opposing parties completed their presentation in a single day in May.

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Following the latter evidence, applicants were permitted by the examiner, over objections raised by the city of Minneapolis and other opposing interveners, to present evidence in rebuttal, and to do so without first submitting such matter in advance in the form of a prepared statement, in the general manner prescribed for the parties in the January 4 order. Applicants' rebuttal related solely to matters contained in the prepared statements and oral testimony of witnesses immediately preceding.

The Commission's order of January 4 did not specifically provide for presentation of rebuttal by applicants; however, an applicant normally has the right to open and close hearings held on his application, and a trial officer may exercise wide discretion in the admission of rebuttal evidence. We do not find, in this instance, that there was an abuse of discretion. Interested parties were free to cross-examine as to the brief rebuttal evidence, and one did. The procedures adopted by the examiner were consistent with this authority, under our General Rules of Practice, to "regulate the procedure in the hearing before him," and no party was prejudiced thereby.

Applicants, on further hearing, updated their prior estimates of the savings expected to accrue from the proposed unification. The updating was performed by Wyer from a joint report to Wyer made by designated vice presidents of GN and NP in which they described specific structural and operational changes which they deemed relevant to savings. To the extent considered significant, there was encompassed by their study those operational changes which had been recommended in the Wyer report as achievable through unification, but which the individual applicants had in fact effected by independent action. On the basis of this joint report, and in the light of known changes in applicants' costs and revenues, due consideration being given to the effects of the Milwaukee and North Western protective agreements and the labor attrition agreements previously mentioned, Wyer reviewed each of the basic studies of the Wyer report and prepared an updated estimate of the effect of the proposed unification on applicants' net income, before Federal income taxes, as of January 1, 1967, as shown in column 4 of the following table:

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Estimated savings from unification per annum, before Federal income tax

	Study	Wyer 1960 revision 1	Examiner's** adjusted savings 2	Prior report adjusted savings 3	Savings estimated after further hearing 4
I	(Common points)	$15,846,802	$15,846,802	$10,564,535	$17,893,000
II	(Duplicate lines)	3,059,838	0	0	0
III	(Lines retained-effect of consolidation on expenses)	2,486,579	1,940,899	1,940,899	2,305,000
IV	(Duplicated freight train service)	1,697,725	1,697,725	1,697,725	1,892,000
V	(Duplicate passenger train service St. Paul-Chicago)	490,856	490,856	490,856	526,000
VI	(Carload freight-shortest or most economical point routes)	3,630,910	3,630,910	3,630,910	4,052,000
VII	(Carload freight-longer hauls)	10,561,178	10,561,178	18,629,032	14,575,000
VIII	(Less carload freight-loading patterns)	455,888	432,836	432,836	428,000
IX	(Equipment pools)	3,343,697	3,208,130	3,208,130	3,241,000
X	(General repair facilities)	2,194,535	2,194,535	2,194,535	2,404,000
XI	(Materials and supplies stocks and purchases and stores organization)	1,366,319	1,366,319*	1,366,319*	1,475,000
XII	(Foreign lines freight charges on company material)	167,321	167,321	167,321	167,000
XIII	(Communication facilities)	460,114	460,114	460,114	512,000
XIV	(Train dispatchers)	330,809	330,809	330,809	379,000
XV	(Special agents)	124,463	124,463	124,463	151,000
XVI	(Dining car departments)	80,136	80,136	80,136	93,000
XVII	(System revenues)	(1,958,705)	(1,958,705)	(21,221,155)	(15,041,000)
XVIII	(System expenses)	10,586,135	10,586,135	10,586,135	12,887,000
XIX	(Labor contracts)	(885,360)	(885,360)	(885,360)	(1,130,000)
XX	(Taxes)	(4,639,766)	(4,639,766)	(4,639,766)	(5,083,000)
XXI	(Operating changes at Twin Cities and Head-of-Lakes, agreements applicants and N.W.)	----------	----------	----------	(38,000)
	Total savings	49,399,474	45,635,337*	29,158,474*	41,688,000
	Contingency allowance	(6,174,934)	(5,704,417)	(3,644,809)	(2,015,000)
	Net savings	43,224,540	39,930,920	25,513,665*	39,673,000

( )—Denotes deficit amount. *—Denotes corrected amount. **—Examiner's report.

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As seen in the table above, applicants' estimates show a reduction for contingencies. We did not find unreasonable in the *prior report* an allowance for this purpose of 12.5 percent. This reduction reflected the element of doubt attributable to such factors as the necessary Commission approval for proposed abandonments of duplicate lines, the difficulties in estimating the ultimate costs of labor protection in the absence of agreement with employees in regard to protective conditions, and the fallibility of human judgment in forecasting the reactions of shippers and the resulting shifts of traffic. The "mix" of these factors which made up the 12.5-percent allowance for contingencies has changed considerably since the 1960 estimates, however. Applicants' plans to abandon duplicate lines have themselves been abandoned,[6] at least for the present, and agreements reached with employee groups, and expected to be reached with other employee groups and employees, have made appraisals of the costs of labor protective conditions less hazardous.

Guided by our conclusions in the *prior report* with regard to probable traffic diversions to and from applicants' lines, applicants have, in the light of the subsequent Milwaukee and North Western agreements, been able to minimize the areas of doubt inherent in estimating shifts of traffic as a result of unification. In these circumstances, applicants have utilized an allowance for contingencies of 5 percent on operational factors and 20 percent on revenue factors. Accordingly, the net loss resulting from studies VII (gains in freight revenue) and XVII (losses in freight revenue) in column 4 of the table above was reduced by 20 percent, and the net gain produced by all of the other studies was reduced by 5 percent. An overall reduction in savings of slightly less than 5 percent will result.

Adjustments reflected in applicants' updated estimates of savings include: increases in employees' wages and health and welfare benefits, aggregating (to mid-1966) 5 percent for operating employees and 3.5 to 5 percent for nonoperating employees; an average increase of 4.8 percent (to October 1966) in the cost of materials and supplies; an increase (to June 1966) of 11.8 percent in payroll taxes; increases (to January 1967) ranging from 8.33

[6] In study II of the Wyer report, savings of more than $3 million were estimated to accrue from abandonment of 13 segments of parallel and duplicate lines aggregating almost 500 miles of track. No applications were filed for authority to effect these abandonments, however, and savings therefrom were not considered by the examiner, or in the *prior report*, and are not now reflected in applicants' estimates.

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to 23.6 percent in per diem charges for freight cars; an increase of 10 percent (to January 1967) in the annual rents expected to be collected by NuCo from leased lands and structures; and an average increase of 7.5 percent in miscellaneous expenses. On the basis of the latest available traffic data (1965) the estimated gains in freight revenue (study VII) and estimated losses in freight revenue (study XVII) were revised and updated to January 1967 cost and revenue levels. Also reflected in applicants' estimates are increases in State and local taxes, and in the costs of protective conditions for employees whose jobs would be affected. The cash expenditures by applicants required over a 5-year period to consummate the unification were revised downward, from $18,922,329 to $13,141,000, due in major part to the completion since 1960 of about 65 percent of applicants' centralized traffic control (C.T.C.) program at a cost of some $6.5 million. The revised estimate is predicated, however, on 1960 cost levels.

Applicants' updated estimate of savings makes allowance for operational changes since 1960 as reported to Wyer by the Northern Lines' vice presidents. This joint report indicated, in general, that applicants' less-than-carload freight traffic has declined substantially since 1960, that applicants' carload traffic, in gross ton-miles, has increased somewhat during this period, that the total number of applicants' employees and of the passenger cars in their fleets has declined and continues to steadily decline further, that various tracts of land slated to be acquired for improvement projects after unification have already been acquired, and that various reductions in and eliminations of rail services and facilities contemplated after unification have already been accomplished. The decline in the number of passenger cars has had the effect of making unnecessary the planned construction of additional car storage tracks at St. Paul. And the decline in less-than-carload traffic has made it inadvisable to proceed with plans to construct a consolidated freight house in the Twin Cities area. Also, land which was to have been acquired at Spokane, Wash., for the construction of a bridge, and at Vancouver, Wash., for expansion of a freight yard, has already been acquired, and Great Northern's wheel shop at Spokane, which was to be abandoned already has been abandoned. In all, operational changes which reduce estimated savings aggregated $264,000, while those which increase estimated savings aggregated $499,000, resulting in a net increase of $235,000. This reflects, among other things, reduction in estimated savings stemming from a drop, since 1960, of more than $10 million in applicants' combined inventory of materials and supplies.

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As seen, by far the largest item of estimated savings results from consolidation of operations at various common points (study I), a savings estimated at almost $17.9 million. The next largest savings, $14.5 million (study VII), is more than counter-balanced by its correlative outflow, $15 million (study XVII), for a net revenue loss of $466,000. A major savings, almost $12.9 million (study XVIII), is expected to result from unification of applicants' separate organizations at administrative, operational, maintenance, traffic, and other levels.

In all of the operational studies conducted, it is clear the greatest portion of the savings estimated is attributable to reductions in the number of jobs. Applicants' employees would now be protected under the attrition agreements, although duplicating and overlapping jobs after unification would be abolished over a 5-year period. It is basic to applicants' proposal that they would, after unification, provide the public with service the same as or even better than before, but with fewer employees than are required for separate operation of the involved railroads. In the Wyer report, as revised in 1960, it was determined after a detailed study that 8,286 jobs, mostly in Minnesota (3,166 jobs) and Washington (2,072 jobs), would be abolished, whereas 3,114 new jobs, again mostly in the same two States, would be created. In sum, there would be a net reduction of 5,172 jobs attributable solely to the unification.

At the further hearing, Wyer estimated that only 4,511 jobs, or 661 fewer jobs, would be eliminated. Nonetheless, due to intervening increases in wages and benefits, the estimated savings from job abolishments was increased from $32,676,759 in 1960 to $36,350,000 in 1967. Savings attributable to job abolishments are therefore estimated by applicants to be $3.76 million greater than at the time of the *prior report*, notwithstanding the attrition agreements entered into.

Inasmuch as most of the estimated savings relate to labor costs, the evidence adduced by opposing parties at the further hearing largely concerned applicants' estimates of savings through job abolishments, and in particular the methods employed by Wyer in developing these estimates. United States Department of Justice (Justice) and the State of Minnesota and its Public Service Commission (Minnesota)[7] were particularly critical of Wyer's method of

[7]Other governmental and civic bodies participating in the further hearings included the State of Washington (Washington), the Board of Railroad Commissioners of the State of Montana (Montana), the Public Utilities Commission of the State of South Dakota (South Dakota), the Public Service Commission of the State of North Dakota (North Dakota), the cities of Minneapolis (Minneapolis) and Sumner, Wash. (Sumner), Auburn, Wash., and its Chamber of Commerce (Auburn), and the Fargo, N. Dak., Chamber of Commerce (Fargo).

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updating earlier estimates to reflect the current situation. At some locations they contend abolishments are impossible because jobs do not exist or fewer jobs exist than are slated for abolishment. Moreover, substantial job reductions since 1960 are said to suggest that applicant railroads have accomplished individually in this area more than they had hoped to accomplish through unification. Wyer's estimate of the number of jobs to be abolished is a percentage adjustment of the prior estimates. Opposing parties contend that this method of updating is a mere statistical exercise in the absence of a more specific study of precise opportunities for job abolishment in the light of operational and technological changes which may have occurred since the 1960 estimate. Absent such evidence, opposing parties contend that the Wyer estimate is valueless.

Wyer's method of updating anticipated job abolishments, briefly, is based on the belief that the overall number of jobs to be abolished will vary from the number estimated in 1960 in approximately the same proportion as the net change since 1960 in the total number of railroad employees. Using the latest employment data available (December 1965), Wyer determined the percentage of change, up or down, in the number of employees in each of 128 reporting divisions or categories of employees of GN, NP and CBQ (using only groups I and II of CBQ, which include the bulk of positions to be affected). The percentage of change determined in each category was applied to the number of jobs estimated in 1960 to be abolished in each category, and the number was adjusted accordingly. The result, as stated, was a scaling down of the total number of jobs to be abolished. The current wage and benefits levels (January 1967) were used in converting job abolishments to dollar savings. The method used, according to applicants, produces a reasonable and reliable approximation of the savings achievable through job abolishments. As explained, *infra*, in the section of this report titled Benefits of Merger, we consider the data of sufficient reliability to enable us to make a reasoned decision on reconsideration.

Other evidence was adduced at the further hearings by Justice, Minnesota, and Rio Grande. Justice directed our attention to statements made in February 1967 at hearings in another railroad unification proceeding[8] pending before the Commission, by officials of the Milwaukee and North Western, which allegedly cast

[8]Finance Docket No. 24186, et al., in which there is proposed a unification of the Milwaukee and North Western.

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some doubt upon the value of protective conditions for those two roads. This contention will be discussed, *infra*, in the discussion on Competitive Considerations.

Minnesota introduced various statistics in support of its contentions that applicants' estimated savings and needs for additional revenues are overstated. Rio Grande offered the testimony of a transportation consultant to the effect, generally, that the Wyer methods of updating have a surface plausibility, but do not provide the necessary basis for rational decision. Rio Grande's director of transportation research assailed numerous aspects of the Wyer report as updated, in particular applicants' failure to utilize current gross ton-mile data in computing traffic flows and costs, and the failure of applicants' savings estimates to fully reflect operating changes since 1960, such as improved transit time, limited consolidations of freight and passenger operations between particular points, and changes in traffic patterns. Also criticized were applicants' reliance upon savings based on a downgrading of certain through routes and labor costs based on agreements reached with only two labor groups.

Certain prepared statements of witnesses for Rio Grande and Union Pacific, offered in evidence, were rejected by the examiner as going beyond the limited scope of the further hearings. Rio Grande's statements dealt with such matters as the impact of the proposed unification upon competitive rail service in the northern tier States, and the effect upon Rio Grande of inclusion in the unification of the Burlington. Union Pacific's statement pertained to an updating of the adverse effect upon Union Pacific from the proposed unification. We agree that these statements were inadmissible on the ground cited, and that they were properly rejected.

Briefs were filed[9] following further hearing, and we have heard the parties again in oral argument. For the most part, the positions taken by the various parties on brief or in oral argument with respect to major issues have not changed materially from the positions previously taken. Since the *prior report*, however, and more particularly since applicants' acceptance of the Milwaukee and North Western conditions, the Public Utility Commissioner of Oregon and the Iowa State Commerce Commission, who had previously opposed the unification on behalf of those States,

[9]Briefs were filed by applicants, Justice, Minnesota, Washington, Rio Grande, Union Pacific, Soo, Milwaukee, North Western, Western Pacific, and a group (Tolan Group) of 231 western shippers.

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have withdrawn their opposition, and North Dakota and South Dakota, previously in opposition, now argue in support of a suitably-conditioned unification of applicant railroads. Also supporting applicants' proposal in its present posture, are Nebraska, Missouri, the Canadian Province of British Columbia, and various communities, shippers and other groups. Michigan, Wisconsin and the United States Department of Agriculture now have no objection to approval of a suitably-conditioned unification. Other than Rio Grande, none of the intervening railroads named in footnote 2 now oppose the unificication, and Milwaukee, North Western and Southern Pacific now support it. However, Union Pacific, Western Pacific and Soo, with the acceptance by applicants of the Milwaukee and North Western conditions, now seek the imposition of additional conditions to protect their respective interests, or, in the alternative, modification in certain respects of the Milwaukee and North Western conditions, as later discussed. Active support for the proposed transactions was voiced for a group of 231 shippers, located mostly in Washington and Oregon.

Minnesota, Montana, Washington and Justice continue to oppose the proposed unification, as do the various communities and other interests described by the examiner, joined now by Rio Grande. Rio Grande had not participated in these proceedings prior to the filing of applicants' petition for reconsideration. Fearful of possible adverse effects upon it from the several unifications and realignments of major western railroads now pending before the Commission, it is actively participating in these and other proceedings in an effort to protect its vital interests. Rio Grande did not present its evidence on major issues at the earlier hearings, a failure that is attributed, by its counsel, to "naivete." Rio Grande now regards the proposed unification as destructive of rail competition in the northern tier States and as a threat to the continued movement of traffic over the so-called central corridor routes, in which Rio Grande participates. A substantial portion of Rio Grande's traffic is overhead traffic in connection with which Burlington is the interchange carrier, and it is from the inclusion of the Burlington in the proposed unification that Rio Grande anticipates the greatest adverse effect. Rio Grande seeks denial of the applications, or, in the alternative, if the applications are nevertheless approved, that such approval be conditioned upon the divestiture and exclusion therefrom of the Burlington.

Opposing parties reaffirmed their positions on brief and at oral argument. Montana stressed the fact that the principal

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transcontinental route over which NuCo would move its traffic, GN's present route in Montana, avoids Montana's principal cities, and that after unification such cities as Great Falls, Miles City, Missoula, Butte and Helena, Mont., would find themselves located on NuCo's secondary or alternate route. Washington assailed what it regards as the destructive effects of the proposed consolidations on rail competition in the Northwest, and with Minnesota, Auburn and Minneapolis, emphasized the serious adverse effect on these States and cities expected from these transactions by way of job loss and tax loss, and from other economic causes attributable to lessening of rail competition.

NPSC and Justice point out that the record herein, except on the issue of savings, remains virtually unchanged from that on which the *prior report* is predicated. Each enumerates what it regards as fatal deficiencies in applicants' evidence on savings, and each argues that no basis thus exists for findings or conclusions different from those in the *prior report*.

Justice also sees the agreements executed by applicants with Milwaukee and North Western as part of an arrangement or understanding under which the latter carriers undertake to withdraw their opposition to the instant unification, and applicants, in turn, undertake not to contest the pending unification of the Milwaukee and North Western. Justice views such an arrangement as an objectionable attempt by these carriers to compromise their differences at the expense of the general public, and to effect a restructuring of railroad alignments in the West with no regard for the public interest and in derogation of our statutory authority. Our duty under section 5 is to examine the proposal to determine whether it is consistent with the public interest. The fact that C&NW and the Milwaukee withdrew their opposition following the agreement does not delete from the record nor detract from the significance of the evidence they presented in opposition to the Northern Lines proposal. It is that record, as amplified on limited further hearing, and not the agreement, which justifies the result reached after reevaluation. We have the power to require protective conditions, whether agreed to or not, when the public interest demands. Accordingly, the fact that the parties may have reached an agreement in no way relieves us of our statutory duty. We approach the case in that light without regard to alleged motivation of the parties.

By letters dated August 25, 1967, and September 27, 1967, the United States Department of Justice requests, alternatively, (a) that the Commission receive in evidence or consider part of the record certain information contained in a magazine article published in July 1967 (Railway Age); or (b) reconsideration of

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our orders of January 4, January 20, and February 20, 1967, providing for a limited reopening of the record and denying petitions for discovery. Good cause has not been shown for granting these requests and they are denied. Cf. *Interstate Commerce Commission* v. *Jersey City*, 322 U. S. 503, 514-519 (1944), and *Pennsylvania R. Co.–Merger–New York Central R. Co.*, 327 I.C.C. 475, 484.

The Railway Labor Executive Association (RLEA) has participated in these proceedings from their inception on behalf of railroad employees and in opposition to applicants' proposal. At oral argument RLEA adverted to the attrition agreements executed by applicants with two employees' groups,[10] and acknowledged that similar agreements are in the process of being negotiated by applicants with unions representing nonoperating employees, and that pursuant to an understanding between these parties, negotiations between applicants and unions representing other operating employees' groups are being deferred pending execution of protective agreements for nonoperating employees. RLEA emphasized that its position in opposition to the proposed unification has not changed. As summarized in the *prior report*, RLEA contends that there is no showing of public gain from the proposed unification, that the unification would in fact do positive injury to the public interest, and that the adverse effect thereof on applicants' employees, and through diversion of traffic on employees of other railroads, warrants denial of the applications. RLEA seeks, if these applications are approved, protective conditions to cover all employees, of all carriers, adversely affected by the unification.

RECONSIDERATION

The order of the Commission of January 4, 1967, reopened these proceedings not only for limited further hearing but also for reconsideration as to all matters. It was our purpose in reopening for reconsideration to reexamine each and every issue of substance and to weigh carefully every potential advantage and disadvantage that may reasonably be expected to result from the proposed unification.

We believe that we have in the body of this report explained the basis for our later conclusions herein. Our task here is to determine whether under the statutory criteria enunciated in section 5, the proposed transaction will be consistent with the public interest. And, as this report will show, we are convinced on deliberate and searching reconsideration that the proposed

[10]The Brotherhood of Railroad Trainmen (Trainmen) and the Brotherhood of Locomotive Engineers (Engineers).

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unification, subject to appropriate conditions which we shall specify to protect competing railroads, employees and the general public, will be consistent with the public interest and should be approved.

RELEVANT STATUTORY CRITERIA

The merger application under consideration herein is governed primarily by the provisions of section 5(2) of the Transportation Act of 1940, and the national transportation policy. Until 1920, the Federal antitrust laws, which were aimed at preserving free competition, constituted the "rule of trade" in the railroad industry. *Northern Pac. R. Co.* v. *United States*, 356 U.S. 1, 4 (1958).

The Transportation Act of 1920, however, marked a substantial change in congressional policy in the matter of competition between railroads. Concerned with the inefficiency of the railroads and their precarious financial condition during and following World War I, and spurred by the demand for an integrated, efficient and coordinated railroad transportation system equal to the needs of our economy and defense, Congress enacted the Transportation Act of 1920. Its general purposes were to establish a new federal railway policy, thereby assuring adequate transportation services largely through consolidations and mergers and other innovations designed to restore impaired railroad credit. *Schwabacher* v. *United States*, 334 U.S. 182 (1948).

In furtherance of these purposes, the 1920 Act directed the Commission, among other things, to prepare and adopt a plan for the consolidation of the railway properties of the United States into a limited number of systems, thereby conferring upon the Commission jurisdiction over railroad mergers. Thus, Congress envisioned the nationwide consolidation of railway properties under a master plan. The Commission, however, was authorized to approve a voluntary merger or consolidation only if it was in harmony with and in furtherance of the master plan and upon a finding that the public interest would be promoted. Under the master plan, competition was to be preserved as fully as possible but Commission-approved mergers were expressly immunized from the antitrust laws.

The congressional policy enunciated in the Transportation Act of 1920 was to confirm the power of the Commission to authorize certain mergers in building an efficient national transportation system, although a particular merger might substantially reduce competition or create a monopoly. In thus fostering

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and encouraging railroads merging into fewer systems, the Transportation Act of 1920 marked the beginning of a new era in the development of a federal policy with respect to railroad mergers in that it "reflected a realization by Congress that insistence upon the preservation of maximum competition among rail carriers was no longer essential to the public interest." *Seaboard Air Line R. Co.–Merger–Atlantic Coast Line*, 320 I.C.C. 122 (1963), upheld in *Florida East Coast Ry. Co.* v. *United States*, 259 F. Supp. 993 (1966), affirmed *per curiam*, 386 U.S. 544 (1967).

As early as 1925, the Commission recognized the unfeasibility of working out a national plan of consolidation, and made a request upon Congress to be relieved of this responsibility. Subsequent requests led to the enactment of the Transportation Act of 1940 which embodies section 5 in its present form. The 1940 Act—Congress' latest pronouncement on the subject of railroad consolidations—relieved the Commission of its duty to promulgate a master consolidation plan. Instead, it authorized the Commission to approve carrier-initiated, voluntary plans of merger or consolidation, subject to appropriate conditions, where consistent with the public interest. The Commission, however, is not restricted to the specific proposal presented for approval. It may determine what modifications or conditions are necessary to meet the public interest test, and in the imposition of such conditions or modifications, it is not limited to those proposed, favored, or agreed to by the applicants or by other parties to the proceeding.

The Act of 1940 was intended by Congress not only to transfer the function of initiating consolidations from the Commission to the carriers, but also to eliminate certain practical obstacles which had previously precluded desirable consolidations. Its purpose was to facilitate mergers and consolidations when, subject to such terms, conditions and modifications as the Commission might prescribe, they would meet certain tests of public interest, justice and reasonableness. *County of Marin* v. *United States*, 356 U.S. 412, 417-418 (1956); *Schwabacher* v. *United States*, *supra*, at 193; *Maintenance Employees* v. *United States*, 366 U.S. 169 (1961) and the *Seaboard-Coast Line* case, page 129. But, as stated in our *prior report*, the public interest scale is at balance, weighted neither for nor against merger in a particular case. Solely by the evidence bearing upon public interest can the balance be tipped.

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In determining whether a proposed transaction is consistent with the public interest, the Commission is required under section 5(2)(c) to give weight to the following considerations, among others: (1) the effect of the proposed transaction upon adequate transportation service to the public; (2) the effect upon the public of the inclusion, or failure to include, in the proposed transaction, other railroads in the territory involved; (3) the total fixed charges involved in the proposed transaction; and (4) the interest of the carrier employees affected. The merger terms must be just and reasonable as well to the railroads' stockholders.

As judicially construed, the phrase "consistent with the public interest" means compatible with, or not contradictory or hostile to the public interest. See *In Re Chicago, R. I. & P. Ry. Co.*, 168 F. (2d) 578 (1948); *Pacific Power & Light Co.* v. *Federal Power Comm.*, 111 F. (2d) 1014, 1016 (9th Cir. 1940). As the Court stated in *New York Central Securities Corp.* v. *United States*, 287 U.S. 12, 25 (1932), the term "public interest" is not a concept without ascertainable criteria but has a direct relation to the adequacy of our transportation system, to its essential conditions of economy and efficiency and to appropriate provision and best use of transportation facilities. We "must look for standards in passing on a voluntary merger only to the Interstate Commerce Act," which in "matters within its scope ***is the supreme law of the land." *Schwabacher* v. *United States, supra*, at 198. Implicit in these standards or criteria is our responsibility to preserve a structurally adequate balance of transportation service.

The effect of a proposed merger on both intramodal and intermodal competition is a matter that we must consider in passing upon any proposed transaction under section 5(2). *McLean Trucking Co.* v. *U. S., supra*, 321 U.S. 67. Under the *McLean* decision, the Commission has a duty to consider the effect of the merger on competitors and on the general competitive situation in the industry in the light of the objectives of the national transportation policy. 321 U.S. at 87. In the fulfillment of this responsibility, "the Commission must estimate the scope and appraise the effects of the curtailment of competition which will result from the proposed consolidation and consider them along with the advantages of improved service, safer operations, lower costs, et cetera, to determine whether the consolidation will assist in effectuating the overall transportation policy." 321

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U.S. at 87. In reiterating the principles of *McLean*, the Supreme Court in *Minneapolis & St. Louis R. Co.* v. *United States*, 361 U.S. 173 (1959), at 186, briefly stated that "our problem is one of accommodation of section 5(2) and the antitrust legislation." "There can be 'little doubt that the Commission is not to measure proposals for /acquisitions/ by the standards of the antitrust laws.'" 361 U.S. at 186. The *McLean* and *Minneapolis* decisions stand for the proposition that although a proposed consolidation or merger might otherwise violate the antitrust laws, the Commission is authorized to approve it as an appropriate means for effectuating the national transportation policy. The principles enunciated in *McLean* and *Minneapolis*, were reaffirmed recently by the decision in *Florida East Coast Ry. Co.* v. *United States*, *supra*.

It is in the light of this background that we have estimated the scope and appraised the effects of the proposed merger, having in mind the purposes and objectives of the national transportation policy, and appropriate competitive considerations.

RELEVANT FINANCIAL DATA

Great Northern, Northern Pacific, and Burlington have enjoyed a moderate degree of prosperity in recent years, and each railroad is currently in a relatively healthy financial condition. SP&S has enjoyed a similar position, but, as it is jointly owned by Great Northern and Northern Pacific, its success is dependent upon the success of its parent railroads. Pacific Coast is dependent entirely upon Great Northern. The financial position of those carriers is best portrayed in the series of appendixes attached to which reference is here made. Appendix A contains certain excerpts from the examiner's report concerning financial aspects and other matters not discussed in detail here.

The general balance sheets giving effect to the proposed merger as of December 31, 1966, are shown in appendixes B through E.

The excess of current assets over current liabilities as of December 31, 1966, produces a net working capital position for Great Northern, Northern Pacific and Burlington of $64.7 million, $81.7 million, and $22.6 million, respectively, or a combined total of $169.0 million before adjustments and elimination of intercompany balances. For the year 1966, the average monthly operating expense (less depreciation) of Great Northern, Northern

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Pacific and Burlington was $15.9, $12.8 and $17.2 million, respectively. The net working capital of the three roads exceeded those expenses by $48.8, $68.9 and $5.4 million, respectively, and that was more than adequate to meet normal requirements. The pro forma balance sheet after giving effect to merger of NuCo and Burlington, including lease of SP&S, and after intercompany adjustments and eliminations, reflects net working capital, excess of current assets over current liabilities, of $154.6 million. After merger, the long-term debt of NuCo would be $824,769,598, or approximately 37.3 percent of the $2,213.0 million net recorded book value of its total transportation properties. As of December 31, 1966, the pro forma shareholders' equity of $1,813.5 million would be approximately 1.7 times the total debt structure of $1,034.3 million and thus a favorable debt-equity ratio would be shown after the unification.

Appendix F hereto reflects, as of December 31, 1966, a detailed tabulation of the long-term debt of each of the applicant railroads. It is noted that Pacific Coast had no long-term debt.

Assumption of the obligations of the bonds and encumbrances by NuCo would be, as indicated, evidenced by supplemental indentures (unexecuted copies of which are of record) executed and delivered in respect of the bonds and encumbrances of Great Northern and Northern Pacific, as soon as the Northern Lines merger transaction is effected, and in respect of bonds and encumbrances involving Burlington, as soon as the Burlington merger transaction is effected. Fixed charges to be assumed by NuCo will not exceed the total of such charges now accruing to each company individually.

Income statements for the years 1958, 1959, 1960, and 1966 for Great Northern, Northern Pacific, and Burlington, show the following:

Year	Railway operating revenue	Net income	Operating ratios	Earnings per share
	Great Northern			
1958	$251,671,504	$27,577,798	75.04	$4.32
1959	254,559,530	26,558,273	77.15	4.35
1960	246,024,650	20,723,214	78.87	3.41
1966	281,777,075	36,547,109	73.77	5.94
	Northern Pacific			
1958	179,107,731	22,911,926	79.87	3.68
1959	183,608,782	23,781,165	79.74	3.97
1960	174,915,492	18,547,194	84.54	3.10
1966	210,189,700	30,673,591	80.26	5.08

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Year	Railway operating revenue	Net income	Operating ratios	Earnings per share
		Burlington		
1958	$258,027,700	$19,491,732	77.61	$11.41
1959	263,072,883	17,696,143	78.99	10.36
1960	251,135,890	12,493,138	81.21	7.31
1966	289,622,347	23,810,592	78.59	13.94

It should be noted that while Northern Pacific has enjoyed a moderate degree of prosperity and is in a relatively healthy financial condition, approximately 26 percent of its net income in 1958 was derived from nonoperating property with such income accounting for approximately 38 percent in 1959, 45 percent in 1960 and 29 percent in 1966. In addition, Burlington dividends amounting to $6,226,343 were received in each of the years 1958, 1959, 1960, and 1966.

The complete income statements for Great Northern, Northern Pacific, Burlington, Pacific Coast and SP&S for the years 1958, 1959, 1960, and 1966 and income statements reflecting assumed operations for the year 1966 giving effect to the transactions in issue are shown in appendix G. The combined income statement for NuCo for the year 1966, before giving effect to anticipated savings to be realized through unification, reflects railway operating revenues of $822.8 million with concurrent net income of $94.9 million.

Appendix H hereto, is a schedule showing earnings per share of common stock, dividends declared per share, and the amount of dividends declared for Great Northern, Northern Pacific and Burlington for the years 1951 to 1966. Earnings per share of Great Northern have ranged from a high of $6.01 per share in 1965 to a low of $3.07 in 1961; dividends declared per share ranged from $2 in 1951 to $2.63 in 1956 and $3 per share from 1957 to 1966. Earnings per share of Northern Pacific have ranged from a low of $2.41 in 1954 to a high of $5.08 in 1966; dividends declared per share ranged from $1.25 in 1951 to $2.60 per share in 1966. Burlington earnings per share ranged from a high of $16.39 in 1952 to a low of $7.31 in 1960; dividends declared of $7 per share in 1951 have remained steady at $7.50 from 1952 to 1966.

While New Company proposes to assume the existing obligations of Great Northern, Northern Pacific, Burlington, and SP&S, (Pacific Coast has none) the increase in fixed charges to NuCo

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will not be inconsistent with the public interest. There will be no actual increase in the aggregate fixed charges of the applicant railroads, but merely, in effect, a transference of their obligations to NuCo. There is no guaranty or assumption of payment of dividends provided for in the plan of unification. The liability for applicant railroads' fixed charges which New Company proposes to assume is justified by the anticipated increased earning power of the unified company, the economies to be effected from unification, and by reason of the fact that the properties and property rights of applicant railroads will become the property of New Company. Because of those considerations and in view of the relatively stable financial condition of each of the applicants, the increase in fixed charges will not jeopardize the rights of security holders of the unified company or in any manner impose an undue financial burden on NuCo.

General balance sheet statements for Burlington Truck Lines, Inc. (BTL), Northern Pacific Transport Co. (NP Transport) and Superior Transfer Company (STC) as of December 31, 1966, are shown in appendix I. The income statements of BTL for the years 1959, 1960, and 1966 show total operating revenues of $15,873,191, $16,220,062, and $15,452,261 respectively, with concurrent net income of $814,587, $279,666, and a deficit in net income of $695,651, respectively.

Income statements of NP Transport for the years 1959, 1960, and 1966 show total operating revenues of $3,482,768, $3,768,860, and $5,607,933, respectively, with concurrent net income of $111,487, $9,593, and $451,316, respectively.

Income statements for STC for the years 1960, 1961, and 1966 show total operating revenues of $120,345, $95,843, and $233,539 respectively, with concurrent net income of $10,396, and deficits in net income of $4,062 and $1,385, respectively.

THE PROPOSALS

The major proposals for unification of the operations and properties of applicants contemplate in successive steps: (1) merger of Great Northern, Northern Pacific and Pacific Coast into NuCo; (2) merger of Burlington into NuCo; and (3) lease by NuCo of the properties of SP&S for 10 years. All of the capital stock and bonds of SP&S are owned in equal amounts by Great Northern and Northern Pacific and, upon consummation of the unification will be owned by NuCo.

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The related proposals contemplate (1) acquisition by NuCo of sole or joint control, as the case may be, of carriers affiliated with or subsidiary to (a) Great Northern and Northern Pacific at the time of the Northern Lines merger, and (b) Burlington at the time of the Burlington merger; (2) acquisition by NuCo of leasehold rights in respect of all trackage rights over, and all joint ownership in and joint use of, any railroad line or lines and terminals incident thereto possessed by the merging carriers at the time of the merger dates, and by SP&S at date of consummation and for the term of the SP&S lease; (3) issuance of securities and assumption of obligations and liabilities of the merging carriers and SP&S in respect of securities in carrying out the provisions of the respective merger and lease agreements, and modification of an existing collateral trust indenture (of Northern Pacific); (4) construction of those extensions (connections), as described in appendix J, upon completion of which some segments of the present lines would no longer be needed; and (5) abandonment of those segments, as described in appendix K. Requests for authority to extend and abandon are contingent upon our approval of the unification of the described properties, and authority to abandon the described segments is contingent in each instance upon completion of the particular construction segment to which it is related. Findings of fact and conclusions thereon reached by the examiner and set forth in appendix A are adopted as our own.

The two mergers are advanced rather than a single merger to permit the direct pledge of a $70 million principal amount of Burlington first and refunding series 2010 4-percent bonds under the new consolidated mortgage which NuCo would create upon consummation of the Northern Lines merger. It would thus permit utilization of bonds secured by a first lien on Burlington property and now issuable under the Burlington first and refunding mortgage to strengthen directly and materially the new consolidated mortgage which would be in the NuCo's future general refunding and financing medium. Following unification the consolidated mortgage also would be a lien on substantially all railroad properties theretofore owned by the merging carriers.

The details of the above-related proposals for unification of the applicants are shown in appendix A.

Stock ownership by applicants in various subsidiaries and other companies will be acquired by NuCo as part of the unification. Such securities include the shares of stock of SP&S (now

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owned by Great Northern and Northern Pacific) C&S[11] (now owned by Burlington), Minneapolis, Anoka & Cuyuna Range Railroad Co. (now owned by Great Northern), Walla Walla Valley Railroad Co. (now owned by Northern Pacific); and the shares of stock of three motor carriers, BTL, NP Transport, and STC, now wholly owned by Burlington, Northern Pacific and Great Northern, respectively. The measure of control or ownership exercised by applicants over these and other carriers subject to the act was described in detail in the examiner's report.

Stock Exchange Ratio

Holders of Northern Pacific stock at the date of merger will receive under unification, common stock in NuCo on a share-for-share basis. Holders of Great Northern stock will receive common stock in NuCo on a share-for-share basis plus one-half share of the $10 par value preferred stock in NuCo for each share of common stock held at the date of merger. The Burlington stock owned by Great Northern and Northern Pacific, totaling 97.18 percent of the total outstanding Burlington stock, will be canceled but the minority stockholders of Burlington will receive 3.25 shares of common stock in NuCo in exchange for each share of their Burlington stock.

Unification will involve no increase in outstanding debt and no increase in total fixed charges to the applicant railroads. NuCo will assume all contracts, mortgages, deeds of trust and indentures made by Northern Pacific, Great Northern, Burlington and Pacific Coast or their predecessors, and all debts, liabilities and duties of those corporations will attach to NuCo. The publicly-held funded debt will be reduced by $17,367,000, the principal amount of Northern Pacific refunding and improvement mortgage bonds which will be redeemed. Certain bonds, described in the application, will be issued by Burlington and by NuCo in connection with the unification. Such Burlington bonds will be pledged by NuCo under the proposed new consolidated mortgage and the consolidated mortgage bonds will be pledged under the Northern Pacific collateral trust indenture in order to secure the release from pledge of an equivalent amount of Northern Pacific refunding and improvement mortgage bonds. The Northern Pacific refunding and improvement mortgage bonds, when so released from the pledge will be canceled and retired.

[11] C&S, in turn, owns all the outstanding shares in FW&D.

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After completion of unification, no bonds under any of the now existing mortgages of applicants can be issued for sale to the public. It is contemplated that the future financing medium, for refunding purposes or for acquiring new capital, will be the consolidated mortgage of NuCo.

The stock exchange terms agreed upon by applicants provide for NuCo to issue specified shares of its preferred and common stock as required by the terms of the Northern Lines merger agreement and the Burlington merger agreement, and such additional shares as may be required under stock options of Great Northern and Northern Pacific outstanding at the effective date of the Northern Lines merger.

Under the agreed rate of conversion, the following schedule sets forth the number of shares of Great Northern, Northern Pacific and Burlington publicly held on December 31, 1966 (excluding a few shares reserved for conversion of fractional scrip outstanding), the exchange ratios applicable to each group, and the number of shares of NuCo's common and preferred stock required to satisfy the terms of the merger agreements:

Outstanding shares publicly held as of December 31, 1966		To be exchanged for			
		Exchange ratio		NuCo shares	
		Preferred	Common	Preferred	Common
Great Northern	6,152,652	1/2 share	1 share	3,076,326	6,152,652
Northern Pacific	6,037,836	---------	1 share	---------	6,037,836
Burlington	48,033	---------	3 1/4 shares	---------	156,107
Total	12,238,521	---------	----------	3,076,326	12,346,595

The shares outstanding of SP&S would remain undisturbed. All other outstanding stock of applicants would be canceled.

The above schedule does not reflect the stock requirements of the Northern Lines' stock option plans. The applicants request authority under section 20a to issue additional shares of common and preferred stock as may be required upon exercise, subsequent to merger, of options issued under the restricted stock option plans of the Northern Lines and outstanding as at the time of merger. As of December 31, 1966, 80,698 shares of common stock and 14,226 shares of preferred stock would be needed in reserve for that purpose. The maximum number of shares required as of December 31, 1966, is as follows:

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	To be issued	Reserved	Maximum
Common stock	12,346,595	80,698	12,427,293
Preferred stock	3,076,326	14,226	3,090,552

Throughout the exploratory discussions, it was recognized that difficulty in arriving at fair and equitable terms to the agreements would arise in connection with Northern Pacific's natural resources properties. The Northern Lines, aside from their consolidation committees which employed Wyer, whose report related to the operating value of the companies to be merged and controlled, each employed independent financial advisors and appraisers to evaluate the properties. These evaluations are summarized in appendix I. These reports indicate that as of September 1, 1959, the fair value of the Northern Pacific oil and gas properties was $46,845,435, on the basis of sale; that the value of the timber resources, exclusive of grazing and cultivation lands, was $45,114,000, and the estimated value of such lands $4,540,000; that, as of January 1, 1958, the going concern net worth of the oil and gas properties was $59,425,137, substantially in excess of what they would sell for; and that the value of the timber resources was $62,187,919, with a potential value of $79,668,352 on the basis of maximum recovery on a sustained yield basis. Northern Pacific then estimated value of its iron ore, taconite, coal, and other minerals, and its grazing and cultivation lands, to be approximately $48,700,000, and, together with leased industrial lands and buildings and unleased industrial lands and buildings, to be approximately $81,405,000, which, coupled with the estimated value of the other natural-resources properties approximated $170 million. That figure was considered by Northern Pacific to be much in excess of what the properties would sell for, and, they noted that if sold, a substantial part of the proceeds would be taxable as capital gains.

The First Boston Corporation, financial advisor to Great Northern, reported that after excluding income from land operations and considering only earnings from railroad operations and common sources (e.g., Burlington and SP&S), Great Northern contributed 66 percent and Northern Pacific contributed 34 percent of the combined earning power in the 5 years 1952-1956, whereas Morgan Stanley and Co., financial advisor to Northern Pacific, arrived at a 60-40 ratio. In addition to its studies of

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the railroad properties and investments, Morgan Stanley, after considering the reports of the oil, gas, and timber consultants, and using various methods of valuation, arrived at a judgment value to NuCo of $115 to $125 million for Northern Pacific's nonrail properties, including industrial, and advised that unless a share-for-share exchange could be arranged, merger would not be advantageous to Northern Pacific's stockholders. It was later agreed, however, that Northern Pacific's industrial properties should be included as railroad properties since similar Great Northern properties are so considered.

Consideration was given to issuance of two classes (rail and resources) of stock, and spin-off of the natural resources properties prior to consolidation, before it was concluded that all Northern Pacific properties would have to be included in any agreement.

At the railroads' request, the financial advisors held numerous conferences in order to seek agreement on figures each could recommend to its principal as a basis for further negotiation. The Northern Pacific interests ultimately concluded that some concessions were justified in view of the estimated increase in net income and other anticipated benefits, and undertook to work out an exchange ratio giving immediate recognition to the somewhat greater earning power, larger dividend payments and historically higher market price of Great Northern stock while preserving for Northern Pacific stockholders on a long-term basis approximately equal participation in the earnings of the combined enterprise.

Finally, on June 2, 1960, the Northern Lines' presidents agreed to recommend the ultimate basis of exchange, considered fair and equitable by both financial advisors, and on July 13 it was unanimously recommended to the respective boards of directors by the consolidation committees. The boards approved the terms and authorized execution of a preliminary agreement, leaving certain questions to be resolved, notably the manner of Burlington's inclusion because of certain lien provisions in the principal Great Northern and Northern Pacific mortgages. We recognize that ultimate determination of a fair and equitable exchange ratio is a matter of judgment based on a consideration of many factors. Here, those factors included realistic appraisal of the terms necessary to bring about acceptance by both sets of stockholders. On the basis of past earnings experience, the merger terms slightly favor Northern Pacific stockholders

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while preserving to Great Northern stockholders the higher dividends justified by the most recent record differences in per share earnings. Stockholder voting on the proposals (1961) was as follows:

	For		Against	
	Shares	Percent	Shares	Percent
Great Northern	4,929,931	81.03	10,491	0.17
Northern Pacific	4,422,640	73.81	397,949	6.64
Burlington	1,700,403	99.9	310	0.02

The stock exchange ratios are seriously questioned only by Minnesota and NPSC, the latter representing about 3 percent of Northern Pacific's stockholders and about 5 percent of its outstanding shares. Its differences are engendered by the treatment given Northern Pacific's natural resources properties, while Minnesota's are derived from its belief that Great Northern and Northern Pacific stockholders would surrender equity in Burlington stock owned by those roads to the sole advantage of Burlington minority stockholders. Minnesota's argument overlooks the fact that the treatment provided in the Burlington merger agreement for conversion into NuCo stock of approximately 3 percent of Burlington stock publicly held was jointly recommended by the financial advisors of Great Northern and Northern Pacific, and was discussed with and approved by the principal holders of Burlington stock and the boards of directors of Great Northern, Northern Pacific and Burlington as fair and equitable. The public holdings of NuCo's stock by former public holders of Burlington stock will represent 0.004 percent of the total shares of common stock issued by NuCo, and increasing or decreasing the Burlington exchange ratio would be of little consequence in the whole capital structure. Moreover, there is no probative evidence that this exchange would adversely affect applicants.

NPSC throughout these proceedings has taken the position that this transaction in the aggregate involves much more than a mere railroad merger, characterizing it as unique because of the vast natural resources properties held by Northern Pacific, although its objections to the proposal would be eliminated if we would condition our order to require spin-off of those properties in the manner it suggests.

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NPSC notes that Northern Pacific did not furnish its stockholders with copies of the various appraisals of its natural resources properties for their consideration in deciding whether merger, and the terms thereof, were in their best interest. In addition, NPSC charges that unreasonable valuations were used to its detriment in establishing the exchange ratios for replacing Northern Pacific and Great Northern stock with that of NuCo. The utilization of earnings of the two companies as the ultimate basis for determining the exchange ratios, in lieu of a definitive valuation for the railroad properties of each company and, in the case of Northern Pacific for the nonrail properties, is deemed by NPSC to have gravely underrated the contribution of Northern Pacific to the transaction. NPSC calls attention to its proposal that the nonrail properties of Northern Pacific be sold separately to a land company to be organized by its stockholders prior to consummation of the merger of the rail properties which was rejected by the hearing examiner in the earlier proceedings as unfair to stockholders. Suggested purchase price figures varied from $112 million to $117 million, although members of NPSC advanced values varying from $96 million to $295 million. It is clear their concern was in retaining present exclusive ownership of equity in the natural resources properties.

Under that proposal, the present Northern Pacific stockholders would participate only to the extent they are able and willing to pay about $20 per share, all stock not so subscribed to be sold to the public through underwriters. The proposal contemplates that all expenses of carrying out the plan, which apparently would include underwriters' commissions and expenses would be borne by Northern Pacific.

While agreeing that the current worth of each shareholder's contribution to NuCo is the proper basis for establishing an exchange ratio in rail merger proceedings, NPSC insists that in this instance earnings are not the proper basis for measuring the contribution in relation to the natural resources properties, but rather that the market value thereof should be the determinant factor. However, if earnings are to be the basis for the evaluation, then it contends that it is necessary to employ a very high price-earnings ratio to take into account the potential earnings of the property not currently productive of income. Despite the acknowledged difficulty of arriving at definite evaluations, and it offers none, NPSC urges that such specific findings are necessary before

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the transaction can be approved. Finally, it urges that applicants have failed to carry the burden of proof in establishing the fairness of the merger terms, and that the uniqueness of the proposed transaction involving natural resources issue requires our most careful consideration.

Applicants agree that the treatment to be accorded the natural resources properties presented difficulty in the negotiations, pointing out that consideration was given to a number of methods of segregating the rail and nonrail properties prior to the adoption of earnings of the two companies as the primary basis for the exchange ratios. Applicants deny, however, that there was any "calculated suppression" of the appraisals of the natural resources or that the failure to furnish them to stockholders before the latter voted on the proposal was deceptive. In view of the differences in the various appraisals and the fact that the exchange ratios were determined primarily on the basis of earnings rather than on property values, the withholding of the information purportedly was to avoid confusing the shareholders. Applicants emphasize that the Northern Pacific proxy statement, which was accepted by the Securities and Exchange Commission for filing under its proxy solicitation rules, contained the information on the production and earnings of the natural resources upon which the final agreement was rested.

In respect of the allegation of unjustness and unreasonableness in the use of earnings rather than market value to account for the contribution of Northern Pacific's natural resources properties to NuCo, applicants point out that even NPSC is unable to come forward with any definitive valuations, and that the NPSC interest is not in obtaining a better exchange ratio but to insure the sale of the natural resources properties to a land company to be formed by it as a condition to approval. Applicants further question the proposed purchase price of $112 million to $117 million in view of one NPSC member's valuation, based upon an earnings projection, of $295 million. NPSC's contentions relative to the suggested condition and the propriety of the exchange ratios are, as regards the former without merit and unfair to Northern Pacific stockholders, and as to the latter contrary to the record, which shows that the full potential value of the natural resources properties was fully reflected in the shares alloted to the Northern Pacific stockholders.

NPSC's suggested alternative to a revised exchange ratio (segregation and sale of such properties to a new land company prior to merger) appears to us to be no real answer, involving, as it does,

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a requirement that, in effect, all Northern Pacific stockholders repurchase interests in property they already own, with those failing to do so frozen out of future benefits therefrom. All present stockholders, whether or not they participate in the land company, would be sharing in its expenses since they would continue as stockholders in Northern Pacific railroad property. Fundamentally, NPSC argues that Northern Pacific management, allegedly motivated by an overriding desire for merger of the railroad properties, was derelict in withholding from stockholders generally, prior to their voting on the transaction, appraisal data obtained from outside experts. We are not persuaded that this contention has merit. In any event the stockholders received the necessary essential information; there is no basis for the belief that the ultimate vote would have been substantially different under other circumstances.

The issue here is whether the exchange ratios are just and reasonable, and limited thereto, we find the record both adequate and affirmative, in that they meet the necessary and required tests: (1) that they are the results of arms' length bargaining, and (2) that they fairly reflect the contributions of each group of stockholders to the combined system. Cf. *Erie R. Co. Merger*, 312 I.C.C. 185, and *Louisville & N. R. Co. Merger*, 295 I.C.C. 457.

BENEFITS OF MERGER

To applicants.—Applicants are faced with growing intermodal competition. Tied to their steel rails and dependent upon private capital for funds, applicants are losing a steadily increasing share of the transportation market going to competitors. Construction of new superhighways and pipelines and improvements in waterways presage a competitive future even more intense than the present. Financially, applicants have enjoyed a moderate degree of success, but increasing competition and an inability to prevent traffic erosion make it necessary that applicants take measures now to assure continued success in the future. Applicants here have selected as the remedy the development, through merger and lease, of a more efficient transportation plant capable of meeting competition as well as providing equal, and in many respects, improved service to the public.

Substantial dollar savings plus an improved earnings potential constitute tangible benefits which will accrue to applicants by merger. It was pointed out in the *prior report* that because of

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rapidly changing conditions in transportation, comparisons between railroad earnings in recent years and those in past decades must be drawn with care. Nonetheless, such comparisons do tend to place applicants' financial position in proper perspective. For instance, the combined average net railway operating income of the Northern Lines (with SP&S), before Federal income taxes, during the 5-year period 1951-1955, was $74 million, and ranged from a low of $58.2 million (1954) to a high of $82.8 million (1955). During the 5-year period 1956-1960 the combined average was $59 million, ranging from a high of $73.7 million (1956) to a low of $40.4 million (1960). For the 5-year period 1961-1965 the range was from $33.7 million (1961) to $65.9 million (1965), and the average was $48 million. The net railway operating income, before Federal income taxes, of Burlington during this 15-year period followed a similar pattern. The combined average, for all of the applicants, fell from $121.6 million during 1951-1955 to $86.9 million during 1956-1960, and to $73.9 million during 1961-1965.

The average rate of return for applicants during the 15-year period above referred to ranged from a high of 3.73 percent in 1955 to a low of 2 percent in 1961. Even in 1965 and 1966 when the average rate of return of class I railroads was 3.69 and 3.9 percent, and that of other industries much higher, applicants' average was 3.33 and 3.7 percent—less than the yield on nonrisk Government bonds. Upon merger, the relatively low rate of return will be enhanced. Low rates of return, if continued, may well pose serious obstacles in attracting necessary investment capital, and affect reinvestment decisions by the rails as well.

The savings benefits to be derived from the unification by applicants are estimated in the Wyer report as shown in the table, *supra*, page 9. The various studies making up the Wyer report, discussed in detail at pages 106 through 142 of the examiner's report, touch upon every phase of applicants' operations and those expected to be performed by NuCo. In the *prior report* only two major adjustments were made in the applicants' estimates: (1) a downward revision in the cost to applicants of the conditions deemed necessary to protect the Milwaukee and North Western, and (2) a one-third reduction in the savings attributable to coordination and consolidation of facilities at common points (study I). The latter was based on the belief that certain coordinations between GN and NP would voluntarily be effected once it was established that the merger would not be permitted. Consequently we reduced the applicants' study I estimate

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by some $5.2 million. But many of the coordinations, though physically feasible, would produce grossly unequal benefits to GN and NP as separate carriers. Further, as concluded in the *prior report,* competition between the Northern Lines renders it difficult if not impossible, as a practical matter, to incur the expense involved in effecting such coordinations. Interpreting the record on this point is largely a matter of judgement; and, on reconsideration, we find ourselves in agreement with the applicants that the reduction is not warranted. In our consideration herein, the $5.2 million will be restored to the savings accepted as achievable through merger.

With the two exceptions just noted, it was found in the *prior report* that the Wyer study constituted a reasonable estimate of savings achievable by merger, including the basic estimates of savings realizable from job abolishments. Based upon a study of considerable depth and detail, the examiner found, as of July 1, 1960, a savings of $32,676,759 in compensation could be gained by job abolishments upon merger. Having determined, in 1967, to reconsider these proceedings, and aware that developments since the original study could affect that estimate, we set the limited further hearing for updating that data. Updated, it is now estimated by applicants that $36,350,000 in labor savings could be attained. As previously stated, the methods used by applicants in such updating were assailed by opposing parties. For instance, the transportation consultant of Rio Grande challenged the use of a constant ratio equivalent to the percentage decline in overall employment on the grounds it fails to reflect efficiencies achieved or achievable since 1960, or new techniques employed and that a fixed number of employees, an irreducible minimum, are needed to perform certain functions. It was recognized, nonetheless, by Rio Grande that the method used was dictated by time limitations imposed, and that the results reached "may, of course, turn out to have been correct* * *."

On the whole, we are convinced that the updated estimates are a reasonably accurate portrayal of the savings attributable to the proposed unification. While not in the precise detail as the data underlying the 1960 estimate of $32.6 million in labor savings, the constant ratio formula is reasonably related thereto. Nothing adduced at further hearing nor argued by protestants convinces us that the updated estimates are not useful as reasonable guides of achievable labor savings on which a rational decision on reconsideration can be based. Such savings plainly illustrate that

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substantial economic benefits to applicants would flow from the unification.

The improved financial posture mentioned above will enable applicants to become stronger and more stable, and thus be better equipped to meet the growing competition now being felt. Moreover, consolidation of facilities, elimination of wasteful duplication, improved routing, better car fleet utilization, and avoidance of time-consuming interchanges among applicants will result in a more efficient railroad. Such achievements clearly are consistent with the public interest.

We have given careful consideration to the following contentions of Justice:

(1) that the Commission (and its hearing officer) erred in accepting at the limited further hearing the evidence of Wyer that the systemwide reduction on various employee classifications would be fairly applicable to those categories of employees at the geographical points where Wyer estimated that labor savings would be achieved;

(2) that the Commission erred in denying requests by Justice for discovery and/or to broaden the further hearing to develop by spot studies the effect of intervening changes upon labor savings estimated as of 1960; and

(3) that it was prejudiced by the Commission's failure to act upon some of its requests for discovery and/or broadened hearing before forcing it to go to hearing on the basis of what information it could otherwise develop.

We are well aware that the technological and operational improvements on the Nation's railroads have brought about a reduction in the number of railroad employees and a redistribution in the consist of the rail labor force. This has been true in varying degrees throughout the railroad industry. We realize these processes do not stop simply because a transaction has been proposed under section 5(2)(d) or mark time while we and the courts take evidence and consider the views of all of those who are concerned with the structuring of the Nation's railroad system. Because of the complexities of rail mergers and the demands of due process, administrative consideration of these cases consumes substantial periods of time. But there comes a point at which we must honor our concomitant obligation to complete our proceedings upon a rail merger application within a reasonable time. Most crucial, as the courts have recognized repeatedly, is the point at which we are confronted with petitions for reopening and rehearing in proceedings which already have been pending, sometimes for years—with potential judicial review waiting beyond. See *Interstate Commerce Commission* v. *Jersey City*, 322 U.S. 503, 514

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(1944); and cf. *Florida East Coast Ry. Co.* v. *United States*, 242 F. Supp. 14, reversed *per curiam sub nom. Seaboard Air Line Co.* v. *United States*, 382 U.S. 154 (1965); *Florida East Coast Ry. Co.* v. *United States*, 259 F. Supp. 993 (1966), affirmed *per curiam*, 386 U.S. 544; the Seaboard-Atlantic Coast Line merger application was filed with the Commission on July 22, 1960, and the administrative and judicial review proceedings were completed on April 19, 1967.

It is in this context that we have considered the Department's contentions. As we have recognized above, the level and consist of employment on the Nation's railroads are changing constantly. We assume that the length of the proceedings on any significant rail merger application means that by their completion it can be shown that the estimated savings at some points or in some operations have been overtaken or outdated by technological change. Similarly, we recognize that our permissive order approving a merger does not require that it be effectuated in terms of every savings-producing change visualized by a management consultant. Rather, we recognize that with the passage of time, when an approved merger finally is consummated, it will realize savings which were not anticipated, while other anticipated savings are not achieved. Thus, in the present proceeding, we are convinced that labor cost savings, in the approximate magnitude discussed elsewhere in the report, will occur. Moreover, in our judgment the likelihood that the Department would have been able to show otherwise through the discovery or further hearing procedures which it sought, was not sufficiently great to justify any additional time and expense in this already prolonged proceeding.

As is implied above the exact amount of merger savings cannot be precisely determined under any circumstances. Here, we are convinced that they would be substantial and of sufficient amount to justify the merger, both in terms of enabling the merged company to improve its service to the public and of providing a return on investment more nearly commensurate with the investment requirements of a viable and progressive transportation system.

To shippers.—Many of the operational changes that benefit applicants and make possible the savings, would inure to the benefit of shippers as well. Foremost are the consolidation of applicants' corporate and departmental structures, consolidation of facilities at 39 common points (especially at Twin Cities, Head-of-Lakes, Seattle, Spokane, and Portland-Vancouver), consolidation of repair facilities, elimination of interchange delays and duplicate train services, the use of new classification yards, the grouping of cars

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for block trains, the combined purchase of materials and supplies, and the use of the shortest or most efficient routes. Thus, applicants' ability to operate more efficiently and at lower cost should be reflected in the service and rates afforded shippers and receivers. Shippers will benefit directly, of course, from faster and more dependable single-line service, extremely important here in view of the long distances involved and the nature of the products of the Northwest. Shippers will further benefit from improved car supply, wider routing with more liberal transit privileges, partial loading and unloading privileges, and reconsignment and diversion privileges, increased capital for improvement and modernization, and improved tracing and claim service. Overall lower-cost transportation will also redound to the benefit of those shippers disadvantaged due to location and low-rated commodities.

These transactions will produce faster trains. Applicants' most expedited high-volume heavy-power service from Seattle to Chicago is now scheduled at 94.5 and 97.25 hours. Under unification these would be replaced, respectively by 82.5 and 84-hour service.

A concrete illustration of the benefits of such faster schedules is that they would allow the fruit and other agricultural products of the Yakima Valley to reach Chicago about 12 hours, and Kansas City about 24 hours earlier, while Wenatchee (Wash.) fruit would arrive at Chicago more than 9 hours earlier. Great Northern traffic from Spokane and west thereof through Laurel would be advanced 24 hours in moving via Northern Pacific's short line, and other faster schedules would generally improve deliveries at Chicago by about another 24 hours by avoiding municipal switching and spotting prohibitions: westbound schedules would also be expedited, although not as drastically, the greatest reduction being about 10 hours.

Internal rerouting by applicants would be over the shortest or most economical routes available: NP between Minneapolis and Casselton, and between Sandpoint and Spokane; GN between Casselton and Sandpoint, and between Spokane and Seattle; and SP&S between Spokane and Portland. The need would decrease for switch-engine service and operating personnel on the lines from which traffic is taken. Construction of new yard facilities at Seattle, Spokane, and Minneapolis, together with increased use of existing retarder yard facilities at Minot, N. Dak., and Pasco, Wash., would make it possible to route increased traffic over the "preferred"

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transcontinental route with little increase in operating forces at intermediate points, and would permit decreased forces at such points as Whitefish, Mont., and Wishram, Wash. The benefits of the faster transcontinental services over the "primary" transcontinental route would not be confined to the transcontinental traffic and the shippers and receivers thereof. They would also accrue to shippers and receivers at intermediate points thereon and at points on the so-called "secondary" lines. This is true because transcontinental freights are usually full-tonnage trains, and now offer limited service to shippers and receivers at intermediate stations; whereas, following unification, new freight schedules would be introduced to better meet the needs of intermediate points, and local trains adjusted to conform thereto, with less congestion and delay.

Thus, intermediate points on the alternate line in North Dakota and Montana now served by NP train No. 605 would be served by a newly scheduled train, No. 603 from Minneapolis, with reduced transit times to Jamestown, Mandan, Dickinson, Glendive, and Forsyth. Similar beneficial results would flow to points such as Forsyth from Chicago. Billings, now served by backhaul from Laurel in late-second-day delivery, would receive direct, next-morning service from Minneapolis. The Milwaukee's service at Billings as a result of the protective conditions would, of course, further enhance the Billings situation.

Eastbound, Laurel-Chicago time would be reduced by more than 3 hours as a result of Twin Cities terminal improvements, and service from Laurel to the Twin Cities would be vastly improved at the intermediate stations of Glendive, Dickinson, Mandan, Jamestown, and Fargo-Dilworth, as would switching service at the Twin Cities themselves.

Shippers would have the benefit of additional routes over New Company's lines in any combination with intermediate junctions opened to form crossover routes between the Northern Lines, and between those roads and the Burlington at Billings and Sioux City. These are routes which have historically been closed to retain to each of the Northern Lines its long haul. The resulting wider choice of routing increases such attendant shipper benefit as transit, partial loading and unloading, and diversion and reconsignment. The expansion of transit privileges benefits producers and processors of numerous commodities important to this area, including lumber, grain, feed, fertilizer, and iron and steel, and ingredients and products made from those commodities. Here

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again, the benefits from the opening of the various gateways to the Milwaukee and the North Western multiply, not only from the competitive standpoint but from the standpoint of actual service to shippers and the elimination of artificial barriers to the development of new markets, services, and sources of supply.

Maintenance and ready availability of records under centralized control and responsibility will facilitate the tracing and location of shipments, the ordering of empty cars, and the processing of shippers' loss and damage claims. Expedited handling and reduced switch movements should reduce damage from impact and delay.

As a unified system, New Company would have the benefits of more at-home junctions, shorter routes, and improved handling to meet shippers' car requirements, particularly as to specialized equipment. Through the faster turnaround time made possible by shorter routes and facilitated terminal handling, it is anticipated that 639,097 car days (the equivalent of 1,750 cars daily) would be saved, with a savings of 61,555 car days merely through the elimination of duplicate reserves (held on shippers' orders) at 14 of 36 points served by more than one of the applicants.

An additional factor in helping achieve a better car supply would be centralized responsibility in lieu of present ineffective mutual appeals for cars, especially since boxcar requirements reach their peak at different times on applicants' lines, but so close that one is reluctant to release cars to another. Empty cars would be routed to the point of nearest demand and the number of "home" cars to be returned would be increased at such large junction points with other roads as Chicago, St. Louis, Kansas City, Omaha, Denver, and Portland. The shipper benefits resulting from these factors are spread throughout the whole spectrum, resulting in faster transit and quicker delivery times, less damage and fewer claims, easier tracing, and overall, a more expedited and satisfactory service.

Shippers now utilizing the service of more than one applicant in joint-line movements will derive benefits from generally lower single-line rates, and from elimination of switching charges assessed on noncompetitive traffic where one of the applicants now acts as a switching carrier on traffic to or from a point on another's lines. Clerical time would be saved on such matters as car ordering, tracing, and diversion, and demurrage and freight accounting costs would be reduced.

To the general public.–The general public may be expected to benefit from the merger in various ways. Elimination of duplicate

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facilities at some common points would release desirable real estate for productive development, and various communities, particularly Spokane, would benefit by elimination of or substantial reduction in street hazards and congestion. The public will also benefit from the increased ability of the applicants to meet the increased intermodal competition by providing improved, lower-cost service. Advances made over the years by other transport modes in the areas served by applicants make it imperative for the railroads to increase their competitive capability. Illustrative of these advances are plans to develop further waterways for increased barge navigation, and the completion of Interstate Highways 90-94, which will allow a reduction in truck transit time from 60 to 36 hours between the Twin Cities and Seattle.

The merger will benefit the public through the enhancement of intramodal competition as well. By virtue of the conditions being imposed here for the benefit of other railroads, particularly Milwaukee and North Western, those carriers will not only benefit in their own interest as railroads but will be in position to pass on the benefits so realized to the shippers and areas they serve. Thus, the Milwaukee, by reaching Portland directly, will be a rate-making transcontinental railroad, not only on traffic moving across the northern tier, but to and from California as well. Likewise, the Sumas condition will allow the Milwaukee to provide rail competition on traffic to and from Canada.

The opening by applicants of 11 interior gateways to the Milwaukee will give many shippers a realistic choice of railroads for the first time in history.[12] Not the least of the benefits thereof will be the opening of new markets, transit points, and sources of supply for shippers and receivers located on applicants' lines who cannot now reach points on the Milwaukee not served by applicants, and those located on the Milwaukee to whom applicants' lines are now closed. The same purposes, on a smaller scale will be served by opening two gateways to the North Western at Oakes and Crawford.

In addition, merger will provide NuCo with an increased capacity to serve the national defense, a capacity to handle on its main lines up to three times the traffic handled in the early 1960's.

[12]The effect was well stated by a North Dakota representative, who said, "That, baldly and simply, is giving (the shipper at NuCo local points) a small club to short haul the merged system in the event he is not satisfied with the treatment he is getting."

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COMPETITIVE CONSIDERATIONS

The *prior report* approached this case under the view that the policy of section 5 of the act, as amended in 1940, was something other and less than "to foster and encourage" rail mergers (328 I.C.C. at 522-523). This view contributed materially to the result there reached. Upon reexamination of legislative history and relevant authorities we conclude that the policy of the act is clearly to facilitate and thereby foster and encourage consolidations which can be shown to be consistent with the public interest. By removing the requirement of a "master plan," imposed by the 1920 legislation, Congress intended to and did remove a major obstacle to rail consolidations. That the 1940 Act was designed to ease the procedural way for mergers, and certainly not as any restriction upon them, is apparent from the language of the Supreme Court in *County of Marin* v. *United States*, 356 U.S. 412, 417-418 (1958), reiterated only this year in *Baltimore & O. R. Co.* v. *United States*, 386 U.S. 372, 387 (1967):

> * * * the result of the 1940 Act was a change in the *means*, while the *end* remained the same. The very language of the amended 'unification section' expresses clearly the desire of the Congress that the industry proceed toward an integrated national transportation system through substantial corporate simplification. [Emphasis in original.]

On reconsideration we view anew the question of competition in light of our finding that the 1940 amendment was certainly not negative or restrictive toward mergers, but was at least a procedural tool designed to facilitate, promote and foster rail mergers where consistent with the public interest. In determining whether a transaction is consistent with the public interest, the Commission is, of course, required to consider the competitive consequences involved; but "as a factor in determining the propriety of [railroad mergers] the preservation of competition among carriers, although still a value, is significant chiefly as it aids the attainment of the objectives of the national transportation policy." *McLean Trucking Co.* v. *United States*, 321 U.S. 67, 85-86 (1944); *Minneapolis & St. L. R. Co.* v. *United States*, 361 U.S. 173, 187 (1959). Thus the undisputed fact that the merger of the Northern Lines will result in an elimination of the competition previously existing between them, while relevant to the requisite evaluation of "the effect of the merger on competitors and on the general competitive situation in the industry" (*McLean, supra*, 321 U.S. at 87),

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is not controlling or conclusive and does not in itself automatically compel denial of the applications.

Competition is no longer "the *desideratum* of our railroad economy" as in the period prior to 1920. *St. Joe Paper Co.* v. *Atlantic Coast Line R. Co.*, 347 U.S. 298, 315 (1954) (Appendix). Beginning with the Act of 1920, and continuing through the passage of the Act of 1940 preservation of competition has lost the controlling significance it once had. As expressed in the merger recommendations of the Presidential "Committee of Six" whose efforts contributed materially to the enactment of the present section 5 in 1940:[13]

> Competition between railroads is of continually lessening importance to the public as other modes of transportation supply more and more of that competition which was once provided only by competition between the railroads themselves. The result is that further railroad consolidations may be effected in many cases with great public benefit.[14]

The Supreme Court has noted that emphasis upon competition in itself as a national policy:

> * * * would most strikingly disregard areas where policy has shifted from one of prohibiting restraints on competition to one of providing relief from the rigors of competition, as has been true of railroads. * * *
>
> Federal legislation affecting railroads is a familiar but far from unique example of those many areas of economic activity in which serious inroads have been made on an original policy favoring competition. *F.C.C.* v. *RCA Communication, Inc.*, 346 U.S. 86, 92-93, (1953).

Finally as the Supreme Court recognized in *McLean, supra*, 321 U.S. at 83, section 5, together with the national transportation policy reflect:

> * * * the altered emphasis in railroad legislation on achieving an adequate, efficient, and economical system of transportation through close supervision of business operations and practices rather than on the enforcement of free competition in various phases of the business.

For these reasons, as seen in the recent Seaboard-Atlantic Coast Line merger, we may properly approve a transaction as consistent

[13] *Schwabacher* v. *United States, supra.*, 334 U.S. at 193, footnote 12 (1948); *St. Joe Paper Co.* v. *Atlantic Coast Line R. Co., supra*, 347 U.S. at 319 (Appendix); H. Rept. No. 1217, Committee on Interstate and Foreign Commerce, 76th Cong., 1st Sess. (1939), pages 1-2; S. Rept. No. 433, Committee on Interstate Commerce, 76th Cong. 1st Sess. (1939), pages 1-2, 28-29.

[14] Report of Committee Appointed by the President to Submit Recommendations upon the General Transportation Situation, page 31 (Dec. 31, 1938).

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with the public interest even though it eliminates competition between two previously competing railroads in a given area and even where the transaction "presents a head-on collision between the antitrust laws and the Interstate Commerce Act." *Florida East Coast Ry. Co.* v. *United States*, 259 F. Supp. 993, 996 (M.D. Fla., 1966), affirmed *per curiam*, 386 U.S. 544 (1967), sustaining our decision in *Seaboard Air Line R. Co.–Merger–Atlantic Coast Line*, 320 I.C.C. 122.

The competition found decisive in the *prior report* was that between GN and NP in an area extending from the Twin Cities and Head-of-Lakes across the northern tier of States to the Pacific Coast. The preservation of this competition was crucial to the first decision. On reconsideration we conclude that this factor should not be decisive. We find that a properly conditioned merger —with a substantially strengthened Milwaukee—will actually enhance competition in the area and will be consistent with the public interest, notwithstanding elimination of such competition as exists between the two lines.

At the outset, it should be noted that, as to many communities and shippers in the area involved, the lines of the GN and NP are in fact, not competitive with each other. In Montana and North Dakota, for example, the lines are generally widely separated, as much as a hundred miles apart. Obviously a shipper located on or near the lines of one road, but 50 or 100 miles from the line of another, is not influenced by competition in the selection of carriers.

Next we consider those common points in the northern tier States of Minnesota, North Dakota, Montana, and Washington, where shippers have a choice-real or theoretical—as between the Northern Lines. Rail competition will be eliminated entirely at 47 communities (141 stations), served by GN and NP but by no other railroad. Rail competition will be diminished but not eliminated at 160 stations now served by at least one other road in addition to the Northern Lines.

The tabulation below shows, as of 1960, in column A, the extent to which these stations reflect the Northern Lines (including SP&S) operations in the foregoing northern tier States, and in column B, the extent to which they reflect the systemwide operations of all of the applicants:

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	Column A	Column B[1]
	Percent	*Percent*
Class 1 (served by GN and NP but no other railroad)		
Stations	4.25	3.15
Cars	6.60	4.20
Tons	5.60	3.61
Revenues	6.16	4.51
Class 2 (served by GN, NP and one or more other railroads)		
Stations	7.47	5.27
Cars	32.67	20.89
Tons	27.81	17.75
Revenues	37.71	26.90

[1]Percentages for class 2 stations in column B are based on 236 stations of all applicants in 8 States.

Limited to the northern tier, and exclusive of overhead traffic, 88.28 percent of the Northern Lines stations, which accounted for 60.73, 66.59 and 56.13 percent, respectively, of the cars, tons and revenues in those States, would not be directly affected by the merger. Systemwide for all applicants, there would be no direct competitive impact, no lessening of competition, at 91.58 percent of applicants' stations. These 4,102 stations accounted for 74.91, 78.64 and 68.59 percent, respectively, of applicants' cars, tons and revenues in 1960.

The number of stations at which rail competition would be eliminated entirely is small, and these stations do not produce any great volume of applicants' business. Moreover, some of these stations are located on the main line of one applicant and on the branch line of another, with the result that loss of competition is more theoretical than real.

In analyzing the competitive effects systemwide, i.e., beyond the four northern tier States, the class 2 stations are of significance, because they involve large commercial centers and rail gateways which generate a substantial part of the applicants' tonnage—21 percent of the carloadings, 17.75 percent of the tons, and 26.9 percent of the revenue. Some of these stations are located at centers which, though served by more than one of the applicants, do not in fact have competition between the applicants today. For example, Sioux City has Burlington and GN end-to-end; the Twin Cities have the Northern Lines and Burlington end-to-end; SP&S, serving Portland from the East, does not compete with the Northern Lines or any other railroad on Portland's traffic to and from the North.

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The stations in classes 2 and 4 (which, after the merger, would have at least two railroads) account for 21 percent of the applicants' carloadings, 48.5 percent of their tonnage, and 58.4 percent of their railway revenues. Among this group of stations are 10 major terminals (having 140 stations) which comprise only 3.1 percent of the applicants' stations, but account for 26 percent of their carloadings, 22 percent of their tonnage, and 30 percent of their rail revenues. These terminals and pertinent data about them are listed below:

Class	City	[1]Railroads	Applicants' revenues	Truck Lines	Bus Lines	Air Lines
			Million			
4	Chicago------	32	$30.8	294	10	20
4	Denver-------	5	8.1	49	9	8
4	Kansas City --	12	16.9	77	9	8
4	Omaha-------	8	9.4	65	3	5
4	St. Louis-----	20	7.2	167	16	8
2	H-L----------	[2]6	27.3	18	4	2
2	Portland -----	3	17.6	45	3	11
2	Seattle-------	3	40	35	5	12
2	Spokane------	4	12.4	15	3	3
2	Twin-Cities --	[2]9	37.5	78	3	8

[1]Indicates number of railroads serving after this merger.
[2]Number would be one less after C&NW-CGW merger.

While recognizing that not all carriers serving a particular point are in competition against each other, we cannot overlook the indications in data such as that shown above that, at the commercially most significant points in the applicants' territory, there is, and after the merger would continue to be substantial intermodal and intramodal competition.

In our view the competitive impact upon the class II stations is not so significant as to warrant denial of the applications. First, apportionment of traffic between GN, NP and the other roads serving these points is not wholly the result of interplay of competitive forces, but often results from other factors entirely. Second, shippers at these class II locations, in addition to the Northern Lines and one other rail carrier, are generally served by other modes of transportation vigorously competing for traffic. Third, by virtue of the conditions imposed in this case, the Milwaukee—which is the other railroad serving many of the class II points—will be substantially strengthened as a meaningful transcontinental competitor.

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Here, as in the Seaboard-Atlantic Coast Line merger, we must acknowledge that substantial competition would remain and new competition would be created. What was said in that case is equally applicable here:

> The impact of this merger, both good and bad, will be felt throughout the southern region and in evaluating its competitive advantages and disadvantages, we must consider *** the sum of all of the competitive transportation facilities that will remain available in this broad area.
>
> * * * * * * *
>
> ***the overall reduction in rail competition in the Southeastern States viewed as a whole will be relatively moderate when considered in the light of the alternative rail service that will be provided by competitors of the merged company at practically all of the major industrial centers throughout the affected area. The impact of this reduction in competition becomes even less significant when we consider the increasingly strong competition that the merged company will encounter from other modes of transportation. (320 I.C.C. at 166).

We also accord great weight to the testimony of the many shippers, associations, and other groups who supported the merger often with express recognition that some competition would be eliminated or reduced. Many witnesses from within the northern tier, including some of the class I and class II points, supported the merger in one form or another. Much of the testimony as to the general value of competition between railroads was abstract and unparticularized. Some of this testimony actually emanated from witnesses who supported the merger but expressed concern over its impact on a particular carrier. Thus witnesses for General Electric, Rayonier, A. O. Smith and Zenith—whose testimony was singled out in the prior report (328 I.C.C. at 517)—actually favored the merger, subject to appropriate conditions for the Milwaukee. While recognizing that competition between roads can and does produce benefits, we also note testimony of several witnesses in this record to the effect that they perceived no differences in service as between competitive and noncompetitive points. On balance, in concluding that loss or reduction of competition between GN and NP in the northern tier does not require denial of the applications, we believe considerable weight should be given to the testimony of those witnesses supporting the merger—including particularly that pertaining to the users of rail service in those areas most immediately concerned.

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Denial of the applications for the purpose of preserving competition between the Northern Lines would merely perpetuate the existing dominance of the GN and NP in the northern tier, with the Milwaukee, despite shorter routes and superior grades, left to its comparatively small share of the market. Preservation of the competitive *status quo* would, in our view, relegate the Milwaukee to an increasingly marginal and deteriorating role. On the other hand, a properly conditioned merger, with NuCo competing against a strengthened Milwaukee, will serve to enhance rail competition, achieve a more desirable competitive pattern, while at the same time conferring substantial benefits upon the shipping public throughout the territory involved in this case.

We reject the allegation of Justice that reliance upon the strengthening of the NW and Milwaukee as competitors to a merged Northern Lines would be a baseless ground on which to approve the merger. Its argument is predicated on excerpts of testimony given in the NW-Milwaukee merger application (Finance Docket No. 24182 et al.) where certain officials of these roads allegedly depreciated the value of the protective conditions to them. Justice contends that these officials themselves view the conditions as a "wash" whereby they will gain only what they will lose.

This testimony must be viewed as a whole and in its proper setting. The testimony was given in a proceeding wherein the officials themselves were attempting to justify their own merger as consistent with the public interest. In this context it is understandable that the Milwaukee and NW officials would attempt to portray their own merger in its best light. Moreover, the testimony dealt only with estimates of traffic diversion. The witnesses did not discuss their roads' abilities to obtain newly generated traffic; nor did the testimony detract from the obvious advantage to shippers of having a meaningful choice as between transcontinental carriers.

Then, too, this collateral allegation is too broad and not clearly established by the whole of the testimony in the NW-Milwaukee merger case. Much of that testimony is general, carefully qualified, and does not directly support the contention pressed by Justice in this case. Thus while some witnesses may have downgraded the conditions, the same witnesses at other times recognized their benefits. One of the witnesses at one point stated that he had not formed an independent judgment as to the benefits of the conditions. Another witness, though originally testifying to a

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"wash," later limited his statement and recognized that there would be dollar benefits to his road from the conditions. At oral argument before the Commission in this case Milwaukee responded to the Justice contention by clearly stating that it "will be a stronger competitor against the new company with the conditions requested than it is against the separate" applicants.

In any event we find this collateral attack unpersuasive. Opening of the 11 gateways, and in particular Portland, makes it evident we believe, that Milwaukee will become a viable transcontinental rail competitor. As such, it will have a broader base upon which to solicit additional traffic, and to enter into heretofore inaccessible markets. Plainly its competitive posture will be enhanced. Indeed, even a North Western—Milwaukee merger will not result in a transcontinental service; only the opening up of Portland to Milwaukee will accomplish that.

EMPLOYEE PROTECTION

Under section 5(2)(c), we must give weight to, among other factors, the interest of the carrier employees affected by the proposed unification. Section 5(2)(f) provides that as a condition of our approval of any transaction under section 5(2), we "shall require a fair and equitable arrangement to protect the interests of the railroad employees affected."[15] Section 5(2)(f) further provides that notwithstanding any other provisions of the act, the carrier or carriers and the duly authorized representative or representatives of its or their employees may enter into agreements providing for the protection of employees.

In the *prior report* it was found that the merger would result in a net loss of about 5,200 jobs on the applicant railroads, and that through the so-called bumping process the number of employees affected would exceed that number. In that report, the finding that "substantial" hardship would be inflicted upon employees as a result of merger was a significant factor in the decision to deny these applications. Since then, the situation as to protection of employees has been considerably changed. At the time of the *prior report* applicants indicated their willingness to provide the protection of the *New Orleans* conditions (*New Orleans Union*

[15] As found in the *Seaboard-Coast Line* case, employees affected are those of the carriers involved in the merger and most immediately affected thereby. Our discussion and conclusions herein should be viewed in that context.

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Passenger Terminal Case, 282 I.C.C. 271, as modified in *Southern Ry. Co.–Control–Central of Georgia Ry. Co.,* 317 I.C.C. 557, 317 I.C.C. 729, and 320 I.C.C. 377). As noted above, applicants now have revised their estimate of the number of jobs to be abolished, and concomitantly have revised their labor protection costs. Whereas the *New Orleans* conditions were offered then, attrition conditions will now be provided. Under the former, the total cost of employee protection was estimated at $4.96 million, all chargeable to operating expenses and deductible in computing Federal income taxes.[16] Now, based on the agreements entered into since the *prior report* with the Engineers and Trainmen and expected to be reached with other crafts, applicants estimate the total cost of employee protection at $10.15 million, similarly chargeable to operating expenses.[17] Thus, while the costs of the labor protective conditions are greater than comtemplated at the time of the *prior report,* so too are the protections offered employees somewhat improved.

The agreements entered into between applicants and the Engineers and Trainmen provide attrition-type protection[18] for employees, plus various monetary benefits, retirement allowances, and protection against loss from the sale of homes and the cancellation of unexpired leases. The stated purposes of the agreements are: (1) to assure employment and/or earnings to employees covered by the agreements, (2) to expedite the changes in services, facilities and operations resulting from the merger, and (3) to prescribe procedures by which existing agreements between the parties shall be modified and consolidated to conform with such operating changes. Under the agreements, NuCo is obligated to take into its employment all covered employees of Great Northern, Northern Pacific, Burlington and SP&S and no employee is to be deprived of his employment status or placed in a worse position with respect to compensation, rules governing

[16] At the then current income tax rates, only $2.38 million would have been borne by NuCo, and interest at 5 percent on that amount, or $119,081, was included in Study XIX as a charge against unification.

[17] Based on tax rates as of January 1, 1967, of this total labor cost $5.28 million would be borne by NuCo, and interest at 5 percent on this amount, or $264,051 is included in Study XIX in lieu of the prior figure.

[18] In *Chesapeake & O. Ry. Co.–Control–Western Maryland Ry. Co.,* 328 I.C.C. 684, 715, we stated that attrition means that "no reduction in force of employees shall occur other than principally by death, retirement, discharge for cause or resignation." For simplicity, the phrase "attrition protection" or "attrition agreement" will be used to reflect this concept.

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working conditions, fringe benefits or rights and privileges pertaining thereto at any time during such employment. In addition, NuCo will assume and continue the employment relationship of employees on furlough or leave of absence. The agreement recognizes the right of NuCo to transfer work throughout the merged system and contemplates the consolidation and extension of seniority rosters and seniority districts, on an equitable basis, pursuant to implementing agreements providing for the use of employees and the allocation and rearrangement of forces. In lieu of the arbitration procedure prescribed by section 13 of the Washington Job Protection Agreement of 1936, disputes are to be settled by referral thereof to a Disputes Committee composed of one member from each party, and a neutral member to be selected by the parties, or in case of their disagreement by the National Mediation Board.

Under the agreements, "employees would receive guarantees and job assurances for the rest of their working lives * * *." As stated, applicants have indicated their willingness to enter into similar attrition agreements with all affected employees—both union represented and individual employees not represented by a union—whom we are required by law to consider when weighing the proposed transactions. All these employees then are free to enter into such separate agreements. After analyzing these agreements, we are convinced that the interests of carrier employees covered thereby will be adequately and fairly protected by the terms of these agreements. In fact, the protection thereby afforded, providing as it does job security as well as monetary benefits, could hardly have been achieved except for the merger. Under the terms of the last sentence of section 5(2)(f), the entering into such agreements takes from us the obligation of providing protection for employees covered thereby. As to them, therefore, we make no requirement for protection, but do find the agreement does not render the proposed transaction inconsistent with the public interest.

For any employees entitled to protection who do not enter into separate protective agreements, we must, under the first part of section 5(2)(f), provide a fair and equitable arrangement so that the transaction will not result in their being placed in a worse position with respect to their employment. Agreements of the character discussed above would provide the guaranteed benefits, and be fair and equitable. In the interest of uniformity and in view of applicants' willingness to extend attrition condi-

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tions to all employees, we require, as a condition to our approval of these transactions, the attrition conditions the same as set forth in the agreements mentioned above, be applied to all affected employees who have not entered into separate agreements. In order that all such employees shall be informed of the protection being hereby afforded, NuCo will within 30 days of the date of our order herein be required to disseminate to them the terms of the agreements already reached, informing them at the same time that they are being afforded such protection.

We believe that the effect of attrition protection for all employees of the merged system will tend toward greater efficiency and higher morale among the employees and will thereby promote the national transportation policy in the development and maintenance of an adequate and effective transportation system. Cf. *United States* v. *Lowden*, 308 U.S. 225, (1939). Additionally, we here conclude that the hardship on employees, which in the prior report prompted, in part, our denial of these applications, has been alleviated.

RAILROAD PROTECTION

It was found in the *prior report* that approval of the unification, subject to appropriate conditions, would not imperil the survival of any railroad operating in the territory involved. We reaffirm that finding here. Based on published 1960 data of the railroads concerned, applicants had estimated that diversions of traffic attributable to the unification, from NuCo to other railroads and from other railroads to NuCo, would have resulted in a loss of more than $9.6 million in revenues to the more than 3 dozen railroads, large and small, affected thereby. Giving effect to the protective conditions which he recommended, the examiner found that the gain in revenues by NuCo as a result of traffic diversions would have aggregated more than $3.2 million. Giving effect to the additional protective conditions deemed appropriate, the *prior report* found that the result would have been the loss by NuCo of more than $2.5 million in revenues, reflecting a net diversion to Milwaukee and North Western of more than $11.6 million and a net gain from other railroads of over $9.1 million. As viewed by the Commission and applicants at that time, the potential revenue loss attendant upon imposition of all of these protective conditions might have precluded consummation of the transactions even if approved.

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Applicants have since reappraised their position, and we, in the light of the evidence adduced at the further hearings, have reappraised ours. Succinctly stated, our prior finding that imposition of these conditions might preclude consummation is no longer valid.

Although in the *prior report* the Commission was sharply divided over the action taken on the unification proposal there was striking unanimity with respect to the need for protection for Milwaukee and North Western. Significantly, it was agreed that in any merger of the Northern Lines it would be necessary to include most but not all of the conditions that were sought by Milwaukee[19] and North Western.[20] In particular, it was clear that any approval of the proposed unification would require as a minimum the granting of Milwaukee conditions 1, 2, 3, and 5, and substantially all of North Western's conditions. Applicants had opposed those conditions in the belief that they were not necessary for the protection of those railroads, and that conditions to improve the position of applicants' competitors would be inappropriate in a section 5 proceeding. In view of the public interest criteria of section 5(2) and the goals of the national transportation policy there is no question of our power to improve the

[19] Summarized, they are:

1. Establishment of through routes and joint rates via the new gateways of Fargo and Linton, N. Dak.; Miles City, Judith Gap, Great Falls, Bozeman, Butte and Missoula, Mont.; and Spokane, Seattle and Tacoma, Wash., on all traffic interchanged at such junctions between NuCo and Milwaukee. (Bozeman has been substituted in lieu of Lombard, Mont., by agreement of the parties.)
2. Trackage rights for Milwaukee over NuCo's tracks between Longview Junction, Wash., and Portland, Oreg.
3. Trackage rights for Milwaukee over NuCo's tracks between Renton and Snohomish, Wash., and between Everett and Bellingham, Wash.
4. Extension of Milwaukee's service to Billings, Mont.
5. Elimination of dual basis of switching charges in effect west of Twin Cities.
6. Reestablishment of rate relationships affected by the merger.

[20] Summarized, they are:

1. Establishment of through routes and joint rates via the new gateway of Crawford, Nebr., on all traffic interchanged at such junction between NuCo and North Western.
2. Establishment of through routes and joint rates via the new gateway of Oakes, N. Dak., on all traffic interchanged at such junction between NuCo and North Western.
3. Improved interchange at Minneapolis, Minn., through operational conditions.
4. Cancellation of North Western rental obligations for tracks and facilities not used after unification and sale or lease of Union Yard trackage to North Western.
5. Improvement in North Western interchange at Head-of-the-Lakes, with Duluth, Winnipeg and Pacific Ry. Co. (DW&P).

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position of carriers affected by a proposed merger. Now, as a result of applicants' reappraisal, and subject to approval by their stockholders, applicants have agreed to accept all conditions that have been requested by the Milwaukee and North Western and considered appropriate by us. Under the standard routing conditions, agreeable to all railroad interveners, existing routes, gateways, traffic and operating relationships between applicants and these carriers would be preserved.

The effect of the Milwaukee and North Western conditions would be to strengthen the Milwaukee—both as to revenue potential and competitive posture. Milwaukee would receive all of the benefits that it has requested, including access to Billings, and North Western would also receive all the major benefits requested. Applicants have also accepted a condition which would require NuCo to "improve and expedite interchange of freight with the Milwaukee at the Twin Cities."

As modified by the conditions which we impose hereinafter, most of which were the subject of agreements between applicants and the railroad interveners, the proposed unification presents an entirely new perspective for intramodal competition in the efficient and economical movement of transcontinental, western and Pacific Coast traffic. That perspective portends for a stronger capability in those railroads individually and collectively to prosper and to effect numerous economies and efficiencies from which the public will benefit.

Western Pacific occupies a position which is similar in some respects to that of the Milwaukee. Its principal interest herein stems from its competitive position, vis-a-vis Southern Pacific, in connection with traffic moving between California and points in the Northwest (including traffic moving through California), which is interlined with the Northern Lines. Most of Northern Pacific's California traffic is interchanged with SP at Portland, and much of Great Northern's is interchanged with WP at Bieber. Some of the latter traffic is interchanged at Portland and Chemult with SP, but this interchange is limited by the fact that GN is shorthauled thereby. Under a stipulation with SP, NuCo would not insist upon its long haul via Bieber on southbound traffic, but would, in effect, compromise by replacing Portland and Chemult with Klamath Falls (located some 70 miles south of Chemult, to and from which GN operates over SP's tracks); on northbound traffic SP would endeavor to keep its long haul to Portland, but, in any event would carry the traffic at least as far as Klamath

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Falls. In these circumstances, WP, which obtains 20 percent of its total freight revenues from Bieber gateway traffic, and which originally contemplated reliance solely on the standard routing conditions, entered into its own stipulation with applicants so that it might retain its Bieber traffic rather than lose it to the new Klamath Falls gateway. In this way, WP would maintain for itself, for its connections, and for its patrons an equality of competitive circumstances. Santa Fe, which participates in this traffic, has also entered into a stipulation with applicants.

In our opinion, those aspects of the agreements between applicants and the various railroad interveners, which are basically the standard routing conditions tailored to the specific situations involved, represent the voluntary action of free parties, each looking to its reasonable interests and those of its patrons and markets.

In our opinion, these stipulations are indeed in the public interest and should be approved. The combination of the equalization of opportunities through the Bieber and Klamath Falls (or Chemult or Portland) gateways and the Milwaukee's Portland and Sumas-route (trackage rights) conditions, should aid the establishment of genuine rail competition on the Pacific Coast, to the great benefit of the shipping and consuming public. Only UP opposes Milwaukee's entry to Portland, basing its opposition on the forced sharing of the fruits of its investment in the Portland area. Outside of the stipulation, of course, we have no direct jurisdiction over UP in these proceedings; however, in the light of the agreements between applicants and the intervening railroads, upon Milwaukee's entry into Portland over NuCo's tracks other provisions of the law will apply to UP-Milwaukee relations there as connecting carriers.

UP estimates that its potential annual loss of revenue through diversion to the Milwaukee as a result of the latter's Portland entry would be $1.1 million. That is less than one-fourth of 1 percent of UP's system railway operating revenue. Diversion of that proportion would not significantly affect UP's ability to provide adequate service in its territory. However, we believe UP will be able to retain much of the vulnerable traffic. In this regard we have considered not only the strength and vigor of UP and the growth potential of the area, but also the fact that the addition of the Milwaukee as a competitor at Portland would be somewhat offset by the elimination of Northern Pacific and Great Northern

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as separate competitors. Certainly the slight loss of traffic that UP might sustain would neither have a deleterious effect on service to the public nor outweigh the many substantial public interest considerations which favor the Milwaukee's direct access to Portland. This Commission is not under a mandate to protect against all diversions in this kind of transaction; we are concerned with diversion only as it bears on the public interest.

Upon opening of the 11 gateways west of Twin Cities the Milwaukee would be in a position to close Twin Cities, which would particularly affect Soo. Our findings herein are conditioned to prevent this contingency.

We believe that the overall effect of the conditions imposed here will portend for a strong degree of intramodal rail competition in the affected territory, promote the effective development of improved transportation services to the shipping and receiving public, and comport generally with the purposes and objectives of the national transportation policy as declared in the act.

The "terms * * * conditions and * * * modifications" we find to be just and reasonable in connection with, and to which we make subject, our ultimate finding that the proposed mergers and lease are within the scope of section 5(2)(a) and will be consistent with the public interest are set forth in appendix L.

Other Issues

Certain additional matters merit attention. One is the issue of economic effect or impact of the unification on various communities in which, under the plan of operation of NuCo, there would be loss of job opportunities or tax revenues due to elimination or transfer of railroad facilities and services, and rerouting of traffic over the shortest or most economical routes of the combined railroad in lieu of the present routes over the separate applicants' lines. The impact upon employees and upon other railroads in the territory has already been discussed. The impact upon the communities themselves forms the basis for much of the opposition to the unification by such States as Minnesota and Washington, by such communities as Auburn, Sumner and Minneapolis, and by interests in such communities as Livingston, Spokane and Seattle. These economic disturbances affecting local governments and populations would be primarily in the nature of temporary dislocations. In many instances, the adverse effects would be off-

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set by positive benefits. The greatest impact, it appears, would result from the elimination in great part of the now substantial interchange at the Twin Cities between the Northern Lines and the Burlington, due to the single-line service which NuCo would offer between Chicago and the Pacific Northwest. The adverse effect would be magnified, it is alleged, by the opening to the Milwaukee of additional western gateways which would, in turn, eliminate additional interchange at the Twin Cities.

As indicated in our discussion of statutory criteria, the primary concern of this Commission herein is the development of an efficient and economical transportation system. Our particular area of responsibility is found in the Interstate Commerce Act, and while our consideration necessarily extends to other matters affecting the well-being of the several States and communities, we must look to the act for the standards governing unifications of this nature. The record does not show, moreover, that the transportation requirements or the well-being of these areas and communities would best be served by denial of these applications. To the contrary, the evidence does not indicate any long-range, serious adverse effect on them. In our view, these mergers, suitably conditioned, augur an era of increased railroad strength, both in intermodal and intramodal competitive aspects in the long run resulting in a benefit to, and not a burden on, communities in the northern tier States.

Much stress was placed during the earlier stages of these proceedings on the effect of the unification on motor carrier rights and operations now controlled by the individual applicants. Motor carrier rights held by GN and Burlington involve operations in unrelated and unconnected areas, and are restricted mostly to services which are auxiliary to or supplemental of rail service. Similarly, the routes of the motor carrier subsidiaries of GN, NP and Burlington traverse, for the most part, entirely different and unconnected geographic areas. It is thus clear that following the unification of applicants each subsidiary motor carrier would continue to operate its own equipment under its own authority and over its own routes, and that the proposed transactions would create no new motor carrier network. The only change would be in the ownership, NuCo in lieu of the individual applicants, and no adverse effect would be had on competing motor carriers.

We note that, in the interest of corporate simplification and to facilitate administration and regulation, the recommendation was

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made by the examiner that, after consummation of the transactions hereinafter approved, early consideration be given by NuCo, subject to the Commission's prior approval, to consolidation of all of the motor carrier operations into a single corporate entity, and to consolidation into similar corporate entities the different groups of subsidiary service companies control of which NuCo will acquire through the transactions. We concur with and adopt these recommendations, and the recommendation, similarly-made, that early consideration be given as well by NuCo to a finalization of the status of SP&S and other affiliated railroads by merger into the NuCo system.

One final comment is in order. Prior to the further hearings, no substantial objection was raised to the inclusion of the Burlington in the proposed merger. Such objection is now raised by Rio Grande. As previously indicated, proffered evidence relating to the alleged effect on Rio Grande of inclusion of the Burlington was rejected. However, on brief and at oral argument, it was made clear that Rio Grande's objections are based on the position taken by it that inclusion of the Burlington in the merger is not necessary to achieve the savings estimated from unification, that the Burlington is capable of being operated as a separate and independent carrier, that the maintenance of a separate and independent Burlington is necessary to carriers participating in the movement of traffic over the central transcontinental corridor, and that inclusion in the merger of the Burlington would result in substantial damage to Rio Grande.

Although Rio Grande made no timely offer of evidence on this issue during the earlier hearings, such evidence was introduced by others and the issue was considered by the examiner. The testimony of Wyer, for example, was to the effect that the great bulk of the estimated savings from unification are not possible without inclusion of the Burlington, and that, operationally, the Burlington, providing access to the great cities of the Midwest, is absolutely essential to the proposed system. There is no probative evidence on the other hand, of damage resulting therefrom to Rio Grande or any other railroad. The examiner concluded for these reasons and others set forth in his recommended report, that inclusion of the Burlington is necessary to the merger. We reach the same conclusion, not only for the reason that the Burlington, in our opinion, is necessary to the proposed system if it is to fully achieve the results for which it is being created, but also in order that the many shippers and receivers served by

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the Burlington may participate in the public benefits flowing from the unification.

On September 1, 1967, after the close of the further hearing, Rio Grande filed a petition seeking a hearing for the purpose of presenting evidence on the overall effects and cross effects of: (1) the proposed merger of the applicant carriers herein, (2) of the consolidation proposals in Finance Docket No. 22688, et al., *Chicago & Northwestern Railway Company—Control—Chicago, Rock Island & Pacific Railroad Company*, the *Rock Island* case, and (3) the consolidations proposed in Finance Docket No. 24182, et al., *Chicago, Milwaukee & North Western Transportation Company—Consolidation—Chicago & Northwestern Railway Company and Chicago, Milwaukee, St. Paul & Pacific Railroad Company*, the (CNW-Mil) proposal. The petitioner further seeks withholding of decisions in the above-mentioned cases until determination is made of the effects of these proposals. The applicants replied to the petition.

The Rio Grande request places in sharp perspective the important question of what will be the effect of our decision here upon the general railroad structure in the West generally in the event that other pending western rail unifications should later also warrant our approval. While we will not follow the course of action proposed by Rio Grande, we will herein provide an effective procedure by which that impact can later be measured and appropriately dealt with.

Although, as discussed earlier herein, this Commission is enjoined under the existing law to test each railroad merger application on its own record as advanced by its proponents, we are not restricted to a simple approval or denial of the specific proposal presented. This Commission has a broad and flexible power to relate the application to other pending proposals, to determine what modifications or conditions are necessary to protect the public interest, and to impose conditions necessitated by consummation of the transaction. As particularly relevant here, where a number of applications are presented in the same territory, the Commission is faced with various procedural alternatives: Should it move ahead with the processing of separate applications, should it consolidate them for handling at one time on a common record, or should it handle them on separate records deciding them concurrently in light of one another? A key consideration in weighing these alternatives is the question of how best to protect the public and competing rail carriers caught up in the merger movement who may not be materially

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injured by consequences of one merger but who could sustain serious injury from the cumulative effect of a second or third merger in combination with the first.

As to whether the Western railroad realignment should be handled on a consolidated record or on an ad hoc basis, we have consistently adhered to the latter approach. Our experience makes it clear that a consolidation of the records of these cases would have been unworkable. On the other hand, were we to process each case separately but withhold final decisions until the last proceeding would be ripe for decision, the carrier interests and the public interest would be caught in a treadmill of litigation.

Consequently we have chosen to test each transaction and its probable impact from the standpoint of events reasonably forseeable at the time of decision. Obviously, this procedure may present problems—namely: (1) the fact that some parties, though not seriously affected by any one transaction standing alone, could face adverse consequences from the cumulative effects of a second or third merger; or (2) subsequent approval of the second or third merger, could require adjustments which, in the first case, would have been imposed had the three proceedings been decided simultaneously.

In this respect, Denver & Rio Grande in its pending petition has requested this Commission to institute a separate proceeding at this stage to test out the cumulative and cross-effects of the three basic Western unification proposals (those in the *Rock Island, C&NW-Milwaukee,* and *Northern Lines* proceedings) actively pending before this Commission. The objective would be not only to obtain conditions or adjustments which approval of all or some of these transactions may warrant, but also to pursue its arguments that none or only some of them be approved. Accepting Rio Grande's premise would amount to a de facto consolidation of all proceedings without any apparent benefit to be derived by the public. Such a step would place a new and formidable impediment in the path of the entire merger movement in the West despite the public benefit to be derived from soundly conceived rail unifications.

We recognize the possibility, however, that after later decisions are reached in other western railroad unification proceedings, some modification or adjustment may be necessary for the benefit of Rio Grande or others. The Commission therefore reserves jurisdiction for a period of 5 years following consummation of the transactions herein authorized to impose such just and reasonable conditions upon petition by any party in interest, or

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on its own motion, after hearing, as may be necessitated by any cumulative or crossover problems stemming from approval of this merger and any other transaction authorized under section 5 with respect to the territory involved. *Baltimore & O. R. Co.* v. *United States*, 386 U.S. 372, 387 (1967). This reservation of jurisdiction, of course, contemplates only the imposition of such conditions as would not render these transactions inconsistent with the public interest. Solely by way of example, a condition subsequently imposed herein might include the requirement of a grant of trackage rights by the merged company to another railroad or railroads in the territory involved to alleviate any competitive impact caused by this transaction or the transactions which may be authorized under section 5 in the *Rock Island* or *Milwaukee* cases. The Commission shall also retain jurisdiction over these proceedings for a like period of 5 years for the purpose, among others, of considering petitions, under section 5(2)(d) of the act, by any railroad in the territory involved requesting inclusion in the merger so authorized. Matters arising under these reservations of jurisdiction will be handled expeditiously. Consummation of the transactions herein authorized shall constitute irrevocable assent by applicants to the Commission's reservation of power to impose, after hearing, such just and reasonable conditions as may be necessary or appropriate. (See condition 33).

SUMMARY

We have in this report viewed this proceeding not only in the light of the statutory criteria relative to this case, but also considered it within the larger context of the western rail merger picture. We cannot isolate our actions herein from these developments, but intend this decision to be a beginning step in the orderly resolution of what has become a highly involuted situation affecting many railroads throughout the territory.

The result in the prior report was the product of a weighing of three factors: a lessening of competition as between GN and NP; an adverse effect upon employees; and the benefits to be derived by applicants and the shipping public. Specifically, the Commission put the question as follows:

> *** we must decide whether the disadvantages of a substantial lessening of competition, coupled with the adverse effect on carrier employees, outweigh the advantages that would be derived by applicants and by the shipping public. 328 I.C.C. at 522.

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On reconsideration of these factors, based upon the entire record—including the material adduced at the limited further hearing—we now reach a different conclusion. The concern expressed in the prior report as to employee hardship has been relieved by the attrition conditions imposed and agreed to. The speculation that imposition of conditions for the benefit of Milwaukee and NW might actually preclude consummation has been set to rest by the agreements accepting those conditions. The preservation of competition between the Northern Lines in the four northern tier States, which was a dominant factor in the prior decision, we now view in a different perspective and do not see it as an invincible impediment to this merger. Like the many shippers who support the applicants and who do business in the said States, and like the numerous States, State and Federal agencies, communities and shipper groups which have dropped their opposition and now favor the merger, we see this transaction as a means for achieving, through appropriate conditions, overriding benefits to the public through improved transportation. Broadening the focus of our appraisal to the area relevant to trancontinental traffic and other interterritory considerations, and reweighing the facts pertaining to the ever-increasing intermodal competition, have made it apparent that this merger can lead to the creation of meaningful rail competition through strengthening the Milwaukee and the NW, as well as making the combined applicants a more proficient transport agency. Viewing the considerations anew, we conclude that the proposals, with requisite conditions, are entirely consistent with the public interest.

ULTIMATE FINDINGS

Any increase in total fixed charges or guaranty or assumption of payment of dividends or fixed charges resulting from the unification will not be inconsistent with the public interest. Provision has been made for the protection of the traffic of other carriers and no other railroad has requested to be included in the unification. Conditions have been imposed for the protection of railway employees who may be adversely affected and adequate transportation service to the public will be assured by the unification. As conditioned herein, the various transactions under consideration meet the requirements prescribed by sections 5(2) and 20a and b of the act, and conform generally with the purposes and objectives of the national transportation policy declared by Congress. We are convinced the transactions should be approved.

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Any contentions and arguments not specifically discussed herein have been considered and found without material significance.

On reconsideration we find (1) in Finance Docket No. 21478 that, subject to the terms and conditions set forth in appendix L herein found just and reasonable (a) merger of the properties and franchises, including motor carrier operating rights, of Great Northern Railway Company, Northern Pacific Railway Company, Pacific Coast R. R. Co., and Chicago, Burlington & Quincy Railroad Company, into the Great Northern Pacific & Burlington Lines, Inc., for ownership, management and operation; (b) acquisition by Great Northern Pacific & Burlington Lines, Inc., of sole or joint control of carriers (including motor carriers) subsidiary to or affiliated with the merged carriers, through stock ownership or otherwise, and of all leasehold, trackage and joint use and joint ownership rights in any railroad line or lines and terminals incident thereto possessed by the merging companies; (c) lease by Great Northern Pacific & Burlington Lines, Inc., of the lines of railroad and other properties owned, used, or operated by Spokane, Portland and Seattle Railway Company, for a period of 10 years and through the terms of said lease acquisition by the Great Northern Pacific and Burlington Lines, Inc., of sole or joint control of carriers subsidiary to or affiliated with the lessor and of all leasehold trackage, joint use and/or joint ownership rights in any railroad line or lines and terminals incident thereto held by lessor, are transactions within the scope of section 5(2) of the Interstate Commerce Act, will be consistent with the public interest, will enable the Great Northern Pacific and Burlington Lines, Inc., as in the case of its predecessors in interest, to use service by motor vehicle to public advantage in its rail operations, and will not unduly restrain competition: (2) in Finance Docket No. 21479, that (a) the proposed issuance by Chicago, Burlington & Quincy Railroad-Company of not exceeding $70 million principal amount of its first and refunding 4-percent bonds, due August 1, 2010, (b) issuance by the Great Northern Pacific and Burlington Lines, Inc., not exceeding 17.5 million shares of common capital stock, without par value and of not exceeding 3,102,333 shares of preferred stock, par value $10 each, and not exceeding $71,500,000 principal amount Series A Consolidated Mortgage 4-percent bonds, due October 1, 1984; (c) assumption by the Great Northern Pacific & Burlington Lines, Inc., of the obligations and liabilities of the Great Northern Rail-

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way Company, Northern Pacific Railway Company, Pacific Coast R. R. Co. and the Chicago, Burlington & Quincy Railroad Company and companies subsidiary to or affiliated with them, including obligations contingently guaranteed solely by them or jointly with other guarantors, and, during the term of the lease of the Spokane, Portland and Seattle Railway Company, the obligations and liabilities of the lessor and companies subsidiary to or affiliated with said lessor, including obligations contingently guaranteed solely by the lessor or jointly with others; and (d) the pledge by Great Northern Pacific & Burlington Lines, Inc., of $71,500,000 principal amount of its Series A, Consolidated Mortgage 4-percent Bonds, due October 1, 1984, as collateral security under Northern Pacific Collateral Trust Indenture; and the modification by the Great Northern Pacific & Burlington Line, Inc., of the status of the Northern Pacific Railway Collateral Trust Bonds through a supplemental indenture, all for the purposes set forth herein in connection with the transactions authorized in Finance Docket No. 21478, (a) are for lawful objects within the applicants' corporate purposes, and compatible with the public interest, are necessary and appropriate for and consistent with the performance of service to the public as common carriers and will not impair their ability to perform that service, and (b) are reasonably necessary and appropriate for such purpose, and should be authorized herein: and the modification and alteration of the status of Northern Pacific Collateral Trust Bonds through a supplemental indenture thereto providing for assumption of Northern Pacific Railway Company's obligations under the Northern Pacific Collateral Trust Indenture, proposed substitution of collateral for the elimination of certain provisions of the Collateral Trust Indenture relating to substitution of collateral, and for grant of a right to the holders of the Collateral Trust Bonds to direct the manner of voting the pledged Series A Consolidated Mortgage bonds, is just and reasonable, and (a) within the scope of paragraph 1 of section 20b of the Interstate Commerce Act, (b) will be in the public interest, (c) will be in the best interest of applicants, of each class of stockholders and of holders of each class of obligations affected by such modification or alteration, and (d) will not be adverse to the interest of any creditor of applicants not affected by such modification or alteration: (3) in Finance Docket No. 21480, that the present and future public convenience and necessity (a) require construction and operation by Great Northern Pacific

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& Burlington Lines, Inc., of connecting lines of railroad in Douglas County, Wis., Pine, Stearns, Wadena, Wilkin, Clay, and Polk Counties, Minn., Cass and Grand Forks Counties, N. Dak., Lewis and Clark County, Mont., Bonner County, Idaho, Spokane, Whitman and King Counties, Wash., and Multnomah County, Oreg., as set forth in appendix J hereto and; (b) permit abandonment by Great Northern Pacific & Burlington Lines, Inc., of portions of the lines of railroad of Great Northern Railway Company in Clay County, Minn., and Lewis and Clark County, Mont., and Spokane County, Wash.; and of portions of the lines of railroad of Northern Pacific Railway Company in Wilkin County, Minn., and Spokane County, Wash.; and (c) by Spokane, Portland and Seattle Railway Company, as lessor, in Spokane County, Wash., as set forth in appendix K hereto.

An appropriate order will be entered.

VICE CHAIRMAN TIERNEY, dissenting:

In permitting consummation of this merger, the Commission has tossed away a golden opportunity to exercise meaningful control over the pending western merger proceedings.[1] The majority's action, if left unchecked by the courts, will restrict our alternatives in the pending proceedings—perhaps, confine us to a "Hobson's choice."

In my judgment, the decision reached herein should be "tentative" until we decide the other major western railroad merger proceedings, at the very least, the *C&NW–Milwaukee* proceeding. This, along with the utilization of conditions precedent, hereinafter discussed, would give us effective continuing control over these western rail mergers.

I recognize that this innovative procedural device precludes immediate consummation of the involved merger, thus postponing realization of some benefits to be achieved through consolidation rather than cooperation. However, the entering of a final order may force some parties, whose interests could well be satisfied in either the *C&NW–Milwaukee* or the *Rock Island* proceedings, to perhaps needlessly challenge this order, thus also delaying consummation of this merger.

In addition to the time, effort, and money which the use of a "tentative" decision would save for all parties and the Commis-

[1]Finance Docket No. 24182, et al., Chicago, Milwaukee and North Western Transportation Company–Consolidation–Chicago & North Western Railway Company and Chicago, Milwaukee, St. Paul & Pacific Railroad Company (*C&NW–Milwaukee*); and Finance Docket No. 22688, et al., Chicago & North Western Railway Company–Control–Chicago, Rock Island & Pacific Railroad Company (*Rock Island*).

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sion, such an approach (1) would enable us to view the general railroad restructuring in the West in a sharper and more realistic perspective; (2) would inform all parties of our views with each "tentative" decision in the western realignment; (3) would allow us, after separate or consolidated proceedings—if such proceedings were necessary—to provide appropriate relief from the adverse cumulative and cross effects of a second or third merger in combination with the first—before the initial merger is firmly cemented; and (4) could be used to insure that effective rail competition remained in the northern and central corridors after consummation of any merger. Lastly, if and when our final orders are challenged, the courts would gain a *total*, as opposed to a *fragmented*, picture of our considerations in the western railroad mergers. Under the majority's approach, the courts and the parties are left to speculation. As the Supreme Court has emphasized repeatedly "We must know what a decision means before the duty becomes ours to say whether it is right or wrong." *United States* v. *Chicago, M., St. P. & P. R. Co.*, 294 U.S. 499, 511.

At the present, we have only a partial picture of the eventual western railroad structure. In my judgment, until the total plan is before us it is impossible to reach a final decision in the public interest. Under section 5(2)(c) of the act, we are required to consider, among other things, "the effect upon the public interest of the inclusion, or failure to include, other railroads in the territory involved in the proposed transaction." The majority, in attaching the conditions subsequent, recognizes our lack of knowledge of what adverse cumulative and cross effects the approval of the second and third mergers in combination with this merger might have upon the public interest and upon other rail carriers within the involved territory. Geographically, this territory stretches from the Pacific Ocean to the Great Lakes. Because of such a vast expanse of territory the term, "* * *other railroads in the territory involved * * *," in sections 5(2)(c) and (d) takes on added significance. In *McLean Trucking Co.* v. *United States*, 321 U. S. 67, 87, the Supreme Court stated that we have the duty "to consider the effect of the merger on competitors and on the general competitive situation in the industry in light of the objectives of the national transportation policy." Those required statutory findings cannot be made with finality until the other merger proceedings are before us.

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By the broad reservation of jurisdiction, the majority recognizes the close interrelationship between this proceeding and the other pending western merger cases. Postponing action in that fashion, however, entails an unnecessary risk of having the courts either (1) remand this proceeding for consideration in conjunction with the other merger proceedings or (2) affirm our order, but strike down some of the conditions imposed after consummation of the merger.[2] At this stage of the western rail merger proceedings, we do not know the identity of the parties who may be adversely affected or the precise relief required to make the transaction consistent with the public interest. Moreover, we have no assurance at this time that we can draft conditions subsequent in the public interest which also will be equitable and acceptable to all parties concerned. Experience indicates that when consummation is permitted, there is little likelihood of enthusiastic acceptance of later imposed conditions. Furthermore, should a court, pursuant to applicants' urgings, strike down any condition subsequent as being inequitable or otherwise unacceptable, the merger stands—albeit stripped of the objectionable condition.

Past merger cases demonstrate that conditions required as a prerequisite to consummation are excellent administrative tools. In *Norfolk & W. Ry. Co. and New York, C. & St. L. R. Co. Merger*, 324 I.C.C. 1, we made the divestiture by the Pennsylvania Railroad of its holdings in Norfolk and Western Railway a condition of our approval. In *Pennsylvania R. Co.—Merger—New York Central R. Co.*, 327 I.C.C. 475, the Pennsylvania Railroad readily agreed to sell the Lehigh Valley to the Chesapeake and Ohio—Baltimore & Ohio Railroads, following a recommendation of the hearing examiners that such a sale should be required if it were later found to be in the public interest in order to assure New York City an additional competitive line. Further, Penn-Central acceded to taking over the passenger as well as the freight business of the New Haven Railroad. Contrast such uncontested acceptance with one example of a condition subsequent whereby the Norfolk and Western Railway was allowed to consummate its merger with the Nickel Plate several years ago, but it is still contesting the inclusion of the Erie Lackawanna Railroad, Delaware and Hudson Railroad, and the Boston and Maine Corporation into its system.

[2]Hereinafter, this type of condition will be referred to as a condition subsequent as distinguished from the condition precedent, or sometimes called a condition prerequisite, a condition which is specified by us, accepted by the pertinent parties, and complied with—*prior* to the consummation of the merger.

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If, however, we issue only "tentative" decisions before any merger is consummated, we can determine which parties may be adversely affected by the cumulative or cross-problems stemming from the combination of mergers and we can readily devise appropriate relief which might otherwise be litigated for years. Then, if some of the conditions precedent are unsatisfactory or even highly objectionable to applicants, they cannot consummate the merger and disavow the conditions. In such a situation the applicants, if they desire to consummate the conditioned merger, would undoubtedly hasten to advise us how, in their opinion, the same conditions could be equitably imposed, or the same ends accomplished—consistent with the public interest. This also would have the benefit of giving applicants a clear picture of what conditions are to be imposed on them rather than risking consummating the merger with no idea of what may additionally be imposed on them in the future.

I do not disagree that we have power to add on conditions after a merger has been consummated, given appropriate circumstances. My point is that it is easier for the agency and fairer to applicants and others to impose the conditions at the beginning. The other alternative would be for them to refrain from judicially challenging such conditions precedent. We have already witnessed a demonstration by applicants of their willingness to accept conditions which initially were thought by them to be inequitable and inappropriate—i.e., the Milwaukee and North Western conditions.

Because of our limited funds and the shortage of personnel experienced in the merger field, this Commission should utilize every possible administrative device which enlists or insures the maximum constructive cooperation on the part of all western rail carriers, especially from the applicants to be merged, rather than adopting procedures which places a premium on applicants' judicially contesting conditions which may be specified and imposed long after the merger has been consummated.

Although individual final reports were issued in each of the three northeastern rail consolidation proceedings, we were presented there with problems involving some financially weak rail carriers and other problems of a pressing nature. In the western merger picture, however, since there are none of those pressing problems, nor any policy, Commission or otherwise, demanding individual final reports seriatim, we should correlate these proceedings, thus insuring that all factors have been adequately considered and that the restructuring of the western railroads is in furtherance of the national transportation policy.

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Section 17(3) of the act authorizes us to conduct our "proceedings under any provision of law in such manner as will best conduce to the proper dispatch of business and to the ends of justice." We have often recognized that we have the power, in appropriate circumstances, either to consolidate proceedings in which the issues are similar or closely related, or to postpone a particular decision when so required by the public interest. Likewise, we can coordinate separate proceedings when necessary to secure the best possible results. I am not advocating a moratorium on mergers; nor am I here insisting on a consolidation of all pending western merger proceedings. I would merely withhold entry of the statutory findings and the final order, labeling the decision "tentative." In my judgment, following this approach would place us in a better position to carry out our statutory functions. The other railroads in the involved territory would be more assured of proper protection—perhaps, better protection also. Certainly, the cooperation of all of the western rail applicants in the final disposition of these proceedings would be greatly enhanced.

Turning now to the merits of the case, I am concerned with the effectiveness of the competition remaining in the northern corridor. Presently we have two large and relatively strong rail carriers and one relatively weak carrier in this corridor; and now with the majority's action there will be one very large and financially strong rail system and one relatively weak carrier. The Milwaukee conditions will inject much needed vitality into that carrier; but on the evidence before us, I am unable to conclude that this railroad, absent further strengthening, will be a viable competitor of the merged applicants.

Our attention has been called to the fact that this competitive deficiency is being emphasized by the Milwaukee officials in the *C&NW—Milwaukee* proceeding and that the Milwaukee conditions imposed here are being described therein as a "wash." The majority considers this a "collateral" attack and as being "unpersuasive," "too broad," and "not clearly established by the whole of the testimony." I cannot agree. That record is not before us. In fact, the hearings are still being conducted.

In the past, evidence of competitive impact has been withheld only to appear in a later proceeding in the form of evidence that the railroad adversely affected by the first merger must be permitted to merge with another railroad in order to protect

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itself. In my judgment, we have the duty to examine that evidence in support of the second merger before disposing with finality the first merger proposal, especially when it is obvious that the various aspects of the two proposals are interrelated.

It is not my intent to deprecate the value of the Milwaukee conditions to the Milwaukee, for it is apparent that without these conditions the Milwaukee would not be an effective transcontinental competitor. This would be true even if its application in the *C&NW–Milwaukee* proceeding is successful. At the same time, however, exaggerated importance should not be attached to such conditions. In my view, the merged applicants, with their huge combined capital investments and superior solicitation forces, among other things, can undoubtedly minimize the competitive impact of the Milwaukee conditions.

In summary, the point of my departure with the majority on the merits of these proceedings centers on their conclusion that the Milwaukee will be an effective competitor in the northern corridor. On the basis of the partial picture presently before us, in my judgment, a decision on that issue cannot be reached. Only after the evidence in the *C&NW–Milwaukee* proceeding is properly before us will we be able to make that determination. Only in the foregoing manner can the necessary direction and control of these proceedings be retained by the agency statutorily charged with the responsibility for rail mergers.

COMMISSIONER BROWN, dissenting:

I do not agree with the majority that the proposed transactions are shown to be consistent with the public interest. Reconsidering the matter at this time, after a rather limited further hearing, I am still not convinced that this merger should be approved. Applicants admittedly have entered into job protective agreements with various labor representatives which will adequately protect the interests of the railroad employees affected. Aside from this factor, which does not constitute grounds for approval of this unification, it is my opinion that the evidence has not changed materially from that previously considered.

While applicants updated their estimated savings from the proposed consolidation at the further hearing, they made no thorough studies in several of the areas where they anticipated realizing a large part of their estimated savings. In the absence of such studies, it is my opinion that applicants have failed to prove their case in this respect and, accordingly, I still believe

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that the estimated savings will be more in the neighborhood of that shown in the prior report and much less than that relied upon by the majority herein.

The other salient factor to be reconsidered is the fact that applicants have now agreed to open up a number of gateways to the Milwaukee and North Western and it is apparent that this was done to get these carriers to withdraw their objections to this merger. Similar situations occurred in other merger cases and, needless to say, it was necessary for this Commission to go beyond such agreements in order to properly decide those cases, as we are clearly required to do under the statutory criteria enunciated by Congress. On the basis of the record herein, I do not believe that these agreements will make the present Milwaukee an effective competitor of the merged Northern Lines. Therefore, if these transactions are approved, we will have a single railroad composed of the Great Northern, Northern Pacific, and Burlington, which are large, strong, and prosperous railroads, on the one hand, competing against the much weaker Milwaukee on the other. The opening of the gateways, and other conditions agreed to by these applicants, will not change the fact that there will still be a drastic lessening of competition, due primarily to the fact that the Northern Lines constitute either the majority or the only lines serving many of the points. I, therefore, do not believe that applicants have met their burden of showing that this merger will be in the public interest.

In approving the proposed transactions, the majority relies on reserving jurisdiction for a period of 5 years in two respects (1) for imposing such just and reasonable conditions as may be found necessary because of problems stemming from approval of this merger or any other merger, such as the *Rock Island* and *Milwaukee* cases, and (2) for the purpose of considering petitions by any railroad seeking inclusion in the merger authorized herein. It would appear to me that an approval of this type leaves more work to be done than has been accomplished thus far. In addition, even though the Rio Grande has taken the position that it will be affected by the inclusion of the Burlington and that there is no pressing need to include that railroad at this time, the above conditions apparently are designed to take care of this problem some time subsequent to the approval of this merger. Viewing this matter from another angle, it appears to me that the roof of

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the building has been completed and that the foundation and side walls will now have to be constructed.

COMMISSIONER HARDIN did not participate.

APPENDIX A

THE MAJOR PROPOSALS

The Northern Lines merger.–Pursuant to the terms of an agreement of merger dated January 26, 1961, between New Company and its directors, Great Northern and a majority of its directors, Northern Pacific and a majority of its directors, and Pacific Coast and a majority of its directors, and as approved by appropriate resolutions adopted by the boards of directors of New Company, Great Northern, and Northern Pacific on January 26, 1961, and by the board of directors of Pacific Coast on February 6, 1961, and by appropriate resolutions adopted by stockholders at meetings held by them, by affirmative vote of 73.81 percent (4,422,600 shares) of the outstanding shares of capital stock (6.64 percent, or 397,949 shares, voting against the proposals) of Northern Pacific on April 27, 1961, by affirmative vote of 81.03 percent (4,929,931 shares) of the outstanding shares of capital stock (0.17 percent or 10,491 shares, voting against the proposals) of Great Northern on May 11, 1961, by affirmative vote of 100 percent of the outstanding shares of capital stock of New Company on May 11, 1961, Great Northern, Northern Pacific, and Pacific Coast would be merged into New Company.***

New Company would continue after the Northern Lines merger is effected as the surviving company, a Delaware corporation, exclusively. Its authorized capital stock would, on the Northern Lines merger date, be reclassified and increased from 200 shares without par value to 3,102,333 shares of preferred stock, par value $10 each, and 17,500,000 shares of common stock, no par value, and the outstanding shares of capital stock of Great Northern and Northern Pacific would be converted under the Northern Lines merger into capital stock of the New Company, as follows: (a) each share of capital stock of Great Northern outstanding in the hands of the public immediately prior to the Northern Lines merger date would be converted into one share of common

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stock and one-half share of preferred stock of the New Company, and (b) each share of capital stock of Northern Pacific outstanding in the hands of the public immediately prior to the Northern Lines merger date would be converted into one share of common stock of the New Company.***

* * * * * * *

The Northern Lines merger agreement further provides that upon the effective date of the Northern Lines merger, New Company would become possessed of all the rights, privileges, powers, and franchises (except any franchise to be a corporation of any State other than the State of Delaware), would be subject to all the restrictions, disabilities and duties of the constituent corporations, and all and singular, the rights, privileges, powers and franchises of each of them, and all properties and all debts due any of them would be vested in the New Company and would be thereafter as effectually the property of New Company as such were formerly the property of any of the constituent corporations and without further act or deed New Company would succeed to title to the real estate interests of each company, would be responsible and liable for all the debts, liabilities and duties of the constituent corporations and would be substituted in their stead as the party of interest in any existing claims or actions by or against either of the constituent corporations, assume all obligations and liabilities of Great Northern and Northern Pacific in respect of securities outstanding; and rights of creditors and all liens upon properties of any of constituent corporations would be preserved unimpaired and all debts and liabilities of constituent corporations would attach to New Company and may be enforced against it to the same extent as if incurred by it. New Company would assume all contracts, mortgages, deeds of trust and indentures made by Northern Pacific, Great Northern, or Pacific Coast or their predecessors and other supplements and amendments thereto and all bonds and other obligations secured thereby.

The Northern Lines merger agreement further provides that neither Northern Pacific nor Great Northern, without the consent of the other, shall, prior to merger date of the termination of the agreement (a) declare dividends in excess of $2.60 per share per annum in the case of Northern Pacific, and $3 per share per annum in the case of Great Northern, or declare any stock dividend or make any other distribution on its capital stock, or make any purchase thereof at a price in excess of the then current market price; (b) issue or sell any shares of its authorized but unissued capital stock (except that Northern Pacific may issue shares to satisfy restricted stock options outstanding as of July 15, 1960) or any security convertible into capital stock, or issue or grant any option or warrant to purchase capital stock except those issued or granted pursuant to its restricted stock option plan in effect on January 26, 1961, each to have at Northern Lines merger date in its treasury shares of its own stock at least equal in number to the number of shares then optioned under its plan, except in the case of Northern Pacific, shares optioned on or before July 15, 1960; or (c) sell any of its treasury stock except to satisfy restricted stock options.

The Northern Lines merger agreement further provides that New Company will take such action as may be appropriate so that after the Northern Lines

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merger date (a) holders of option agreements entered into pursuant to the Northern Pacific restricted stock option plan shall be entitled to purchase one share of New Company common stock for each share of Northern Pacific stock subject to such option agreements, for the same price and upon the same terms and conditions stated in such option agreements, and (b) holders of warrants issued pursuant to Great Northern restricted stock option plan shall be entitled to purchase one share of New Company common stock and one-half share of New Company preferred stock (or such other number of shares of such common stock or preferred stock or both or on such terms as shall be required to avoid modification of the options within the meaning of the Internal Revenue Code) for each share of Great Northern stock subject to such warrants, for the same aggregate price and upon the same terms and conditions (subject to appropriate provision with respect to fractional shares and except as such terms and conditions may be altered avoid modification of the options as aforesaid) stated in such warrants. It further provides that following the Northern Lines merger date no options would be granted under the Northern Pacific restricted stock option plan or the Great Northern stock option plan.

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Pursuant to resolution adopted at a meeting of holders of more than two-thirds of the principal amount of bonds outstanding under Northern Pacific collateral trust indenture, dated October 1, 1954, held April 20, 1961, there was approved an amendment of the indenture to be effected by a supplemental indenture permitting the substitution of New Company's consolidated mortgage 4-percent bonds, series A, due 1984, for Northern Pacific refunding and improvement mortgage bonds, series E, due July 1, 2047, as collateral security thereunder, and the elimination of certain sections of the collateral trust indenture.

The Northern Lines merger agreement is in conventional form to effect a statutory merger under Delaware law. In the statutory merger, the surviving company, here New Company, a party to the agreement and an applicant, organized in Delaware to become the surviving corporation in the unification, now a subsidiary of Great Northern and Northern Pacific would remain so until the Northern Lines merger is effected, whereupon it would by operation of law become the corporate successor of Great Northern, Northern Pacific and Pacific Coast, which would cease to exist as separate corporations, would issue its stock for the assets, properties and franchises of the companies being liquidated and assume all of their obligations.***

The Burlington merger.–Pursuant to the terms of another agreement of merger also dated January 26, 1961, entered into between New Company and its directors and Burlington and a majority of its directors, as approved by appropriate resolutions of their respective boards of directors on January 26, 1961, and as approved by appropriate resolutions adopted by stockholders at meetings held by them, by affirmative vote of 100 percent of the outstanding shares of capital stock of New Company on May 11, 1961, and by affirmative vote of 99.5 percent (1,700,463 shares) of the outstanding shares of capital stock (0.02 percent or 310 shares voting against the proposal) of Burlington on May 3, 1961, Burlington would be merged into New Company.***

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New Company would continue after the merger as the surviving company, a Delaware corporation exclusively. Its authorized capital stock on the Burlington merger date, as on the Northern Lines merger date, would be 3,102,333 shares of preferred stock, par value $10 each, and 17,500,000 shares of common stock, no par value, and the outstanding shares of capital stock of Burlington in the hands of the public would be converted under the Burlington merger agreement into capital stock of New Company, as follows: each share of stock of Burlington outstanding immediately prior to the Burlington merger date (other than such shares as are then owned by New Company) would be converted into three and one-quarter shares of common stock of the New Company. All shares of the capital stock of Burlington owned by New Company and any treasury shares of Burlington would be retired and canceled and no shares of capital stock or other securities of New Company would be issued in respect thereof, and the separate corporate existence of Burlington would be terminated on the Burlington merger date.

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The Burlington merger agreement contains similar provisions in respect of merging of assets and assumption of liabilities of Burlington into New Company on the Burlington merger date as previously described under the Northern Lines merger.

The Burlington merger agreement further provides (1) that after the Northern Lines merger agreement shall become effective, Burlington will, subject to necessary approvals of regulatory authorities, sell to New Company $70 million principal amount of its first and refunding mortgage series of 2010 4-percent bonds, to be issued under and pursuant to Burlington's first and refunding mortgage dated February 1, 1921, at a price in cash of $70 million, plus accrued interest (if any) on such bonds to date of sale, such sale to be made prior to the merger date as New Company may appoint but not before the effectiveness of the merger provided for in the Northern Lines merger agreement, and such sale by Burlington would be a condition to the obligation of New Company to consummate the Burlington merger agreement, and (2) that New Company would purchase such bonds and immediately thereupon pledge same under New Company's new consolidated mortgage to be executed and delivered to it, subsequently discussed herein with more particularity. In that connection, in the event of merger, the $17,632,000 principal amount of Northern Pacific refunding and improvement bonds series A would be redeemed and canceled.

* * * * * * *

The SP&S lease.—Under the terms of a proposed indenture of lease, between SP&S and New Company, which was approved by the boards of directors of Great Northern, Northern Pacific and New Company on January 26, 1961, and by the board of trustees of SP&S on February 7, 1961, and by appropriate resolution adopted by the stockholders of New Company at a meeting held May 11, 1961, and by appropriate resolution adopted by the stockholders of SP&S on May 10, 1961, SP&S would lease all of its properties and assets, including investments, current assets and after-acquired property to New Company for a term of 10

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years from and after the effective date of the lease, except SP&S's franchises to be a corporation and its corporate books and records, to the extent required for its proper performance of the terms and conditions of the lease, such lease of properties and assets subject to (a) lien of SP&S first mortgage, dated March 1, 1911, and all amendments and supplements thereto and extensions thereof, and the lien of any other mortgage or mortgages which may, with the written consent of the lessee, be placed on the lease property on any part thereof, in replacement of the said first mortgage, after the effective date of the lease; (b) the lien of SP&S's equipment trust and conditional sale agreements specified in the lease; and (c) all other mortgages, trusts and other encumbrances upon affecting the demised premises existing on the effective date of the lease or thereafter created or entered into by SP&S with the consent of lessee.

The lease indenture further provides that lessee would pay as rent for the lease: (a) all obligations reasonably incurred by lessor to preserve the franchises and corporate existence of lessor; (b) all taxes, assessments, and other governmental charges (with right of reimbursement from lessor for those chargeable to capital account) lawfully levied or assessed against the leased property or the earnings or income thereof, or against the lessor or the lessor's interest in the lease or the income received by lessor, or paid for its account, under the lease; (c) all rental and other charges (with right of reimbursement from the lessor for those chargeable to capital account) for which lessor may be liable in respect of trackage and other rights included in the leased property or acquired by the lessor with the approval of the lessee; (d) all interest, including current amortization of discount and expense, accruing on bonds, notes or other obligations in respect of which the lessor is liable, except such obligations as are owned by the lessee or its successors or nominees; and (e) amounts payable as pension benefits under the lessor's existing pension plan to persons, and widows of such persons, on or entitled to be on its pension rolls on the effective date of the lease.

Additionally, lessee would pay, or account for amounts equal to deductions or similar allowances which would pay, or account for amounts equal to deductions or similar allowance which lessee is entitled to claim for each calendar year under the Internal Revenue Code for depreciation, depletion or amortization in respect of the leased property, for retirement or abandonment of depreciable, depletable or amortizable property constituting part of the leased property solely on account of casualty, obsolescence, or other cause not adequately provided for in determining the rates of depreciation, depletion or amortization, and for retirement or abandonment of nondepreciable leased property.

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The lease indenture further provides that lessee would be obligated to operate and maintain the leased property at its own expense, and to perform all covenants, terms, and conditions to be performed by the lessor under any lease, trackage or other agreement, mortgage, indenture or other instrument in force at the lease date or thereafter entered into by lessor with approval of lessee. Lessee would also be obligated to pay for the account of lessor, with right of reimbursement, all liabilities arising out of lessor's operation of the leased

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property prior to the lease date and the principal when due on all bonds, notes and other obligations or evidences of indebtedness in respect of which lessor is liable other than those held by lessee.

The lease indenture further provides that lessee may, for the account of lessor with right of reimbursement, add to, better improve or extend the leased property, and acquire other property, of whatever character, which lessee should deem in the lessor's interest for lessor to acquire, and subject to account to lessor for the net cash proceeds, abandon, retire, sell, exchange or otherwise dispose of any of the leased property. Subject to certain provisions for account to lessor, lessee may exercise all right of lessor with respect to all securities and investments of lessor included in the leased property, including the right to receive all dividends and interest thereon, to exercise voting rights, and to dispose of or encumber such property.

It further provides that for the purpose of refunding obligations of lessor, and financing or reimbursing lessee for payments of principal and sinking funds on obligations of lessor, capital expenditures in respect of the leased property, and other expenditures for the account of lessor, the latter would issue and deliver to lessee at its request bonds, notes or other obligations or evidence of indebtedness, subject to any necessary governmental approval; also for joinder by lessor in extensions or other modifications of bonds, notes or other evidences of indebtedness which in the judgment of lessee can be procured on terms reasonable and in the interest of lessor.

Provision is made for surrender and delivery of the leased properties to lessor upon termination of the lease by lapse of time or default, for termination upon default under any mortgage or other lien on the leased property requiring that a lease of lessor's property shall be terminable on such default, and for an accounting and settlement between the parties.

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THE RELATED PROPOSALS

Acquisition of interests in subsidiaries or affiliates.—Coincidentally with consummation of the Northern Lines merger, New Company would acquire through stock ownership, such sole or joint control, as the case may be, of other carriers as well as all direct or indirect interests which those carriers have in other carriers or their properties, and other properties, which Great Northern and Northern Pacific might hold immediately prior to consummation of that transaction.

Similarly, with subsequent consummation of the Burlington merger, and coincidentally therewith, New Company would acquire through stock ownership, such sole or joint control, as the case may be, of other carriers as well as direct or indirect interests which those carriers have in other carriers or their properties, and other properties, which Burlington might hold immediately prior to consummation of that transaction.

Coincidentally with consummation of the SP&S lease transaction, New Company would acquire for the duration of the lease term, such sole or joint control, as the case may be, of other carriers as well as all direct or indirect interest which those carriers have in other carriers or their properties, and other

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properties, which SP&S might hold immediately prior to consummation of the lease transaction. In addition, New Company would also acquire on the effective dates of the respective merger transactions and on the date of the lease transaction, all the direct and indirect interest which those carriers have in other carriers and other significant companies.

Acquisition of motor carrier operations.– A significant aspect of the proposal in the aggregate involves the motor carrier subsidiaries of applicants and motor carrier operations related thereto. Following approval and consummation of the Northern Lines merger transaction, New Company would acquire (1) among the assets and properties of Great Northern (a) certificates of public convenience and necessity in the name of Great Northern authorizing the conduct of motor common carrier operations in interstate or foreign commerce in the transportation of property and passengers, and (b) the capital stock of S&DT, a wholly owned subsidiary motor common carrier of property, and (2) among the assets and properties of Northern Pacific, the capital stock of NP Transport, a wholly owned subsidiary motor common carrier of property and passengers. *** Following approval and consummation of the Burlington merger transaction, New Company would acquire among the assets of Burlington (a) certificates of public convenience and necessity in the name of Burlington authorizing the conduct of motor carrier operations in interstate or foreign commerce in the transportation of property and passengers, *** and (b) the capital stock of BTL, a wholly owned subsidiary motor common carrier of property. ***

* * * * * * *

The motor carrier rights of Burlington are limited. The routes do not connect with each other or with Great Northern's routes. Burlington's motor carrier rights were obtained by the railroad at the time certain train service was removed. Some authorize the transportation of passengers, mail, express and baggage; others authorize the handling of head-end traffic or, in some instances, general commodities. Burlington provides some of those services with its own employees. Some of those services are provided by its wholly owned subsidiary BTL under contract. Most of Burlington's certificates are restricted to service which is auxiliary to or supplemental of rail service.

Great Northern's operations as a motor common carrier of general commodities generally parallel its lines of railroad in Montana east and south of Whitefish, with a few scattered operations in Oregon, North Dakota and Minnesota, and as a motor common carrier of passengers in Montana and North Dakota. Most of Great Northern's certificates are restricted to service which is auxiliary to or supplemental of rail service.

The motor carrier rights now held by Burlington and Great Northern would be acquired directly by New Company through the two merger proceedings as part of the assets of those companies. The Burlington rights do not authorize service nor do the operations connect at any point served by Great Northern—as they involve operations in widely different and unrelated areas.

The capital stock of the three subsidiaries BTL, NP Transport and S&DT, wholly owned by Burlington, Northern Pacific and Great Northern, respectively, are part of the general properties to be acquired by New Company as reflected in the application for authority herein whereby New Company would acquire

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control of carriers subsidiary to Great Northern, Northern Pacific and Burlington. No change in the separate corporate identity of those subsidiaries of the service performed by them is contemplated.

*** The authority held by S&DT is limited to service which is auxiliary to or supplemental of rail service. Virtually all of BTL's operating authority is unrestricted in that respect. The operations of NP Transport in Idaho, Washington, Oregon and a small segment of route in Montana west of Missoula are subject to restriction of service auxiliary to or supplemental of rail service, but the remainder of NP Transport's operating authority, with some exceptions, is unrestricted. NP Transport's operating authority, unlike those of BTL and S&DT include rights to transport passengers.

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Acquisition of trackage rights.—As previously indicated, Great Northern, Northern Pacific, Burlington and SP&S each hold trackage rights to operate over lines of other railroads and utilize jointly with other lines common terminals or passenger station facilities. New Company would, under the transactions here in addition, on the day of merger in each of the merger transactions, and on the day of lease on the date the lease transaction is consummated, acquire among the assets of the named carriers from the other applicant companies and in the case of the SP&S during the term of the lease, such property rights. Moreover, other agreements in effect permit use by other lines of portions of the lines of certain applicants, the obligations of which New Company would assume. All such trackage rights and joint use agreements *** and the terms of those agreements, covering such rights generally are in standard form and provide for payments on a user basis.

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Securities transactions

Issuance of stock.—As previously indicated, New Company has outstanding 200 shares of common capital stock, no par value, owned 100 shares each by Great Northern and Northern Pacific. Under the Northern Lines merger agreement, and subject to consummation of the transaction covered thereby, those shares would be retired and canceled upon accomplishment of that merger transaction and the authorized capital stock of New Company would be reclassified and increased to 3,102,333 shares of preferred stock, par value $10 each, and 17,500,000 shares of common stock, no par value, for the issue of which New Company seeks authority under section 20a.

Preferred stock.—The preferred stock would be fully paid and nonassessable, have a par value of $10 per share, and be entitled to fully cumulative dividends, payable quarterly, at the rate of 5 1/2 percent per annum, and no more, when and as declared by the board of directors out of funds legally available therefor, and to the benefit of cumulative mandatory sinking fund for its retirement, and no dividends would be declared or paid on the common stock unless dividends at the rate of 5 1/2 percent per annum, and no more, including arrearages, have been paid or declared, and funds sufficient to pay the same have been set

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aside for that purpose, and the requirements of the mandatory sinking fund with respect to preceding calendar year and all deficiencies, if any, in the mandatory sinking fund for prior calendar years have been satisfied.

On and after the fifth year following accomplishment of the Northern Lines merger and continuing so long as any preferred stock is outstanding, New Company, as and for a mandatory sinking fund, for said preferred stock, out of net assets legally available therefor after payment of dividends on the preferred stock, would retire shares of the preferred stock at an annual rate of 4 percent of the total par value of such preferred stock issued on the merger through redemption or cancellation of such shares of preferred stock theretofore purchased by it at or below par value plus accrued dividends, (such purchase shares to be valued for sinking fund purposes at par), or both. New Company may at its election, (any deficiency in the mandatory sinking fund for prior year having been made up), as and for an optional sinking fund in any one or more of such calendar years, so to redeem or cancel shares of such preferred stock theretofore purchased by it, or both, up to but not in excess of an additional 4 percent of the total par value of the preferred stock issued on the merger, and the aggregate of amounts by which mandatory sinking fund requirements have been so anticipated in any year or years may be credited against such sinking fund requirements for subsequent years; provided that in no event would New Company be relieved for more than 2 consecutive calendar years from the mandatory sinking fund requirement of purchasing and canceling or of redeeming, or both, in each calendar year 4 percent of the total par value of preferred stock issued on the merger. Preferred stock would be redeemable for sinking funds purposes at par plus accrued dividends.

New Company may at its option redeem the preferred stock on and after the fifth year after Northern Lines merger consummation date at the following percentages of par plus accrued dividends thereon: In the first 2 years thereafter, 105 percent; in the next 2 years, 104 percent; in the next 2 years, 103 percent; in the next 2 years, 102 percent; in the next 2 years, 101 percent, and thereafter, 100 percent.

In the event of liquidation preferred stockholders would be entitled to receive before any payment on the common stock the then applicable optional redemption price previously described under certain conditions, otherwise its par value plus accrued dividends. New Company may not voluntarily liquidate without approval of the holders of a majority of the preferred stock.

At any time when dividends are in arrears on the preferred stock, New Company may not redeem less than all of the preferred stock without approval of the holders of two-thirds of the preferred stock, or purchase any preferred stock except upon offer to all holders of preferred stock. Holders of preferred stock would not be entitled to vote on any matter, except as provided by the laws of Delaware, and except in event dividends are in arrears in aggregate amount equal to six quarterly dividends, in which event holders of preferred stock would be entitled, voting as a class, to elect two directors at the next annual meeting, which voting rights would continue until such time as such arrearages have been paid, and New Company may not authorize the issue of any stock entitled to dividends to share in liquidation in priority to the preferred stock, and may not otherwise amend its certificate of incorporation in any way adversely af-

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fecting interests of preferred stockholders without approval by holders of two-thirds of the preferred stock, but no vote of the preferred stock would be required to increase the authorized amount of preferred stock or create one or more classes of preferred stock so long as such class or classes rank subordinate to the preferred stock either as to dividends or liquidation.

Common stock.—The common stock of New Company proposed to be issued under the merger agreements would be fully paid and nonassessable, entitled to dividends, subject to the previously described conditions concerning the preferred stock, when and as declared by the board of directors of New Company, out of funds legally available therefor, and entitled to one vote per share for directors and on all other matters.

Upon the Northern Lines merger consummation date, each share of Great Northern stock then outstanding in the hands of the public would be converted into one share of common stock and one-half share of preferred stock of New Company, and each share of Northern Pacific stock then outstanding in the hands of the public would be converted into one share of common stock of New Company. No new securities would be issued in respect of the shares of common stock of Pacific Coast. No fractional shares of New Company's preferred stock or scrip certificates therefor would be issued in respect of conversion of the shares of Great Northern common stock, but in lieu thereof provision is made to enable stockholders entitled to fractional interest to either sell such fractional interest or purchase such additional fractional interest necessary to entitle such stockholder to a full share of preferred stock. No new securities would be issued in respect of Great Northern's common stock then held in its treasury, or in respect of directors' qualifying shares. New Company would reserve out of its authorized capital stock (a) sufficient shares of its common stock and preferred stock to satisfy options granted under Great Northern's restricted stock option plan, and (b) sufficient shares of its common stock to satisfy options granted under the Northern Pacific restricted stock option plan, and, in each case, which may be outstanding on the Northern Lines merger consummation date.

Upon the Burlington merger consummation date, each share of Burlington common stock outstanding in the hands of the public would be converted into three and one-quarter shares of common stock of New Company. No new securities would be issued in respect of shares of Burlington common stock owned by Great Northern and Northern Pacific or then held in Burlington's treasury. No fractional shares of New Company's common stock or scrip certificates therefor would be issued in respect of Burlington common stock. In lieu thereof, fractional interests would be treated similarly so that provided for the preferred stock issuable upon conversion of Great Northern common stock.

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Issuance of bonds.—In the proposed program of unification, there are presented two separate and distinct requests for authority to issue bonds; one by Burlington, the other by New Company. ***

Subsequent to consummation of the Northern Lines merger, and prior to consummation of the Burlington merger and execution of the supplemental

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indenture whereby New Company would assume the Burlington mortgage, Burlington would issue and sell to New Company $70 million principal amount of its first and refunding mortgage series of 2010 4-percent bonds. These bonds would be issued under and secured by Burlington's first and refunding mortgage, dated as of February 21, 1921, under which The First National City Bank of New York and Jacob M. Ford II are trustees in part for the surrender for cancellation of $10,140,000 principal amount of first and refunding mortgage 4 1/2-percent bonds, series of 1970, due August 1, 1970, and $19,729,000 principal amount of first and refunding mortgage 4-percent bonds, series of 1998, due February 1, 1998, now held in Burlington's treasury, and the balance of $40,131,000 on account of additions and betterments to the property subject to the lien of the mortgage.

The Burlington bonds would be dated on the interest payment date next preceding the date of authentication, would bear interest at 4-percent per annum payable semiannually on the first days of February and August of each year, would mature on the first day of August 2010, would be issued in the principal amount of not to exceed $70 million would be issued as coupon bonds in the denomination $1,000 or as registered bonds without coupons in denomination of $1,000 or any multiple thereof, interchangeable as to form, would be payable at the office or agency of Burlington in New York, and would be redeemable before maturity on any interest date on 9 weeks' published notice at their principal amount and accrued interest. No sinking fund would be provided for the redemption of payment of the series 2010 Burlington bonds or any part thereof. The series of bonds would not be converted into shares of capital stock of Burlington. The sale of the bonds would be made for cash at par and accrued interest, if any. *** As regards the problem of conflict of liens, it is noted that, as indicated, Great Northern and Northern Pacific each own 830,179 shares, or 48.59 percent of the issued and outstanding shares of Burlington. Of the shares owned by Great Northern, 829,337 are pledged as security under Great Northern's general gold bond mortgage; and of the shares owned by Northern Pacific, 829,337 are pledged as security under Northern Pacific's refunding and improvement mortgage. Each mortgage permits consolidation or merger with the mortgagor or of a company whose stock is pledged thereunder, but requires that upon such consolidation or merger all of the properties of the company whose stock is pledged shall be subjected to the lien of the mortgage. Such provisions would, of course, require that upon merger of Burlington all of the property of Burlington be subject to the lien of both mortgages. Because the provisions conflict and are obviously inconsistent, they could not both be satisfied. Accordingly, to effect the proposal, it would become necessary to satisfy and discharge one of the mortgages prior to merger of Burlington with the parent companies.

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The issue and sale by bonds of Burlington to New Company is designed to (1) enable the latter to pledge the bonds under its proposed-to-be-created consolidated mortgage, subsequently discussed, and strengthen materially the security for the consolidated mortgage, and (2) preserve the bonding power presently available in the Burlington properties. Upon pledge of the bonds by New Com-

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pany under the consolidated mortgage, that mortgage would become an indirect lien on the Burlington properties, and upon the subsequent accomplishment of the merger transactions, no further bonds would be issuable under existing Northern Pacific, Great Northern and Burlington mortgages, except (1) Burlington bonds for the purpose of pledge under the Great Northern general mortgage, and (2) Great Northern bonds for the purpose of pledge under the consolidated mortgage. However, the Burlington first and refunding mortgage would be closed against any public issue of additional bonds by the provisions of the Great Northern general gold bond mortgage to which the Burlington properties would be subject.

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In order that New Company be provided with a satisfactory financing vehicle, the proposal in the aggregate contemplates, among other things, that a new, modern, flexible, and systemwide consolidated mortgage covering generally the railroad properties of the three principal railroad applicants be created by New Company, which consolidated mortgage would be strengthened by the pledge under it prior to the Burlington merger of $70 million principal amount of Burlington first and refunding mortgage bonds presently issuable under that mortgage. Upon effecting the Burlington merger, that mortgage would be closed against any public issue of additional bonds by the provisions of the Great Northern gold bond mortgage to which the Burlington properties would be subject.

If bonds issued under the consolidated mortgage were to be substituted for the Northern Pacific series E bonds now pledged under the Northern Pacific collateral trust indenture, the consent of the holders of two-thirds of the Northern Pacific collateral trust bonds would be required, because the consolidated mortgage would not have a lien equivalent to that of the Northern Pacific refunding and improvement mortgage on the properties of Northern Pacific, the Burlington stock would disappear and the Great Northern general gold bond mortgage would be a lien on the Burlington properties prior to the consolidated mortgage.

In summary, the consolidated mortgage, upon completion of the unification program, would be secured by a lien on the properties of New Company generally as follows: (a) after the Northern Lines merger transaction has been accomplished by (1) a lien on the railroad properties of Northern Pacific equivalent to the lien which presently secures the Northern Pacific refunding and improvement mortgage, being a first lien on approximately 1,390 miles (principally branch lines) and a third lien on the balance, and (2) a second lien on the railroad properties of Great Northern (other than the Klamath Falls division) which are subjected to the first lien of the Great Northern general mortgage, and (b) after the Burlington merger transaction has been accomplished by (1) a third lien on the railroad properties of Burlington which are the subject to the first lien of the Burlington first and refunding mortgage and further subject to the lien of the Great Northern general mortgage, to which latter mortgage as of the date of accomplishment of the Burlington merger transaction such Burlington properties would be subjected, and (2) an indirect first lien on such Burlington properties through the pledge of the $70 million

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principal amount of Burlington first and refunding mortgage bonds. After unification, no further bonds will be issuable under existing Northern Pacific, Great Northern and Burlington mortgages except Burlington bonds for the purpose of pledge under the Great Northern general mortgage and Great Northern bonds for the purpose of pledge under the consolidated mortgage.

The New Company series A consolidated mortgage bonds are proposed to be issued under and secured by the New Company consolidated mortgage creating such series and authorizing such bonds to be authenticated and delivered as per draft of record, under which the trustees would be Morgan Guaranty Trust Company of New York and such individual trustee as may be required by law. The bonds would be pledged under the Northern Pacific collateral trust indenture, would mature October 1, 1984, would bear interest at the rate of 4 percent per annum, payable semiannually on April 1 and October 1 of each year, would be issued as coupon bonds in the denomination of $1,000 or as registered bonds without coupons in the denomination of $1,000 or any multiple thereof, interchangeable as to form, would be payable at the office or agency of New Company in New York, N. Y., and would be subject to redemption at any time as a whole at the option of New Company at 102 percent of their principal amount to and including July 1, 1965, thereafter at 101 percent of their principal amount to and including July 1, 1970, and at 100 percent of their principal amount thereafter, in each case with accrued interest to date of redemption.

In addition to providing for issuance of the series A consolidated mortgage bonds for purpose above described, the major provisions for such issuance of bonds would permit issuance as follows: (1) at any time in aggregate principal amount equal to aggregate principal amount of Great Northern general mortgage bonds issuable under Great Northern general mortgage on the latest practicable date prior to Northern Lines merger and of Northern Pacific refunding and improvement bonds which would have been issuable under Northern Pacific refunding and improvement mortgage on such date (considering as to latter restrictions imposed by Northern Pacific collateral trust indenture on further issuance under the Northern Pacific refunding and improvement mortgage), * * * (2) $70 million principal amount of bonds at any time after discharge of the Northern Pacific collateral trust indenture and cancellation of the series A consolidated mortgage bonds, (3) for refunding debt having a prior lien on property subject to the consolidated mortgage, as well as for purpose of refunding previously issued series of consolidated mortgage bonds, other than series A bonds, and (4) for purpose of providing for 75 percent of cost of acquisition (subject to adjustments) of additions and betterments, additional lines of railroad and other transportation lines, other property, and of common stock of companies owning properties of such character which as of the date of issuance of consolidated mortgage bonds are more than 50 percent owned subsidiaries whose common stock is subject, or is to be subjected to, the consolidated mortgage, such acquired common stock to be subjected to the consolidated mortgage which would be a first lien thereon.

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Simultaneously with accomplishment of the Burlington merger transaction, the proposal contemplates satisfaction of the Northern Pacific refunding and

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improvement mortgage. In order to secure satisfaction of that mortgage, New Company would (1) issue, and with consent first obtained of the holders of two-thirds of the Northern Pacific collateral trust bonds, pledge its consolidated mortgage 4-percent bonds series A due 1984, in aggregate principal amount not to exceed $71,500,000 under the Northern Pacific collateral trust indenture in order to secure release of an equivalent principal amount of Northern Pacific refunding and improvement bonds then pledged under such indenture * * *; (2) cancel and retire such Northern Pacific refunding and improvement bonds when released from the pledge; and (3) call for redemption of all of the then publicly held Northern Pacific refunding and improvement bonds and deposit with the trustee of the Northern Pacific refunding and improvement mortgage funds sufficient to effect such redemption at a price of 110 plus accrued interest.

Modification of indenture.—The pledge of the series A consolidated mortgage bonds of New Company in substitution for and the release of the Northern Pacific refunding and improvement mortgage bonds, would be effected under a supplemental indenture to the collateral trust indenture. The bonds, authority for which modification and alteration is sought, are Northern Pacific collateral trust 4-percent bonds, of which not exceeding $52,000 principal amount, due October 1, 1984, were authorized to be issued under and pursuant to, and secured by a collateral trust indenture dated October 1, 1954, between Northern Pacific and the First National Bank of the City of New York, trustee, pursuant to authority granted in Finance Docket No. 18644, *Northern Pacific Railway Company Bonds*, 290 I.C.C. 816, decided October 13, 1954. The bonds mature October 1, 1984, bear interest at 4-percent per annum payable semiannually April 1 and October 1 of each year, are redeemable upon not less than 30 days' nor more than 60 days' notice at option of Northern Pacific, as a whole or in part at any time prior to maturity, and are entitled to the benefit of a sinking fund annually of $1,300,000 for the years 1960-1964, inclusive, and of $1,560,000 for the years 1965-1969, inclusive.* * *

* * * The proposed supplemental indenture to permit the substitution of consolidated mortgage bonds for the pledged series E bonds, and amendment of the collateral trust indenture in other respects was approved at a meeting of the collateral trust bondholders held April 20, 1961, by affirmative vote of holders of approximately 88.77 percent in aggregate principal amount of the collateral trust bonds outstanding; no votes were cast against such proposal.

* * * * * * *

Summarizing, the previously described phase of the unification proposal would be accomplished as follows: Upon consummation of the Northern Lines merger transaction, New Company would purchase for cash from Burlington $70 million principal amount of Burlington bonds; New Company would then execute its consolidated mortgage on the railroad properties of Great Northern and Northern Pacific and pledge the new Burlington bonds thereunder; New Company would then issue under the consolidated mortgage and pledge under the Northern Pacific collateral trust indenture, in substitution for the pledged Northern Pacific $71,500,000 principal amount series E bonds, an equal principal amount of its series A consolidated mortgage bonds; and New Company would then cancel the series E bonds and deposit with the trustee of the Northern

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Pacific mortgage sufficient cash to redeem all of the publicly held Northern Pacific bonds. Thereafter, the Burlington merger transaction would be accomplished, Burlington would be merged into New Company, the Burlington properties would be subjected to the lien of the Great Northern mortgage, and then to the lien of the new consolidated mortgage.

Assumption of obligations.–Concurrently with consummation of the Northern Lines merger agreement, New Company proposes to assume all obligations and liability of Great Northern and Northern Pacific in respect of securities outstanding on the effective date of the merger. The obligations of Great Northern and Northern Pacific as of the latest available date of record consist of bonds secured by encumbrances on their properties, equipment obligations, and guarantees of the obligations of other companies. Pacific Coast has no secured or contingent liabilities.* * *

Other related assumption of liability.–In connection with the major and related transactions described for which authority is sought and required, New Company would also assume obligations of the merging carriers in respect of pension fund service liability. While such assumption of liability does not require authority from this Commission, it is part and parcel of the transaction, is pertinent and should be discussed. Great Northern has had in effect a pension plan for the past 44 years. Participation in the plan is limited to salaried employees who are employed on a monthly basis and who are not compensated for overtime. The plan may be terminated and discontinued at any time by Great Northern through action of its board of directors with approval of stockholders. Participants in the plan may be eligible at retirement for pension benefits computed by multiplying the participant's years of continuous service by 1-1/2 percent of the average salary received during his last 60 months of compensated employment, less the annuity received under the Railroad Retirement Act, as amended. Pension benefits are limited to a maximum of 60 percent of the average earnings received during the last 60 months of compensated employment prior to retirement. The plan provides that a widow of a deceased participant will be entitled to benefits equal to one-half of the benefit computed under the plan for her husband, without deduction of the husband's Railroad Retirement annuity, but with deduction of the amount received by the widow as an annuity under the Railroad Retirement Act, as amended.

* * * * * * *

Northern Pacific has had a pension system since 1922, limited, with exceptions, to salaried employees paid on a monthly basis and not regularly compensated for overtime, under which pensions were charged to expenses as paid. Effective December 1, 1960, the plan was modified and placed on a funded basis with respect to those previously retired and certain others, including eligible widows of deceased employees and pensioners. Under the funded plan, which may be terminated or modified by Northern Pacific at any time, such salaried employees may be eligible at retirement for pensions computed by multiplying the individual's allowable years of employment by 1 3/8 percent of the average of the 5 highest paid years during the last 10 years immediately preceding retirement but prior to age 70 and deducting

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therefrom 85 percent of the annuity payable to him under the Railroad Retirement Act, as amended, subject to certain specified limitations.

* * * * * * *

Burlington has had a pension system since 1922, under which pensions are charged to expenses as paid. Under the plan as amended by its board of directors, effective January 1, 1952, which may be terminated or further modified by Burlington at any time, officers and certain employees (but not directors, as such), may be eligible at retirement for pensions computed by multiplying the individual's years of employment, but not in excess of 40 years, by 1-1/2 percent of his average monthly earnings received during the 5 years immediately preceding retirement but prior to age 70 after deducting therefrom the annuity payable to him under the Railroad Retirement Act, as amended. Pension benefits are limited to a maximum of 60 percent of the average earnings received during the last 5 years of compensated employment prior to retirement. The plan further provides that the widow of a deceased officer, employee or pensioner, meeting the requirements of eligibility, will receive a benefit equal to one-half her husband's pension which would have been payable under Burlington's pension system, but for his death.

* * * * * * *

The record indicates that it has been agreed that pension benefits payable in accordance with the provisions of the several pension plans of Great Northern, Northern Pacific and Burlington, described in capsule form above, and those of SP&S and Pacific Coast to persons on or entitled to be on their pension rolls when the unification is accomplished and to the widows of such persons shall thereafter be paid by the New Company to the extent that such pension benefits are not paid out of any trust fund theretofore established for the purpose. A new pension plan containing uniform provisions for the payment of benefits upon retirement to all employees of New Company eligible under the terms of existing plans, which would preserve so far as practicable without substantial impairment the provisions made in existing plans for retirement and pension of employees of the applicant companies indicated who are in active service on the date of effectuation of the unification, will be adopted by New Company. * * *

* * * * * * *

Extension of lines of railroad.—As indicated, New Company, and SP&S to the extent of its interest as owner and lessor under proposed lease of portions of extensions described in items (19), (21), and (24), of appendix J hereto, seek authority to construct and operate the extensions of lines of railroad described in items (1) through (24), inclusive, of appendix J. No objections to the extensions are raised. The proposed extensions, ranging in length from 303 feet to 6,568 feet, would be constructed by, would connect lines of the unified railroad, and are intended for use solely as connection between existing lines which would be operated by New Company, following, and contingent upon, approval and consummation of the major transactions here involved, particularly the

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Northern Lines merger. The projects are located at one point in Wisconsin, seven points in Minnesota, three points in North Dakota, one point in Montana, one point in Idaho, five points in Washington, and one point in Oregon. Construction and operation of the indicated extensions are advanced as necessary to allow trains to pass from one line to another without delay at points where, under unification, such movements would be essential to economical and efficient operation of the railroad. The new connecting lines would not affect other railroads, nor would they serve any industries or shippers not now being served by applicant railroads.

Passenger, freight, express, and switching service would be performed on all of the proposed extensions except as follows: those described in items (1), (3), (4), (5), (13), (20), (22) and (24) of appendix J would involve freight and switching service only; that described in item (23) of appendix J would involve freight and emergency line detour service. Diesel-electric motive power would be used on each of the proposed extensions. Construction of the section of 1,460 feet at Superior, Wis., would permit (a) freight trains moving from New Company's yard at Superior to reach present Northern Pacific line to Ashland, Wis., and (b) flexibility in yard switching movements. The section of 2,260 feet at Hinckley, Minn., would permit connection of the Minneapolis-Duluth line of Great Northern with the St. Paul-Duluth line of Northern Pacific as well as flexible operations of the two lines between Hinckley and Twin Cities. The section of 303 feet at Sauk Centre, Minn., would improve flexibility of switching at that point permitting switching between the Little Falls-Morris branch line of Northern Pacific and the St. Cloud-Fargo main line of Great Northern. The section of 835 feet (400 feet constructed and 435 feet relocated) at Wadena, Minn., would improve flexibility of switching at that point to permit more economical arrangement of local freight and make possible future elimination of a railroad crossing at grade. The section of 1,375 feet (500 feet constructed and 875 feet relocated) at Breckenridge, Minn., would permit New Company to consolidate freight terminal operations at that point, improve switching facilities, and make possible elimination of existing railroad crossing at grade, for which authority is concurrently sought elsewhere herein and described in item (1) of appendix C hereto. The section of 2,035 feet at Fargo, N. Dak., would permit rerouting of passenger trains on present Northern Pacific main line through present Great Northern passenger station at that point, which latter station would be used by all passenger trains of New Company serving Fargo. The section of 1,800 feet at Moorhead, Minn., would permit unified operation of the Fargo-Moorhead terminal area. The section of 1,480 feet at Moorhead would connect the two Great Northern Wahpeton-Moorhead and St. Cloud-Moorhead main lines, permitting (a) movement of freight trains from these lines of New Company's principal yard in Fargo area at Dilworth, Minn., on present Northern Pacific trackage, and (b) removal of approximately 2,000 feet of the Wahpeton-Moorhead line for which authority is concurrently being sought elsewhere herein and described in item (2) of appendix K. The section of 1,550 feet at Moorhead would permit the movement of freight trains from present Great Northern lines into New Company's freight yard at Dilworth. The section of 1,365 feet at Crookston, Minn., would permit improvement of switching facilities to industries located on present Northern Pacific Crookston-Grand Forks branch line. The section of 1,415 feet at Grand Forks, N. Dak.,

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would permit improvement of switching facilities to industries located on present Northern Pacific line serviced from New Company yard on Great Northern at that point. The section of 700 feet (120 constructed and 580 relocated) at Grand Forks would permit movement of freight and passenger trains from New Company's terminal facilities (now Great Northern) to present Northern Pacific line from Grand Forks toward Grafton. The section of 5,500 feet at East Grand Forks, Minn., would permit improvement of switching services to industries located at Northern Pacific trackage at that point. The section of 2,020 feet at Casselton, Minn., would permit the through transcontinental freight trains of New Company to use present Northern Pacific main line between Twin Cities and Casselton and the Great Northern main line west of Casselton. The section of 4,615 feet at Helena, Mont., would permit rerouting of through freight service between Great Falls and Butte via the more favorable line through Garrison, Mont. The section of 2,600 feet at Helena and the connecting track previously described would permit convenient access to Northern Pacific freight yards and other facilities. Construction of the two previously mentioned sections in Helena would permit removal of approximately 10,404 feet of Great Northern's line for which authority is concurrently sought elsewhere herein and described in item (3) of appendix K. The section of 3,309 feet and the section of 2,338 feet, both at Sandpoint, Idaho, would permit movement of principal transcontinental freight and passenger trains on the Great Northern line east of Sandpoint to the Northern Pacific line between Sandpoint and Spokane. The section of 6,568 feet at Spokane, including construction of bridge over Latah Creek is necessary to unify and would permit through freight and passenger facilities of Northern Pacific at Spokane. The south wye connection would join the facilities with trackage of SP&S reducing ruling grades on the line toward Pasco and Portland. The north wye connection permits Great Northern to be reached via SP&S and would reduce highway grade crossing problems in Spokane. Construction of the section would make possible removal of approximately 7.7 miles of Northern Pacific line between Spokane and Marshall, authority for which is concurrently sought elsewhere herein, and is described in item (5) of appendix K. Upon completion of the new construction at Spokane and the connecting track at Marshall, the trains now operated over that 7.7-mile segment would be handled over tracks owned by SP&S and leased to New Company. In addition, it would make possible removal of approximately 3.5 miles of Great Northern main line, authority for which is concurrently sought elsewhere herein and is described in item (4) of appendix K. The Spokane project would permit reduction of highway grade crossing problems in the downtown area of Spokane, to the benefit of both the Spokane public and the railroads. The section of 2,700 feet at Marshall, Wash., would permit trains operated over SP&S trackage between Spokane and Marshall to proceed to or from the Northern Pacific lines at Marshall to Lewiston and Pasco. The section of 2,540 feet near Espanola, Wash., would permit connection where tracks cross at separate grades and permit more favorable route for freight trains between Spokane and the Northern Pacific Washington Central branch line. The section of 880 feet at Rosalia, Wash., would permit improved local freight service to industries in that area. The section of 4,440 feet at Henry's, Wash., would permit a favorable connection for freight movements between points on Northern Pacific main line and the Renton, Wash., area. The section

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of 2,320 feet at Willbridge, Oreg., would permit trains to proceed directly from the Oregon Electric and Astoria lines over nearby Willamette River bridge to Vancouver, Wash., and eliminate necessity of reverse movement in order to reach principal freight yards at that point.

At each point of connection, the rails used would conform in weight with rails of existing tracks. The construction would begin within 1 month after authority is received, and the work would be completed at the various points on different dates ranging from 6 months to 2 years after consummation of merger.

The proposed extensions would be financed through available funds in the treasury of New Company without issue of securities for that purpose following consummation of the major transactions herein. No aid, gift, grant of right of way, or other donation has been promised in connection with the proposed extensions.

With respect to the extensions described in items (19), (21), and (24) of appendix J, such construction of the portions of the extensions which are on SP&S lines would be for the account of the latter with right of reimbursement in New Company, pursuant to terms of proposed lease of properties of SP&S.

Neither applicant is connected by stock ownership, or otherwise, with any industry to be served by the lines proposed to be constructed and operated. Estimates of the costs * * * based on 1960 levels, are as follows: Total estimated cost $7,642,380.

Abandonment of lines of railroad.– As indicated, subject to consummation of the major transactions here presented, New Company, and SP&S to the extent of its interest as owner and lessor under proposed lease transaction, insofar as it relates to items (5) and (7) of appendix K hereto, seek authority to physically abandon various segments of existing lines of railroad equivalent to approximately 14.86 miles, described in appendix K hereto, contingent upon approval and consummation of the major transactions here involved, particularly the Northern Lines merger, and, as to each abandonment, upon completion of the respective new portion or portions of line proposed to be constructed and operated, as discussed elsewhere herein. The proposed abandonments are unrelated to any decrease of freight or passenger traffic during recent years. The seven segments proposed to be abandoned range from 1,300 feet at Fort Wright, Wash., to 7.7 miles between Spokane and Marshall, Wash.

No stations are located on the portions of the lines proposed to be abandoned, and no abandonment or reduction of service to any station or territory is involved. None of the segments of line proposed to be abandoned connects with other railroads for interchange of traffic. * * *

* * * * * * *

Retention of the segments proposed to be abandoned herein, after completion of the proposed extensions connecting existing lines described in appendix J hereto, it is advanced, would constitute an unnecessary duplication of lines within the unified transportation system of New Company. Moreover, in respect of the Spokane-Marshall segment described in item (6) of appendix K, which like the other segments serves no industries, its removal would not only save maintenance expenses for the railroad, but the State and Federal governments would be beneficiaries of savings of approximately $1 million for grade

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separation structures planned in the same area in connection with the interstate highway construction program. Inquiry dealing with protection of New Company following abandonment of the 7.7 miles of track between Spokane and Marshall shows that it is present Northern Pacific trackage, that upon completion of this construction at Spokane, the trains now operated over the segment would be handled over tracks owned by SP&S and leased to New Company, that applicants conclude that since New Company would own the stock of SP&S as well as be lessee of SP&S, there should be no apprehension that SP&S might oust New Company from use of the tracks between Marshall and Spokane. While applicants contend that SP&S would continue as leased line of New Company or would be subsequently merged or consolidated, subject to approval, and that in either event New Company would continue to have full use of the tracks of SP&S, and that the Marshall-Spokane segment would not be needed, it is not a matter of immediate concern. The matter of merger or consolidation of SP&S into New Company is clearly a matter for the future, and consideration must be given to the present status of the carriers and their properties and the resulting status if these applications are approved as requested. No objections to the abandonments, however, are raised. The same transportation service now provided over the segments would continue to be provided by New Company, after abandonment of the described segments, through use of and its operations over the proposed extensions described elsewhere herein. Since each of the proposed abandonments is related to and conditioned upon the construction of a new connection, the abandonments would not result in any abandonment of, or reduction in, service to those points or their surrounding areas.

APPENDIX B

Notes to pro forma general balance sheet of the Great Northern Pacific & Burlington Lines, Inc. (New Company) as of December 31, 1966, after giving effect to Northern Lines merger

NOTE

I The combined general balance sheet as of the date of merger is subject to approval of the Bureau of Accounts, Interstate Commerce Commission.

II This pro forma general balance sheet reflects the sum of the amounts carried and the balance sheets of the four companies as of December 31, 1966, adjusted to give effect to the merger as shown by notes below.

A. To effect net debit balance in traffic and car service balances—debit upon transfer of credit balance reflected in accounts of Pacific Coast (see note C) ---------- $240,755

B. To eliminate book investment in affiliates as follows:

Name of affiliate common stock	Amount	Held by
Pacific Coast	$1,700,000	Great Northern
G.N.P.&B. Lines, Inc	500	do
Do	500	Northern Pacific
	1,701,000	

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C. To transfer to current assets credit balance in traffic and car service balances—credit (see note A) ---------- $240,755

D. To set up capitalization of New Company at time of merger equal to the sum of the stated value of the capital stock of the Great Northern ($271,404,-345) and the par value ($30,189,105) plus premium ($225,158,938) of the Northern Pacific outstanding in the hands of the public:

		Number of shares	Amount
Common stock—without par value:			
Northern Pacific			
$5 Par value	$30,189,105		
Premium thereon	225,158,938	6,037,836	$255,348,043
Great Northern			
Without par value		6,152,652	271,404,345
		12,190,488	526,752,388
Less preferred stock—$10 par value:			
Great Northern			
6,152,652 shares @ ½ share		3,076,326	30,763,260
Total common stock capitalization		12,190,488	495,989,128

E. To eliminate capitalization of merged companies:

Common stock actually outstanding	$302,594,525
Premium on capital stock	225,159,499

F. The $699,364 reflects adjustment giving effect to the merger of the respective roads as follows:

(1) Difference between book investment by Great Northern and par value of Pacific Coast stock liability		700,000
(2) Retirement and cancellation of fifteen (15) Northern Pacific shares of common stock held by directors as qualifying shares:		
15 shares @ $5 par value	$75	
15 shares @ $37.38 premium	561	(636)
Charged to other capital surplus		699,364

G. The debit adjustment or reduction in shareholders' equity of $1,701,000 is made up as follows:

(1) Pacific Coast par value stock held by Great Northern	1,000,000
(2) Difference between book investment by Great Northern and par value of Pacific Coast stock liability	700,000
(3) Cancellation and retirement of 200 shares of New Company, common stock upon effectuation of merger	1,000
	1,701,000

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APPENDIX B

Great Northern Pacific & Burlington Lines, Inc., pro forma general balance sheet as of December 31, 1966, after giving effect to merger of Northern Pacific Railway Company, Great Northern Railway Company and Pacific Coast R. R. Co., into the Great Northern Pacific & Burlington Lines, Inc.

		GNP&B Lines, Inc.	Northern Pacific	Great Northern	Pacific Coast	Combined	Adjustments and eliminations		After adjustments and eliminations
							Notes	Amount	
	Liabilities and shareholders' equity								
	Current liabilities:								
752	Traffic and car service balances—credit				$240,755	$240,755	C	$(240,755)	
753	Audited accounts and wages payable		$7,148,443	$3,768,359	47,360	12,972,391			$12,972,391
754	Miscellaneous accounts payable		2,112,143	3,768,359	4,823	5,885,325			5,885,325
755	Interest matured unpaid		1,685,308	2,978,880		4,664,188			4,664,188
756	Dividends matured unpaid		65,006	75,644		140,650			140,650
757	Unmatured interest accrued		1,625,158	758,585		2,383,743			2,383,743
758	Unmatured dividends declared		3,924,697	4,614,702		8,539,399			8,539,399
759	Accrued accounts payable		13,426,694	16,897,217	69,531	30,393,442			30,393,442
760	Federal income taxes accrued		4,197,967	10,097,404	62,675	14,358,046			14,358,046
761	Other taxes accrued		9,589,368	10,454,860	163,184	20,207,412			20,207,412
763	Other current liabilities		2,122,963	2,240,364	13,558	4,376,885			4,376,885
	Total current liabilities		45,897,747	57,662,603	601,886	104,162,236		(240,755)	103,921,481
	Long-term debt due within 1 year:								
764	Equipment obligations and other debt		13,706,875	7,661,624		21,368,499			21,368,499
	Held by or for company								
	Actually outstanding		13,706,875	7,661,624		21,368,499			21,368,499
	Long-term debt due after 1 year:								
765	Funded debt unmatured		270,197,700	178,662,900		448,860,600			448,860,600
	Held by or for company		(74,365,000)			(74,365,000)			(74,365,000)
	Actually outstanding		195,832,700	178,662,900		374,495,600			374,495,600
766	Equipment obligations		89,736,250	63,994,000		153,730,250			153,730,250
	Held by or for company								
	Actually outstanding		89,736,250	63,994,000		153,730,250			153,730,250
	Total funded debt and equipment obligations outstanding		285,568,950	242,656,900		528,225,850			528,225,850
769	Amounts payable to affiliated companies								
	Total long-term debt due after 1 year		285,568,950	242,656,900		528,225,850			528,225,850
	Reserves:								
771	Pension and welfare reserves		3,814,098	11,300,000		15,114,098			15,114,098
772	Insurance reserves		851,323	2,060,000		2,911,323			2,911,323
773	Equalization reserves								
774	Casualty and other reserves		4,527,877	5,208,559		9,736,436			9,736,436
	Total reserves		9,193,298	18,568,559		27,761,857			27,761,857
	Other liabilities and deferred credits:								
782	Other liabilities		378,437	3,266,172	31,390	3,675,999			3,675,999
783	Unamortized premuim on long-term debt								
784	Other deferred credits		1,043,475	644,179	134	1,687,788			1,687,788
785	Accrued depreciation—leased property		376,251	136,242		512,493			512,493
	Total other liabilities and deferred credits		1,798,163	4,046,593	31,524	5,876,280			5,876,280
	Shareholder's equity								
	Capital stock:								
791	Capital stock issued								
	Proposed new issue:								
	Common stock (12,190,488 shares without par value)						D	495,989,128	495,989,128
	Preferred stock (3,076,326 shares—$10 par value)						D	30,763,260	30,763,260
	Total							526,752,388	526,752,388

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Great Northern Pacific & Burlington Lines, Inc., pro forma general balance sheet as of December 31, 1966, after giving effect to merger of Northern Pacific Railway Company, Great Northern Railway Company and Pacific Coast R. R. Co., into the Great Northern Pacific & Burlington Lines, Inc.—Continued

		GNP&B Lines, Inc.	Northern Pacific	Great Northern	Pacific Coast	Combined	Adjustments and eliminations		After adjustments and eliminations
							Notes	Amount	
	Shareholders' equity—Continued								
	Merging companies:								
	Common stock	$1,000	$30,215,490	$274,028,150	$1,000,000	$305,244,640		$(305,244,640)	
	Held by or for company		(26,310)	(2,623,805)		(2,650,115)		2,650,115	
	Total	1,000	30,189,180	271,404,345	1,000,000	302,594,525	E	(302,594,525)	
	Total capital stock	1,000	30,189,180	271,404,345	1,000,000	302,594,525		224,157,863	$526,752,388
	Capital surplus:								
794	Premiums and assessments on capital stock		225,159,499			225,159,499	E	(225,159,499)	
795	Paid-in surplus		21,189	1,120,141		1,141,330			1,141,330
796	Other capital surplus		37,750,687			37,750,687	F	(699,364)	37,051,323
	Total capital surplus		262,931,375	1,120,141		264,051,516		(225,858,863)	38,192,653
	Retained income:								
797	Retained income—appropriated			1,125,000		1,125,000			1,125,000
798	Retained income—unappropriated		424,270,218	432,012,542	2,555,683	858,838,443			858,838,443
	Total retained income		424,270,218	433,137,542	2,555,683	859,963,443			859,963,443
	Total shareholders' equity	1,000	717,390,773	705,662,028	3,555,683	1,426,609,484	G	(1,701,000)	1,424,908,484
	Total liabilities and shareholders' equity	1,000	1,073,555,806	1,036,258,307	4,189,093	2,114,004,206		(1,941,755)	2,112,062,451
	Assets								
	Current assets:								
701	Cash	1,000	5,162,454	4,604,951	256,001	10,024,406			10,024,406
702	Temporary cash investments		60,768,506	73,679,018		134,447,524			134,447,524
703	Special deposits		1,657,036	3,476,398		5,133,434			5,133,434
704	Loans and notes receivable								
705	Traffic and car service balances—debit		1,224,535	2,298,716		3,523,251	A	(240,755)	3,282,496
706	Net balance receivable from agents and conductors		9,956,217	5,453,182	35,535	15,444,934			15,444,934
707	Miscellaneous accounts receivable		11,763,325	6,126,350	136,622	18,026,297			18,026,297
708	Interest and dividends receivable		1,114,034	1,545,503	747	2,660,284			2,660,284
709	Accrued accounts receivable		14,059,177	5,425,404	34,654	19,519,235			19,519,235
710	Working fund advances		296,690	237,147	5	533,842			533,842
711	Prepayments		750	133,226		133,976			133,976
712	Material and supplies		21,318,948	19,232,016	25,947	40,576,911			40,576,911
713	Other current assets		325,275	230,530	769	556,574			556,574
	Total current assets	1,000	127,646,947	122,442,441	490,280	250,580,668		(240,755)	250,339,913
	Special funds:								
715	Sinking funds								
716	Capital and other reserve funds		8,203,732	414,543		8,618,275			8,618,275
717	Insurance and other funds		975,996	2,219,175		3,195,171			3,195,171
	Total special funds		9,179,728	2,633,718		11,813,446			11,813,446
	Investments:								
721	Investments in affiliated companies		164,077,345	166,059,475		330,136,820	B	(1,701,000)	328,435,820
722	Other investments		3,871,644	5,813,682	16,000	9,701,326			9,701,326
723	Reserve for adjustment of investment and securities—credit								
	Total investments		167,948,989	171,873,157	16,000	339,838,146		(1,701,000)	338,137,146
	Properties:								
731	Road and equipment property		951,117,684	978,660,498	2,709,798	1,932,487,980			1,932,487,980
732	Improvements on leased property		2,351,213	320,284		2,671,497			2,671,497
	Total transportation property		953,468,897	978,980,782	2,709,798	1,935,159,477			1,935,159,477

UPRRIG-000514

Great Northern Pacific & Burlington Lines, Inc., pro forma general balance sheet as of December 31, 1966, after giving effect to merger of Northern Pacific Railway Company, Great Northern Railway Company and Pacific Coast R. R. Co., into the Great Northern Pacific & Burlington Lines, Inc.—Continued

		GNP&B Lines, Inc.	Northern Pacific	Great Northern	Pacific Coast	Combined	Adjustments and eliminations		After adjustments and eliminations
							Notes	Amount	
	Assets—Continued								
	Properties—Continued:								
735	Accrued depreciation—road and equipment	----------	$(185,215,252)	$(229,277,510)	$(237,440)	$(414,730,202)	--------	----------	$(414,730,202)
736	Amortization of defense projects—road and equipment	----------	(30,255,951)	(39,768,292)	----------	(70,024,243)	--------	----------	(70,024,243)
	Recorded depreciation and amortization	----------	(215,471,203)	(269,045,802)	(237,440)	(484,754,445)	--------	----------	(484,754,445)
	Total transportation property less recorded depreciation and amortization	----------	737,997,694	709,934,980	2,472,358	1,450,405,032	--------	----------	1,450,405,032
737	*Miscellaneous physical property*	----------	28,550,140	16,360,803	1,170,690	46,081,633	--------	----------	46,081,633
738	Accrued depreciation—miscellaneous physical property	----------	(5,076,127)	(1,491,574)	----------	(6,567,701)	--------	----------	(6,567,701)
	Miscellaneous physical property less recorded depreciation	----------	23,474,013	14,869,229	1,170,690	39,513,932	--------	----------	39,513,932
	Total properties less recorded depreciation and amortization	----------	761,471,707	724,804,209	3,643,048	1,489,918,964	--------	----------	1,489,918,964
	Other assets and deferred charges:								
741	Other assets	----------	1,300,912	848,147	----------	2,149,059	--------	----------	2,149,059
742	Unamortized discount on long-term debt	----------	1,281,393	2,210,329	----------	3,491,722	--------	----------	3,491,722
743	Other deferred charges	----------	4,726,130	11,446,306	39,765	16,212,201	--------	----------	16,212,201
	Total other assets and deferred charges	----------	7,308,435	14,504,782	39,765	21,852,982	--------	----------	21,852,982
	Total assets	$1,000	1,073,555,806	1,036,258,307	4,189,093	2,114,004,206	--------	$(1,941,755)	2,112,062,451

( ) Denotes contra.

UPRRIG-000515

APPENDIX C

Notes to pro forma general balance sheet of the Great Northern Pacific & Burlington Lines, Inc. (New Company) as of December 31, 1966 after giving effect to the Northern Lines merger and the Burlington merger

Note

I The final combined general balance sheet as of the date of merger is subject to approval of the Bureau of Accounts, Interstate Commerce Commission.

II This pro forma general balance sheet reflects the amounts shown in pro forma general balance sheet giving effect to the merger of the Northern Pacific, Great Northern and Pacific Coast into New Company, and the Burlington, as of December 31, 1966, adjusted to give effect to the merger as shown by notes below:

A.–(1) To purchase new Burlington first and refunding mortgage series of 2010 4-percent bonds to be pledged under the New Company's consolidated mortgage	$70,000,000
(2) To deposit with Trustee of Northern Pacific refunding and improvement mortgage sufficient funds to redeem at a redemption price of 110 the $17,367,000 par value outstanding refunding and improvement mortgage series "A" 4 1/2 percent	19,103,700
	89,103,700
B.–To reflect investment in $70 million Burlington first and refunding mortgage bonds.	
C.–To reflect reduction in Federal income tax liability applicable to premium paid upon the redemption of Northern Pacific refunding and improvement mortgage series "A" 4 1/2-percent bonds. (See note E)	903,084
D.–To eliminate Northern Pacific refunding and improvement mortgage series "A" bonds called and redeemed	17,367,000
E.–To reflect charge to retained income-unappropriated as a result of net premium costs ($1,736,700 less Federal income tax reduction of approximately $903,084) incurred in redemption of Northern Pacific refunding and improvement mortgage series "A" 4 1/2-percent bonds. (See note C)	833,616
F.–To reflect receipt of cash by Burlington from sale of $70 million Burlington first and refunding mortgage bonds to the New Company.	
G.–To reflect issuance by Burlington of $70 million new first and refunding mortgage 4-percent bonds and cancellation of $29,869,000 Burlington first and refunding mortgage bonds ($19,729,000 4-percent series 1998 and $10,140,000 4 1/2-percent series 1970) held in treasury.	
H.–To effect new debit balance in traffic and car service balances - debit upon transfer of credit balance reflected in accounts of Burlington. (See note J)	470,474

UPRRIG-000516

I.—To eliminate book investment of New Company, in Burlington as follows:

Common stock	$218,491,429
Other secured obligations	
Burlington first and refunding mortgage bonds	70,000,000
	288,491,429

J.—To transfer to current assets credit balance in traffic and car service balances—credit. (See note H) ---------- 470,474

K.—To reflect the elimination of the New Company's liability with respect to Burlington first and refunding mortgage bonds upon concurrent pledging of same under the new consolidated mortgage ---------- 70,000,000

L.—To set up capital stock liability equal to par value of Burlington common stock outstanding in the hands of minority stockholders:

Common stock-without par value	*Shares*	*Amount*
48,033 shares @ 3.25	156.107	$4,803,300

M.—Giving effect to the merger of the respective roads, results in adjustments representing:

(1) Differences between book investment of New Company and par value of Burlington common stock liability (218,491,429 less $166,035,800)	$52,455,629
The $52,455,629 has been debited to other capital surplus, to the extent available	37,051,323
And the balance has been charged to retained income—unappropriated	15,404,306
	52,455,629

N.—The net debit adjustment or reduction in stockholders' equity of $218,491,429 is made up as follows:

(1) Elimination of Burlington common stock held by New Company	166,035,800
(2) Difference between book investment of New Company and par value of Burlington common stock liability	52,455,629
	218,491,429

UPRRIG-000517

APPENDIX C

Great Northern Pacific & Burlington Lines, Inc. pro forma general balance sheet as of December 31, 1966, after giving effect to merger of Great Northern Pacific & Burlington Lines, Inc. and the Chicago, Burlington & Quincy Railroad Company

		GNP&B Lines, Inc.			Burlington			Net combined	Adjustments and eliminations		After adjustments and eliminations
		General balance sheet	Adjustments and eliminations		General balance sheet	Adjustments and eliminations					
			Notes	Amount		Notes	Amount		Notes	Amount	
	Assets										
	Current assets:										
701	Cash	$10,024,406	A	$(89,103,700)	$7,743,886	F	$70,000,000	$(1,335,408)	-------	----------	$(1,335,408)
702	Temporary cash investments	134,447,524	-------	----------	24,725,131	-------	----------	159,172,655	-------	----------	159,172,655
703	Special deposits	5,133,434	-------	----------	1,505,864	-------	----------	6,639,298	-------	----------	6,639,298
704	Loans and notes receivable	----------	-------	----------	2,151	-------	----------	2,151	-------	----------	2,151
705	Traffic and car service balances-debit	3,282,496	-------	----------	----------	-------	----------	3,282,496	H	$(470,474)	2,812,022
706	Net balance receivable from agents and conductors	15,444,934	-------	----------	7,048,345	-------	----------	22,493,279	-------	----------	22,493,279
707	Miscellaneous accounts receivable	18,026,297	-------	----------	13,500,764	-------	----------	31,527,061	-------	----------	31,527,061
708	Interest and dividends receivable	2,660,284	-------	----------	777,315	-------	----------	3,437,599	-------	----------	3,437,599
709	Accrued accounts receivable	19,519,235	-------	----------	10,582,937	-------	----------	30,102,172	-------	----------	30,102,172
710	Working fund advances	533,842	-------	----------	134,430	-------	----------	668,272	-------	----------	668,272
711	Prepayments	133,976	-------	----------	94,535	-------	----------	228,511	-------	----------	228,511
712	Material and supplies	40,576,911	-------	----------	14,116,111	-------	----------	54,693,022	-------	----------	54,693,022
713	Other current assets	556,574	-------	----------	242,783	-------	----------	799,357	-------	----------	799,357
	Total current assets	250,339,913	-------	(89,103,700)	80,474,252	-------	70,000,000	311,710,465	-------	(470,474)	311,239,991
	Special funds:										
715	Sinking funds	----------	-------	----------	1,732	-------	----------	1,732	-------	----------	1,732
716	Capital and other reserve funds	8,618,275	-------	----------	5,838,386	-------	----------	14,456,661	-------	----------	14,456,661
717	Insurance and other funds	3,195,171	-------	----------	2,902,952	-------	----------	6,098,123	-------	----------	6,098,123
	Total special funds	11,813,446	-------	----------	8,743,070	-------	----------	20,556,516	-------	----------	20,556,516
	Investments:										
721	Investments in affiliated companies	328,435,820	B	70,000,000	52,008,330	-------	----------	450,444,150	I	(288,491,429)	161,952,721
722	Other investments	9,701,326	-------	----------	8,250,665	-------	----------	17,951,991	-------	----------	17,951,991
723	Reserve for adjustment of investment in securities-credit	----------	-------	----------	----------	-------	----------	----------	-------	----------	----------
	Total investments	338,137,146	-------	70,000,000	60,258,995	-------	----------	468,396,141	-------	(288,491,429)	179,904,712
	Properties:										
731	Road and equipment property	1,932,487,980	-------	----------	1,095,669,092	-------	----------	3,028,157,072	-------	----------	3,028,157,072
732	Improvements on leased property	2,671,497	-------	----------	490,876	-------	----------	3,162,373	-------	----------	3,162,373
	Total transportation property	1,935,159,477	-------	----------	1,096,159,968	-------	----------	3,031,319,445	-------	----------	3,031,319,445
735	Accrued depreciation-road and equipment	(414,730,202)	-------	----------	(305,492,639)	-------	----------	(720,222,841)	-------	----------	(720,222,841)
736	Amortization of defense projects-road and equipment	(70,024,243)	-------	----------	(28,063,154)	-------	----------	(98,087,397)	-------	----------	(98,087,397)
	Recorded depreciation and amortization	(484,754,445)	-------	----------	(333,555,793)	-------	----------	(818,310,238)			(818,310,238)
	Total transportation property less recorded depreciation and amortization	1,450,405,032	-------	----------	762,604,175	-------	----------	2,213,009,207	-------	----------	2,213,009,207
737	Miscellaneous physical property	46,081,633	-------	----------	14,857,910	-------	----------	60,939,543	-------	----------	60,939,543
738	Accrued depreciation-miscellaneous physical property	(6,567,701)	-------	----------	(3,725,236)	-------	----------	(10,292,937)	-------	----------	(10,292,937)
	Miscellaneous physical property less recorded depreciation	39,513,932	-------	----------	11,132,674	-------	----------	50,646,606	-------	----------	50,646,606
	Total properties less recorded depreciation and amortization	1,489,918,964	-------	----------	773,736,849	-------	----------	2,263,655,813	-------	----------	2,263,655,813
	Other assets and deferred charges:										
741	Other assets	2,149,059	-------	----------	3,231,494	-------	----------	5,380,553	-------	----------	5,380,553
742	Unamortized discount on long-term debt	3,491,722	-------	----------	1,267,582	-------	----------	4,759,304	-------	----------	4,759,304
743	Other deferred charges	16,212,201	-------	----------	3,333,293	-------	----------	19,545,494	-------	----------	19,545,494
	Total other assets and deferred charges	21,852,982	-------	----------	7,832,369	-------	----------	29,685,351	-------	----------	29,685,351
	Total assets	2,112,062,451	-------	(19,103,700)	931,045,535	-------	70,000,000	3,094,004,286	-------	(288,961,903)	2,805,042,383

Great Northern Pacific & Burlington Lines, Inc. pro forma general balance sheet as of December 31, 1966, after giving effect to merger of Great Northern Pacific & Burlington Lines, Inc. and the Chicago, Burlington & Quincy Railroad Company—Continued

		GNP&B Lines, Inc.			Burlington			Net combined	Adjustments and eliminations		After adjustments and eliminations
		General balance sheet	Adjustments and eliminations		General balance sheet	Adjustments and eliminations					
			Notes	Amount		Notes	Amount		Notes	Amount	
	Liabilities and shareholders' equity										
	Current liabilities:										
752	Traffic and car service balances-credit	----------	--------	----------	$470,474	-------	----------	$470,474	J	$(470,474)	----------
753	Audited accounts and wages payable	$12,972,391	--------	----------	10,914,732	-------	----------	23,887,123	-----	----------	$23,887,123
754	Miscellaneous accounts payable	5,885,325	--------	----------	3,133,530	-------	----------	9,018,855	-----	----------	9,018,855
755	Interest matured unpaid	4,664,188	--------	----------	378,871	-------	----------	5,043,059	-----	----------	5,043,059
756	Dividends matured unpaid	140,650	--------	----------	----------	-------	----------	140,650	-----	----------	140,650
757	Unmatured interest accrued	2,383,743	--------	----------	2,709,816	-------	----------	5,093,559	-----	----------	5,093,559
758	Unmatured dividends declared	8,539,399	--------	----------	----------	-------	----------	8,539,399	-----	----------	8,539,399
759	Accrued accounts payable	30,393,442	--------	----------	22,157,258	-------	----------	52,550,700	-----	----------	52,550,700
760	Federal income taxes accrued	14,358,046	C	--- $(903,084)	5,141,715	-------	----------	18,596,677	-----	----------	18,596,677
761	Other taxes accrued	20,207,412	--------	----------	9,454,289	-------	----------	29,661,701	-----	----------	29,661,701
763	Other current liabilities	4,376,885	--------	----------	3,533,381	-------	----------	7,910,266	-----	----------	7,910,266
	Total current liabilities	103,921,481	--------	(903,084)	57,894,066	-------	----------	160,912,463	-----	(470,474)	160,441,989
	Long-term debt due within 1 year:										
764	Equipment obligations and other debt	21,368,499	--------	----------	17,692,316	-------	----------	39,060,815	-----	----------	39,060,815
	Held or by for company	----------	--------	----------	(2,605,115)	-------	----------	(2,605,115)	-----	----------	(2,605,115)
	Actually outstanding	21,368,499	--------	----------	15,087,201	-------	----------	36,455,700	-----	----------	36,455,700
	Long-term debt due after 1 year:										
765	Funded debt unmatured	448,860,600	D	(17,367,000)	143,264,885	G	$40,131,000	614,889,485	-----	----------	614,889,485
	Held by or for company	(74,365,000)	-------	----------	(32,446,885)	-------	29,869,900	(76,942,885)	K	(70,000,000)	(146,942,885)
	Actually outstanding	374,495,600	-------	(17,367,000)	110,818,000	-------	70,000,000	537,946,600	-----	(70,000,000)	467,946,600
766	Equipment obligations	153,730,250	-------	----------	132,015,455	-------	----------	285,745,705	-----	----------	285,745,705
	Held by or for company	----------	-------	----------	----------	-------	----------	----------	-----	----------	----------
	Actually outstanding	153,730,250	-------	----------	132,015,455	-------	----------	285,745,705	-----	----------	285,745,705
	Total funded debt and equipment obligations outstanding	528,225,850	-------	(17,367,000)	242,833,455	-------	70,000,000	823,692,305	-----	(70,000,000)	753,692,305
769	Amounts payable to affiliated companies	----------	-------	----------	----------	-------	----------	----------	-----	----------	----------
	Total long-term debt due after 1 year	528,225,850	-------	(17,367,000)	242,833,455	-------	70,000,000	823,692,305	-----	(70,000,000)	753,692,305
	Reserves:										
771	Pension and welfare reserves	15,114,098	-------	----------	----------	-------	----------	15,114,098	-----	----------	15,114,098
772	Insurance reserves	2,911,323	-------	----------	4,086,481	-------	----------	6,997,804	-----	----------	6,997,804
773	Equalization reserves	----------	-------	----------	----------	-------	----------	----------	-----	----------	----------
774	Casualty and other reserves	9,736,436	-------	----------	1,175,917	-------	----------	10,912,353	-----	----------	10,912,353
	Total reserves	27,761,857	-------	----------	5,262,398	-------	----------	33,024,255	-----	----------	33,024,255
	Other liabilities and deferred credits:										
782	Other liabilities	3,675,999	-------	----------	1,246,988	-------	----------	4,922,987	-----	----------	4,922,987
783	Unamortized premium on long-term debt	----------	-------	----------	----------	-------	----------	----------	-----	----------	----------
784	Other deferred credits	1,687,788	-------	----------	606,379	-------	----------	2,294,167	-----	----------	2,294,167
785	Accrued depreciation-leased property	512,493	-------	----------	198,363	-------	----------	710,856	-----	----------	710,856
	Total other liabilities and deferred credits	5,876,280	-------	----------	2,051,730	-------	----------	7,928,010	-----	----------	7,928,010
	Shareholders' equity										
	Capital stock:										
791	Capital stock issued										
	Proposed new issue										
	Common stock (12,346,595 shares-without par value)	495,989,128	-------	----------	----------	-------	----------	495,989,128	L	4,803,300	500,792,428
	Preferred stock (3,076,326 shares-$10 par value)	30,763,260	-------	----------	----------	-------	----------	30,763,260	-----	----------	30,763,260
	Total	526,752,388	-------	----------	----------	-------	----------	526,752,388	-----	4,803,300	531,555,688

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Great Northern Pacific & Burlington Lines, Inc. pro forma general balance sheet as of December 31, 1966, after giving effect to merger of Great Northern Pacific & Burlington Lines, Inc. and the Chicago, Burlington & Quincy Railroad Company—Continued

		GNP&B Lines, Inc.			Burlington			Net combined	Adjustments and eliminations		After adjustments and eliminations
		General balance sheet	Adjustments and eliminations		General balance sheet	Adjustments and eliminations					
			Notes	Amount		Notes	Amount		Notes	Amount	
	Liabilities and shareholders' equity—Continued										
	Shareholders' equity—Continued										
	Merging companies:										
	Common stock	----------	--------	----------	$170,839,100	-------	----------	$170,839,100	-----	$(170,839,100)	----------
	Held by or for company	----------	--------	----------	----------	-------	----------	----------	-----	----------	----------
	Total	----------	--------	----------	170,839,100	-------	----------	170,839,100	-----	(170,839,100)	----------
	Total capital stock	$527,752,388	--------	----------	170,839,100	-------	----------	697,591,488	-----	(166,035,800)	$531,555,688
	Capital surplus:										
794	Premium and assessments on capital stock	----------	--------	----------	----------	-------	----------	----------	-----	----------	----------
795	Paid-in surplus	1,141,330	--------	----------	----------	-------	----------	1,141,330	-----	----------	1,141,330
796	Other capital surplus	37,051,323	--------	----------	----------	-------	----------	37,051,323	M	(37,051,323)	----------
	Total capital surplus	38,192,653	--------	----------	----------	-------	----------	38,192,653	-----	(37,051,323)	1,141,330
	Retained income:										
797	Retained income—appropriated	1,125,000	--------	----------	48,025,460	-------	----------	49,150,460	-----	----------	49,150,460
798	Retained income—unappropriated	858,838,443	E	(833,616)	389,052,125	-------	----------	1,247,056,952	M	(15,404,306)	1,231,652,616
	Total retained income	859,963,443	--------	(833,616)	437,077,585	-------	----------	1,296,207,412	-----	(15,404,306)	1,280,803,106
	Total shareholders' equity	1,424,908,484	--------	(833,616)	607,916,685	-------	----------	2,031,991,553	N	(218,491,429)	1,813,500,124
	Total liabilities and shareholders' equity	2,112,062,451	--------	(19,103,700)	931,045,535	-------	70,000,000	3,094,004,286	-----	(288,961,903)	2,805,042,383

( ) Denotes contra.

UPRRIG-000520

APPENDIX D

Notes to pro forma general balance sheet of the Great Northern Pacific & Burlington Lines, Inc. (New Company) as of December 31, 1966 after giving effect to lease of Spokane, Portland and Seattle Railway Company

A.—Transfer debit balance in traffic and car service balances-debit to traffic and car service balances-credit as the net balance becomes a credit after recording SP&S accounts on books of the New Company.

B.—Represents property investment accounts, depreciation reserves, funded dept, equipment obligations and shareholders' equity to remain in the SP&S accounts.

C.—Represents net liability of the New Company to the SP&S for excess of assets over liabilities of the SP&S to be recorded in the accounts to the New Company, as follows:

	Debit	Credit
Current assets	$14,451,838	
Capital and other reserve funds	123,381	
Investments	30,586,096	
Other assets	95,245	
Other deferred charges	265,015	
Current liabilities		$10,633,690
Casualty and other reserves		148,257
Other liabilities		2,694
Other deferred credits		115,341
Net liability of New Company to SP&S (Note D) account 769, amounts payable to affiliated companies		34,621,593
Total	45,521,575	45,521,575

D.—The pro forma balance sheet as of December 31, 1966, after giving effect to the merger of the Great Northern, Northern Pacific, Burlington and Pacific Coast shows total long-term debt of $790,148,005. After giving effect to the lease of the SP&S the new figure is $824,769,598. The difference of $34,621,593 represents an intercompany indebtedness of the New Company to the SP&S as indicated under note C above.

UPRRIG-000521

APPENDIX D

Great Northern Pacific & Burlington Lines, Inc., pro forma general balance sheet as of December 31, 1966 giving effect to merger of Great Northern Railway Company, Northern Pacific Railway Company, Chicago, Burlington & Quincy Railroad Company and the Pacific Coast R. R. Co. and the lease of the Spokane, Portland and Seattle Railway Company by Great Northern Pacific & Burlington Lines, Inc.

	GNP&B Lines, Inc.	SP&S	Combined	Adjustments and eliminations		After adjustments and eliminations
				Notes	Amount	
Assets						
Current assets:						
701 Cash	$(1,335,408)	$3,117,639	$1,782,231	----	----------	$1,782,231
702 Temporary cash investments	159,172,655	2,096,131	161,268,786	----	----------	161,268,786
703 Special deposits	6,639,298	37	6,639,335	----	----------	6,639,335
704 Loans and notes receivable	2,151	----------	2,151	----	----------	2,151
705 Traffic and car service balances—debit	2,812,022	----------	2,812,022	A	$(2,812,022)	----------
706 Net balance receivable from agents and conductors	22,493,279	1,020,995	23,514,274	----	----------	23,514,274
707 Miscellaneous accounts receivable	31,527,061	1,710,796	33,237,857	----	----------	33,237,857
708 Interest and dividends receivable	3,437,599	2,569	3,440,168	----	----------	3,440,168
709 Accrued accounts receivable	30,102,172	3,630,194	33,732,366	----	----------	33,732,366
710 Working fund advances	668,272	1,153	669,425	----	----------	669,425
711 Prepayments	228,511	8,662	237,173	----	----------	237,173
712 Material and supplies	54,693,022	2,747,799	57,440,821	----	----------	57,440,821
713 Other current assets	799,357	115,863	915,220	----	----------	915,220
Total current assets	311,239,991	14,451,838	325,691,829	----	(2,812,022)	322,879,807
Special funds:						
715 Sinking funds	1,732	----------	1,732	----	----------	1,732
716 Capital and other reserve funds	14,456,661	104,029	14,560,690	----	----------	14,560,690
717 Insurance and other funds	6,098,123	19,352	6,117,475	----	----------	6,117,475
Total special funds	20,556,516	123,381	20,679,897	----	----------	20,679,897
Investments:						
721 Investments in affiliated companies	161,952,721	38,979,469	200,932,190	----	----------	200,932,190
722 Other investments	17,951,991	540,917	18,492,908	----	----------	18,492,908
723 Reserve for adjustment of investment in securities—credit	----------	(8,934,290)	(8,934,290)	----	----------	(8,934,290)
Total investments	179,904,712	30,586,096	210,490,808	----	----------	210,490,808

Great Northern Pacific & Burlington Lines, Inc., pro forma general balance sheet as of December 31, 1966 giving effect to merger of Great Northern Railway Company, Northern Pacific Railway Company, Chicago, Burlington & Quincy Railroad Company and the Pacific Coast R. R. Co. and the lease of the Spokane, Portland and Seattle Railway Company by Great Northern Pacific & Burlington Lines, Inc.—Continued

		GNP&B Lines, Inc.	SP&S	Combined	Adjustments and eliminations		After adjustments and eliminations
					Notes	Amount	
	Assets--Continued						
	Properties:						
731	Road and equipment property	$3,028,157,072	$122,782,005	$3,150,939,077	B	$(122,782,055)	$3,028,157,072
732	Improvements on leased property	3,162,373	507,518	3,669,891	B	(507,518)	3,162,373
	Total transportation property	3,031,319,445	123,289,523	3,154,608,968	----	(123,289,523)	3,031,319,445
735	Accrued depreciation—road and equipment	(720,222,841)	(30,397,649)	(750,620,490)	B	30,397,649	(720,222,841)
736	Amortization of defense projects—road and equipment	(98,087,397)	(1,945,981)	(100,033,378)	B	1,945,981	(98,087,397)
	Recorded depreciation and amortization	(818,310,238)	(32,343,630)	(850,653,868)	----	32,343,630	(818,310,238)
	Total transportation property less recorded depreciation and amortization	2,213,009,207	90,945,893	2,303,955,100	----	(90,954,893)	2,213,009,207
737	Miscellaneous physical property	60,939,543	6,391,495	67,331,038	B	(6,391,495)	60,939,543
738	Accrued depreciation—miscellaneous physical property	(10,292,937)	(1,270,277)	(11,563,214)	B	1,270,277	(10,292,937)
	Miscellaneous physical property less recorded depreciation	50,646,606	5,121,218	55,767,824	----	(5,121,218)	50,646,606
	Total properties less recorded depreciation and amortization	2,263,655,813	96,067,111	2,359,722,924	----	(96,067,111)	2,263,655,813
	Other assets and deferred charges:						
741	Other assets	5,380,553	95,245	5,475,798	----	----------	5,475,798
742	Unamortized discount on long-term debt	4,759,304	----------	4,759,304	----	----------	4,759,304
743	Other deferred charges	19,545,494	265,015	19,810,509	----	----------	19,810,509
	Total other assets and deferred charges	29,685,351	360,260	30,045,611	----	----------	30,045,611
	Total assets	2,805,042,383	141,588,686	2,946,631,069	----	(98,879,133)	2,847,751,936

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Great Northern Pacific & Burlington Lines, Inc., pro forma general balance sheet as of December 31, 1966 after giving effect to merger of Great Northern Railway Company, Northern Pacific Railway Company, Chicago, Burlington & Quincy Railroad Company and the Pacific Coast R. R. Co. and the lease of the Spokane, Portland and Seattle Railway Company by Great Northern Pacific & Burlington Lines, Inc.—Continued

		GNP&B Lines, Inc.	SP&S	Combined	Adjustments and eliminations		After adjustments and eliminations
					Notes	Amount	
	Liabilities and shareholders' equity						
	Current liabilities:						
752	Traffic and car service balances—credit	----------	$3,186,504	$3,186,504	A	$(2,812,022)	$374,482
753	Auditied accounts and wages payable	$23,887,123	1,445,151	25,332,274	----	----------	25,332,274
754	Miscellaneous accounts payable	9,018,855	431,408	9,450,263	----	----------	9,450,263
755	Interest matured unpaid	5,043,059	539	5,043,598	----	----------	5,043,598
756	Dividends matured unpaid	140,650	----------	140,650	----	----------	140,650
757	Unmatured interest accrued	5,093,559	582,151	5,675,710	----	----------	5,675,710
758	Unmatured dividends declared	8,539,399	----------	8,539,399	----	----------	8,539,399
759	Accrued accounts payable	52,550,700	2,709,760	55,260,460	----	----------	55,260,460
760	Federal income taxes accrued	18,596,677	(335,000)	18,261,677	----	----------	18,261,677
761	Other taxes accrued	29,661,701	1,755,619	31,417,320	----	----------	31,417,320
763	Other current liabilities	7,910,266	857,557	8,767,823	----	----------	8,767,823
	Total current liabilities	160,441,989	10,633,690	171,075,679	----	(2,812,022)	168,263,657
	Long-term debt due within 1 year:						
764	Equipment obligations and other debt	39,060,815	793,842	39,854,657	B	(793,842)	39,060,815
	Held by or for company	(2,605,115)	----------	(2,605,115)	----	----------	(2,605,115)
	Actually outstanding	36,455,700	793,842	37,249,542	----	(793,842)	36,455,700
	Long-term debt due after 1 year:						
765	Funded debt unmatured	614,889,485	42,710,000	657,599,485	B	(42,710,000)	614,889,485
	Held by or for company	(146,942,885)	----------	(146,942,885)	----	----------	(146,942,885)
	Actually outstanding	467,946,600	42,710,000	510,656,600	----	(42,710,000)	467,946,600
766	Equipment obligations	285,745,705	3,037,658	288,783,363	B	(3,037,658)	285,745,705
	Held by or for company	----------	----------	----------	----	----------	----------
	Actually outstanding	285,745,705	3,037,658	288,783,363	----	(3,037,658)	285,745,705
	Total funded debt and equipment obligations outstanding	753,692,305	45,747,658	799,439,963	----	(45,747,658)	753,692,305
769	Amounts payable to affiliated companies	----------	----------	----------	C	34,621,593	34,621,593
	Total long-term debt due after 1 year	753,692,305	45,747,658	799,439,963	----	(11,126,065)	788,313,898

Great Northern Pacific & Burlington Lines, Inc., pro forma general balance sheet as of December 31, 1966 after giving effect to merger of Great Northern Railway Company, Northern Pacific Railway Company, Chicago, Burlington & Quincy Railroad Company and the Pacific Coast R. R. Co. and the lease of the Spokane, Portland and Seattle Railway Company by Great Northern Pacific & Burlington Lines, Inc.—Continued

		GNP&B Lines, Inc.	SP&S	Combined	Adjustments and eliminations		After adjustments and eliminations
					Notes	Amount	
	Liabilities and shareholders' equity—Continued						
	Reserves:						
771	Pension and welfare reserves	$15,114,098	----------	$15,114,098	----	----------	$15,114,098
772	Insurance reserves	6,997,804	----------	6,997,804	----	----------	6,997,804
773	Equalization reserves	----------	----------	----------	----	----------	----------
774	Casualty and other reserves	10,912,353	$148,257	11,060,610	----	----------	11,060,610
	Total reserves	33,024,255	148,257	33,172,512	----	----------	33,172,512
	Other liabilities and deferred credits:						
782	Other liabilities	4,922,987	2,694	4,925,681	----	----------	4,925,681
783	Unamortized premium on long-term debt	----------	----------	----------	----	----------	----------
784	Other deferred credits	2,294,167	115,341	2,409,508	----	----------	2,409,508
785	Accrued depreciation—leased property	710,856	43,103	753,959	B	$ (43,103)	710,856
	Total other liabilities and deferred credits	7,928,010	161,138	8,089,148	----	(43,103)	8,046,045
	Shareholders' equity:						
	Capital stock:						
791	Capital stock issued						
	Proposed new issue						
	Common stock (12,346,595 shares-without par value)	500,792,428	----------	500,792,428	----	----------	500,792,428
	Preferred stock (3,076,326 shares-$10 par value)	30,763,260	----------	30,763,260	----	----------	30,763,260
	Total	531,555,688	----------	531,555,688	----	----------	531,555,688
	Merging companies:						
	Common stock	----------	40,000,000	40,000,000	B	(40,000,000)	----------
	Held by or for company	----------	----------	----------	----	----------	----------
	Total	----------	40,000,000	40,000,000	----	(40,000,000)	----------
	Total capital stock	531,555,688	40,000,000	571,555,688	----	(40,000,000)	531,555,688
	Capital surplus:						
794	Premiums and assessments on capital stock	----------	----------	----------	----	----------	----------
795	Paid-in surplus	1,141,330	9,300,000	10,441,330	B	(9,300,000)	1,141,330
796	Other capital surplus	----------	----------	----------	----	----------	----------
	Total capital surplus	1,141,330	9,300,000	10,441,330	----	(9,300,000)	1,141,330
	Retained income:						
797	Retained income-appropriated	49,150,460	----------	49,150,460	----	----------	49,150,460
798	Retained income-unappropriated	1,231,652,646	34,804,101	1,266,456,747	B	(34,804,101)	1,231,652,646
	Total retained income	1,280,803,106	34,804,101	1,315,607,207	----	(34,804,101)	1,280,803,106
	Total shareholders' equity	1,813,500,124	84,104,101	1,897,604,225	----	(84,104,101)	1,813,500,124
	Total liabilities and shareholders' equity	2,805,042,383	141,588,686	2,946,631,069	----	(98,879,133)	2,847,751,936

() Denotes contra

APPENDIX E

Great Northern Pacific & Burlington Lines, Inc. pro forma retained income--unappropriated as of December 31, 1966 after giving effect to merger

	NP Ry. Co.	GN Ry. Co.	CB&Q R.R. Co.	SP&S Ry. Co.	Pacific Coast R.R. Co.	Combined	Adjustments and eliminations	After adjustments and eliminations
Credit balance at beginning of year---	$409,295,177	$412,979,682	$371,084,412	$32,131,784	$2,904,246	$1,228,395,301	----------	$1,228,395,301
Credits (current year)								
Credit balance carried from income----	30,673,591	36,547,109	23,810,592	3,297,580	206,380	94,535,252	----------	94,535,252
Other credits to retained income------	----------	1,737,309	9,355,885	----------	----------	11,093,194	----------	11,093,194
Federal income taxes assigned to retained income (net)----------	----------	----------	1,258,679	577,000	----------	1,835,679	----------	1,835,679
Total credits----------	439,968,768	451,264,100	405,509,568	36,006,364	3,110,626	1,335,859,426	----------	1,335,859,426
Debits (current year)								
Loss on sale or retirement of property	----------	----------	----------	----------	----------	----------	----------	----------
Appropriations for sinking and other reserve funds----------	----------	1,125,000	----------	----------	----------	1,125,000	----------	1,125,000
Other debits to retained income-------	----------	----------	3,644,541	1,202,263	105,668	4,952,472	$51,042,023 (a)	55,994,495
Federal income taxes assigned to retained income (net)----------	----------	795,000	----------	----------	(50,725)	744,275	----------	744,275
Appropriations released----------	----------	(1,125,000)	----------	----------	----------	(1,125,000)	----------	(1,125,000)
Dividends----------	15,698,550	18,456,558	12,812,902	----------	500,000	47,468,010	----------	47,468,010
Total debits----------	15,698,550	19,251,558	16,457,443	1,202,263	554,943	53,164,757	51,042,023	104,206,780
Credit balance as of December 31,1966-	424,270,218	432,012,542	389,052,125	34,804,101	2,555,683	1,282,694,669	(51,042,023)	1,231,652,646

(a) Net premium on redemption of Northern Pacific Refunding and Improvement Mortgage Series "A" 4 1/2-percent Bonds---------- $833,616
Cost of Burlington common stock in excess of its par value after application of other capital surplus to the extent available---------- 15,404,306
Elimination of credit balance of retained income-unappropriated of the SP&S Ry. Co. as of August 31, 1961 not recorded by the GNP&B Lines, Inc. under terms of lease of the SP&S Ry. Co.---------- 34,804,101
51,042,023

APPENDIX F

Great Northern Railway Company, long-term debt

Description	Nominal date of issue	Date of maturity	Interest rate	Amount outstanding at December 31, 1966
			(Percent)	
Amount due after 1 year:				
Mortgage bonds[a]				
General Mortgage Gold Bonds, Series C	January 1, 1923	January 1, 1973	5	$14,154,900
General Mortgage Gold Bonds, Series D	July 1, 1926	July 1, 1976	4 1/2	14,508,000
General Mortgage Gold Bonds, Series N	July 1, 1945	January 1, 1990	3 1/8	37,500,000
General Mortgage Gold Bonds, Series O	do	January 1, 2000	3 1/8	37,500,000
General Mortgage Gold Bonds, Series P	January 1, 1946	January 1, 1982	2 3/4	40,000,000
General Mortgage Gold Bonds, Series Q	do	January 1, 2010	2 5/8	35,000,000
Equipment obligations	Various	Various	2-5 1/4	63,994,000
Total amount due after 1 year				242,656,900
Amount due within 1 year:				
Equipment obligations				7,633,000
Miscellaneous obligations				28,624
Total amount due within 1 year				7,661,624
Total long-term debt				[b]242,656,900

[a]Issued under Great Northern Gold Bond Mortgage, dated January 1, 1921.

[b]Does not include or reflect liability of Great Northern as guarantor of certain obligations of affiliated companies of approximately $10 million. Also Great Northern is contingently liable as guarantor along with other railroads for its proportionate share of any contingent obligations not met by other railroad participants of obligations of Trailer Train Company aggregating $81,392,855.

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APPENDIX F–Continued

Northern Pacific Railway Company long-term debt

Description	Nominal date of issue	Date of maturity	Interest rate	Amount outstanding at December 31, 1966
			(Percent)	
Amount due after 1 year:				
Mortgage bonds				
Prior lien mortgage	January 1897	January 1997	4	[c]$93,365,800
General lien mortgage	January 1897	January 2047	3	[d]53,585,900
St. Paul-Duluth Division Mortgage	June 1900	December 1996	4	[e]252,000
Refunding and Improvement Mortgage, Series A	July 1914	July 2047	4½	[f-g]17,367,000
Refunding and Improvement Mortgage, Series E	July 1945	July 2047	4	
St. Paul, and Duluth RR First Consolidated Mortgage	June 1898	June 1968	4	[h]1,000,000
Collateral Trust Bonds	October 1954	October 1984	4	[i]30,262,000
Equipment obligations	Various	Various	2 3/8-4 7/8	89,736,250
Total amount due after 1 year				285,568,950
Amount due within 1 year:				
Collateral Trust Bonds				1,560,000
Equipment obligations				10,677,000
Miscellaneous obligations				1,469,875
Total amount due within 1 year				13,706,875
Total long-term debt				299,275,825

[c]Issued under Northern Pacific Prior Lien Mortgage, dated November 10, 1896.

[d]Issued under Northern Pacific General Lien Mortgage, also dated November 10, 1896. Figure shown does not include $5,555,000 held in treasury or pledged.

[e]Issued under Northern Pacific St. Paul-Duluth Division Mortgage, dated June 15, 1900.

[f]Issued under Northern Pacific Refunding and Improvement Mortgage, dated July 1, 1914. These bonds would be redeemed and canceled as part of the proposed unfication program.

[g]Issued under same vehicle described in (f) above. In addition to those publicly held $63,250,000 principal amount of Northern Pacific Refunding and Improvement bonds, Series E, issued under same mortgage are pledged under Northern Pacific Collateral Trust Indenture dated October 1, 1954. After merger of Northern Lines those bonds would be released from pledge and like amount of New Company's new consolidated mortgage bonds would be deposited and pledged in substitution therefor.

[h]Issued under the St. Paul and Duluth First Consolidated Mortgage, dated June 1, 1898.

[i]Issued under Northern Pacific Collateral Trust Indenture, dated October 1, 1954. Figure shown does not include $5,358,000 held in treasury or pledged.

APPENDIX F—Continued

Chicago, Burlington & Quincy Railroad Company long-term debt

Description	Nominal date of issue	Date of maturity	Interest rate	Amount outstanding at December 31, 1966
			(Percent)	
Amount due after 1 year:				
Mortgage bonds[j]				
First and Refunding Mortgage, Series 1970	August 1, 1944	August 1, 1970	4 1/2	[k]$
First and Refunding Mortgage, Series 1970	August 1, 1945	August 1, 1970	2 7/8	[l]43,333,000
First and Refunding Mortgage, Series 1978	February 1, 1958	February 1, 1978	4 3/8	[m]18,677,000
First and Refunding Mortgage, Series 1985	August 1, 1945	August 1, 1985	3 1/8	[n]29,251,000
First and Refunding Mortgage, Series 1990	February 1, 1950	February 1, 1990	3	[o]19,557,000
First and Refunding Mortgage, Series 1998	February 1, 1958	February 1, 1998	4	[p]
Equipment obligations	Various	Various	2 5/8 -5 3/4	132,015,455
Total amount due after 1 year				242,833,455
Amount due within 1 year:				
Equipment obligations			2 5/8 -5 3/4	15,087,201
Total amount due within 1 year				15,087,201
Total long-term debt				257,920,656

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[j]Issued under Burlington First and Refunding Mortgage, dated February 1, 1921, under which First National City Bank is successor trustee, and secured by a first lien on 7,854.03 miles of railroad owned by Burlington and on all (358,563) shares of capital stock owned by Burlington in C&S and various terminal companies.

[k]$10,140,000 principal amount excluded-heretofore reacquired and held in treasury.

[l]$796,000 principal amount excluded-heretofore reacquired and held in treasury.

[m]$1,260,000 principal amount excluded-heretofore reacquired and held in treasury.

[n]$2,205,000 principal amount excluded-heretofore reacquired and held in treasury.

[o]$922,000 principal amount excluded-heretofore reacquired and held in treasury.

[p]$19,729,000 principal amount excluded-heretofore reacquired and held in treasury.

APPENDIX F—Continued

Spokane, Portland and Seattle Railway Co. long-term debt

Description	Nominal date of issue	Date of maturity	Interest rate	Amount outstanding at December 31, 1966
			(Percent)	
Amount due after 1 year:				
First Mortgage Bonds	March 1, 1971	March 1, 1911	4	[q]$42,710,000
Equipment obligations	Various	Various	3 3/4 - 4 5/8	3,037,658
Total amount due after 1 year				45,747,658
Amount due within 1 year:				
Equipment obligations			4 - 4 5/8	793,842
Total amount due within 1 year				793,842
Total long-term debt				46,541,500

[q]Owned one-half each by Northern Pacific and Great Northern. These bonds were originally due March 1, 1961, extended to March 1, 1971, under Finance Docket No. 21468, dated February 24, 1961.

Because the proposal involving SP&S contemplates lease only these bonds held in equal proportions by Great Northern and Northern Pacific would not be extinguished.

APPENDIX G

Great Northern Railway Company Comparative Income Statements

	1958	1959	1960	1966
Railway operating income				
Railway operating revenues	$251,671,504	$254,559,530	$246,024,650	$281,777,075
Railway operating expenses	190,854,844	197,108,501	194,051,856	207,856,575
Net revenue from railway operations	60,816,660	57,451,029	51,972,794	73,920,500
Railway tax accruals	32,386,938	29,861,886	28,701,516	37,351,961
Railway operating income	28,429,722	27,589,143	23,271,278	36,568,539
Rent income				
Rent from locomotives	276,997	223,276	191,135	48,141
Rent from passenger-train cars	1,151,525	1,155,677	1,073,814	919,116
Rent from work equipment	14,922	33,275	24,044	42,508
Joint facility rent income	1,694,034	1,579,726	1,612,979	1,600,210
Total rent income	3,137,478	2,991,954	2,901,972	2,609,975
Rents payable				
Hire of freight cars-debit balance	2,249,511	3,111,672	4,473,541	3,716,153
Rent for locomotives	150,698	91,520	89,012	48,974
Rent for passenger-train cars	1,008,478	959,966	920,445	746,337
Rent for work equipment	25,381	3,318	1,513	6,376
Joint facility rents	2,309,822	2,204,193	2,253,291	2,372,775
Total rents payable	5,743,890	6,370,669	7,737,802	6,890,615
Net rents	(2,606,412)	(3,378,715)	(4,835,830)	(4,280,640)
Net railway operating income	25,823,310	24,210,428	18,435,448	32,287,899
Other income				
Income from lease of road and equipment	5,588	6,390	4,674	4,175
Miscellaneous rent income	631,581	679,734	705,401	873,875
Income from nonoperating property	680,997	641,101	545,553	693,943
Separately operated properties-profit	----------	----------	56,447	----------
Dividend income	6,405,789	6,338,014	6,313,714	7,391,247
Interest income	2,183,588	2,633,966	2,915,729	4,928,363
Income from sinking and other reserve funds	188,062	312,548	262,081	86,671
Miscellaneous income	925,543	721,208	645,151	380,639
Total other income	11,021,148	11,332,961	11,448,750	14,358,913
Total income	36,844,458	35,543,389	29,884,198	46,646,812

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Great Northern Railway Company Comparative Income Statements—Continued

	1958	1959	1960	1966
Miscellaneous deduction from income				
Miscellaneous rents	$51,479	$58,837	$59,592	$71,111
Miscellaneous tax accruals	201,930	209,375	230,670	276,279
Separately operated properties-loss	37,829	161,218	----------	8,143
Miscellaneous income charges	634,399	139,547	383,815	863,661
Total miscellaneous deduction	925,637	568,977	674,077	1,219,194
Income available for fixed charges	35,918,821	34,974,412	29,210,121	45,427,618
Fixed charges				
Rent for leased road and equipment	1,695	2,071	3,854	1,618
Interest on funded debt	8,195,887	8,261,042	8,337,072	8,705,453
Interest on unfunded debt	3,576	----------	472	124
Amortization of discount on funded debt	139,865	153,026	145,509	173,314
Total fixed charges	8,341,023	8,416,139	8,486,907	8,880,509
Income after fixed charges	$27,577,798	$26,558,273	$20,723,214	$36,547,109
Operating ratio: (percent)	75.04	77.45	78.87	73.77

( ) Denotes contra

Northern Pacific Railway Company Comparative Income Statements

Railway operating income				
Railway operating revenue	$179,107,731	$183,608,782	$174,915,492	$210,189,700
Railway operating expenses	143,066,032	146,426,171	147,871,058	168,697,965
Net revenue from railway operations	36,041,699	37,182,611	27,044,434	41,491,735
Railway tax accruals	21,139,202	25,492,066	20,212,004	24,255,091
Railway operating income	14,902,497	11,690,545	6,832,430	17,236,644
Rent income				
Rent from locomotives	253,114	254,430	227,471	122,365
Rent from passenger-train cars	957,507	913,552	1,084,861	867,334
Rent from work equipment	74,700	102,313	183,797	33,876
Joint facility rent income	4,365,869	4,546,122	4,645,780	4,626,387
Total rent income	5,651,190	5,816,417	6,181,909	5,649,962
Rents payable				
Hire of freight cars-debit balance	591,654	1,186,321	855,438	194,935
Rent for locomotives	53,548	62,514	66,759	17,359
Rent for passenger-train cars	585,449	508,878	647,751	406,408
Rent for work equipment	1,432	3,015	5,718	7,553
Joint facility rents	1,096,285	1,177,716	1,283,133	1,219,432
Total rents payable	2,328,368	2,938,444	2,858,799	1,845,687
New rents	3,322,822	2,877,973	3,283,110	3,804,275
Net railway operating income	18,225,319	14,568,518	10,115,540	21,040,919

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Northern Pacific Railway Company Comparative Income Statements--Continued

	1958	1959	1960	1966
Other income				
Income from lease of road and equipment	$45,964	$47,081	$46,693	$44,720
Miscellaneous rent income	1,371,432	1,489,083	1,386,611	1,824,106
Income from nonoperating property	5,722,257	9,115,847	8,404,803	8,856,254
Dividend income	6,603,231	6,356,530	6,986,559	6,620,487
Interest income	2,667,261	3,211,459	3,547,428	3,919,421
Income from sinking and other reserve funds	69,917	113,156	208,428	341,723
Miscellaneous income	1,192,201	1,380,301	932,096	1,801,910
Total other income	17,672,263	21,713,457	21,512,618	23,408,621
Total income	35,897,582	36,281,975	31,628,158	44,449,540
Miscellaneous deductions from income				
Miscellaneous rents	30,391	29,579	30,627	29,761
Miscellaneous tax accruals	661,702	711,481	683,912	1,040,445
Miscellaneous income charges	2,085,874	593,609	932,674	1,016,620
Total miscellaneous deductions	2,777,967	1,334,669	1,647,213	2,086,826
Income available for fixed charges	33,119,615	34,942,306	29,980,945	42,362,714
Fixed charges				
Rent for leased road and equipment	49,618	49,768	49,618	49,618
Interest on funded debt	10,924,586	11,009,193	11,256,439	11,474,521
Interest on unfunded debt	1,966	1,878	10,927	3,064
Amortization of discount on funded debt	131,469	105,302	116,767	161,920
Total fixed charges	11,107,639	11,166,141	11,433,751	11,689,123
Income after fixed charges	$22,011,976	$23,781,165	$18,547,194	$30,673,591
Operating ratio: (percent)	79.87	79.74	84.54	80.26

Chicago, Burlington & Quincy Railroad Company Comparative Income Statements

Railway operating income				
Railway operating revenues	$258,027,700	$263,072,883	$251,135,890	$289,622,347
Railway operating expenses	200,263,598	209,875,069	203,951,532	227,622,927
Net revenue from railway operations	57,764,102	53,197,812	47,184,358	61,999,420
Railway tax accruals	27,403,280	27,339,438	25,178,072	25,738,844
Railway operating income	30,360,822	25,858,376	22,006,286	36,260,576
Rent income				
Rent from locomotives	177,810	139,111	93,316	35,100
Rent from passenger-train cars	1,451,453	1,368,610	1,423,519	1,397,428
Rent from work equipment	41,104	145,917	59,240	56,274
Joint facility rent income	779,659	828,502	867,468	835,900
Total rent income	2,450,026	2,482,140	2,443,543	2,324,702

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Chicago, Burlington & Quincy Railroad Company Comparative Statement--Continued

	1958	1959	1960	1966
Rents payable				
Hire of freight cars debit balance	$4,817,495	$4,654,351	$3,252,317	$6,259,999
Rent of locomotives	84,980	(617)	4,640	247,239
Rent for passenger-train cars	1,039,396	1,061,073	1,118,395	1,085,029
Rent for work equipment	272	48	57	2
Joint facility rents	3,195,902	3,183,635	3,441,922	2,286,644
Total rents payable	9,138,045	8,898,490	7,817,331	9,878,913
Net rents	(6,688,019)	(6,416,350)	(5,373,788)	(7,554,211)
Net railway operating income	23,672,803	19,442,026	16,632,498	28,706,365
Other income				
Income from lease of road and equipment	7,724	6,787	6,910	6,835
Miscellaneous rent income	732,649	783,071	875,862	1,268,996
Income from nonoperating property	364,467	409,087	334,672	424,564
Separately operated properties	12,073	12,205	13,545	----------
Dividend income	992,127	723,198	753,370	572,401
Interest income	793,078	1,290,237	1,238,197	1,586,588
Release of premiums on funded debt	21	21	20	----------
Miscellaneous income	634,363	2,764,870	573,244	1,478,366
Total other income	3,536,502	5,989,476	3,795,820	5,337,750
Total income	27,209,305	25,431,502	20,428,318	34,044,115
Miscellaneous deductions from income				
Miscellaneous rents	31,072	29,446	33,210	40,861
Miscellaneous tax accruals	137,226	153,492	181,523	213,414
Separately operated properties-loss	----------	----------	----------	4,653
Miscellaneous income charges	180,049	203,564	108,072	418,313
Total miscellaneous deductions	348,347	386,502	322,805	677,241
Income available for fixed charges	26,860,958	25,045,000	20,105,513	33,366,874
Fixed charges				
Rent for leased road and equipment	57,632	56,623	57,293	53,383
Interest on funded debt	7,247,259	7,228,783	7,484,585	9,297,477
Interest on unfunded debt	1,704	1,441	1,245	18,629
Amortization of discount on funded debt	62,631	62,010	69,252	186,793
Total fixed charges	7,369,226	7,348,857	7,612,375	9,556,282
Net income after fixed charges	$19,491,732	$17,696,143	$12,493,138	$23,810,592
Operating ratio: (percent)	77.61	78.99	81.21	78.59

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UPRRIG-000534

Spokane, Portland and Seattle Railway Company, Comparative Income Statements

	1958	1959	1960	1966
Railway operating income				
Railway operating revenues	$24,040,519	$26,824,576	$25,048,890	$40,491,537
Railway operating expenses	19,699,569	20,403,517	20,030,653	29,078,396
Net revenue from railway operations	5,340,950	6,421,059	5,018,237	11,413,141
Railway tax accruals	2,237,201	2,217,938	2,491,501	4,409,660
Railway operating income	3,103,749	4,203,121	2,526,736	7,003,481
Rent income				
Hire of freight cars-credit balance	65,451	----------	----------	----------
Rent from locomotives	455,904	465,889	471,569	860,536
Rent from passenger-train cars	188,075	207,923	177,759	157,276
Rent from work equipment	98,423	127,871	108,317	166,131
Joint facility rent income	367,407	383,602	416,916	662,406
Total rent income	1,175,260	1,185,285	1,174,561	1,846,349
Rents payable				
Hire of freight cars -debit balance	----------	26,032	77,356	2,299,866
Rent for locomotives	1,582	25,819	18,697	859,718
Rent for passenger-train cars	142,789	150,445	146,514	156,966
Rent for work equipment	292	13	(7,602)	104,943
Joint facility rents	394,566	530,689	489,317	704,074
Total rents payable	539,229	732,998	724,282	4,125,567
Net rents	636,031	452,287	450,279	(2,279,218)
Net railway operating income	3,739,780	4,655,408	2,977,015	4,724,263
Other income				
Miscellaneous rent income	106,264	118,114	147,707	327,272
Income from nonoperating property	427,657	393,332	468,024	328,879
Interest income	27,000	45,037	30,855	359,313
Income from sinking and other reserve funds	644	1,217	2,555	3,607
Miscellaneous income	10,658	126,875	(5,371)	34,730
Total other income	572,223	684,575	643,770	1,053,801
Total income	4,312,003	5,339,983	3,620,785	5,778,064
Miscellaneous deductions from income				
Miscellaneous rents	1,328	1,335	1,139	1,681
Miscellaneous tax accruals	46,765	42,349	36,842	43,211
Miscellaneous income charges	61,544	33,012	24,722	32,854
Total miscellaneous deductions	109,637	76,696	62,753	77,746
Income available for fixed charges	4,202,366	5,263,287	3,558,032	5,700,318

UPRRIG-000535

Spokane, Portland and Seattle Railway Company Comparative Income Statements--Continued

	1958	1959	1960	1966
Fixed charges				
Rent for leased roads and equipment	$36,871	$37,603	37,603	$35,902
Interest on funded debt	2,756,138	2,545,478	2,415,022	1,992,717
Amortization of discount on funded debt	366,618	342,618	330,619	----------
Total fixed charges	3,159,627	2,925,699	2,783,244	2,028,619
Income after fixed charges	1,042,739	2,337,588	774,788	3,671,699
Operating ratio: (percent)	78.67	76.06	79.96	71.81

Pacific Coast Railroad Company Comparative Income Statements

Railway operating revenues	$285,666	$316,625	$318,311	$696,372
Railway operating expenses	241,695	279,194	263,194	293,547
Net revenue from railway operations	43,971	37,431	55,117	402,825
Railway tax accruals	68,995	66,440	103,608	175,217
Railway operating income	(25,024)	(29,009)	(48,491)	(227,608)
Rent income				
Rent from locomotives	31	51	80	(3)
Joint facility rent income	77,550	74,749	109,997	81,042
Total rent income	77,581	74,800	110,077	81,039
Rents payable				
Hire of freight cars-debit balance	58,565	55,317	34,354	169,596
Rent for locomotives	6,055	6,436	7,276	15,316
Rent for passenger train cars	31	----------	----------	----------
Rent for work equipment	512	444	4,327	1,021
Joint facility rents	2,617	2,953	2,905	3,459
Total rents payable	67,780	65,150	48,862	189,392
Net rents	9,801	9,650	61,215	(108,353)
Net railway operating income	(15,223)	(19,359)	(12,724)	119,255
Other income				
Income from lease of road and equipment	2,499	2,499	2,499	1,762
Miscellaneous rent income	11,369	10,083	11,486	12,544
Income from nonoperating property	8,345	11,750	13,300	15,290
Interest income	----------	----------	205	747
Miscellaneous income	1,448	----------	316	96,226
Total other income	23,661	24,332	27,806	126,569
Total income	8,438	4,973	40,530	245,824
Miscellaneous deductions from income				
Miscellaneous rents	2	2	2	661
Miscellaneous tax accruals	2,492	5,187	13,146	14,967
Miscellaneous income charges	5,865	14	21	23,816
Total miscellaneous deductions	8,359	5,203	13,169	39,444
Income available for fixed charges	79	(230)	27,361	206,380
Fixed charges				
Interest on funded debt	----------	----------	----------	----------
Total fixed charges	----------	----------	----------	----------
Net income after fixed charges	$79	$ (230)	$27,361	$206,380
Operating ratio: (percent)	84.67	88.17	82.68	42.15

UPRRIG-000536

Great Northern Pacific & Burlington Lines, Inc., combined income statement as of December 31, 1966

	Northern Pacific	Great Northern	Burlington	Pacific Coast	S P & S	Combined
Railway operating income						
Railway operating revenues	$210,189,700	$281,777,075	$289,622,347	$696,372	$40,491,537	$822,777,031
Railway operating expenses	168,697,965	207,856,575	227,622,927	293,547	29,078,396	633,549,410
Net revenue from railway operations	41,491,735	73,920,500	61,999,420	402,825	11,413,141	189,227,621
Railway tax accruals	24,255,091	37,351,961	25,738,844	175,217	4,409,660	91,930,773
Railway operating income	17,236,644	36,568,539	36,260,576	227,608	7,003,481	97,296,848
Rent income						
Rent from locomotives	122,365	48,141	35,100	(3)	860,536	1,066,139
Rent from passenger-train cars	867,334	919,116	1,397,428	----------	157,276	3,341,154
Rent from work equipment	33,876	42,508	56,274	----------	166,131	298,789
Joint facility rent income	4,626,387	1,600,210	835,900	81,042	662,406	7,805,945
Total rent income	5,649,962	2,609,975	2,324,702	81,039	1,846,349	12,512,027
Rents payable						
Hire of freight cars-debit balance	194,935	3,716,153	6,259,999	169,596	2,299,866	12,640,549
Rent for locomotives	17,359	48,974	247,239	15,316	859,718	1,188,606
Rent for passenger-train cars	406,408	746,337	1,085,029	----------	156,966	2,394,740
Rent for work equipment	7,553	6,376	2	1,021	104,943	119,895
Joint facility rents	1,219,432	2,372,775	2,286,644	3,459	704,074	6,586,384
Total rents payable	1,845,687	6,890,615	9,878,913	189,392	4,125,567	22,930,174
Net rents	3,804,275	(4,280,640)	(7,554,211)	(108,353)	(2,279,218)	(10,418,147)
Net railway operating income	21,040,919	32,287,899	28,706,365	119,255	4,724,263	86,878,701
Other income						
Income for lease of road and equipment	44,720	4,175	6,835	1,762	----------	57,492
Miscellaneous rent income	1,824,106	873,875	1,268,996	12,544	327,272	4,306,793
Income from nonoperating property	8,856,254	693,943	424,564	15,290	328,879	10,318,930
Separately operated properties--profit	----------	----------	----------	----------	----------	----------
Dividend income	6,620,487	7,391,247	572,401	----------	----------	14,584,135
Interest income	3,919,421	4,928,363	1,586,588	747	359,313	10,794,432
Income from sinking and other reserve funds	341,723	86,671	----------	----------	3,607	432,001
Release of premiums on funded debt	----------	----------	----------	----------	----------	----------
Miscellaneous income	1,801,910	380,639	1,478,366	96,226	34,730	3,791,871
Total other income	23,408,621	14,358,913	5,337,750	126,569	1,053,801	44,285,654
Total income	44,449,540	46,646,812	34,044,115	245,824	5,778,064	131,164,355
Miscellaneous deductions from income						
Miscellaneous rents	29,761	71,111	40,861	661	1,681	144,075
Miscellaneous tax accruals	1,040,445	276,279	213,414	14,967	43,211	1,588,316
Separately operated properties-loss	----------	8,143	4,653	----------	----------	12,796
Miscellaneous income charges	1,016,620	863,661	418,313	23,816	32,854	2,355,264
Total miscellaneous deductions	2,086,826	1,219,194	677,241	39,444	77,746	4,100,451
Income available for fixed charges	42,362,714	45,427,618	33,366,874	206,380	5,700,318	127,063,904
Fixed charges						
Rent for leased road and equipment	49,681	1,618	53,383	----------	35,902	140,521
Interest on funded debt	11,474,521	8,705,453	9,297,477	----------	1,992,717	31,470,168
Interest on unfunded debt	3,064	124	18,629	----------	----------	21,817
Amortization of discount on funded debt	161,920	173,314	186,793	----------	----------	522,027
Total fixed charges	11,689,123	8,880,509	9,556,282	----------	2,028,619	32,154,533
Income after fixed charges	30,673,591	36,547,109	23,810,592	206,380	3,671,699	94,909,371
Operating ratio (percent)	80.26	73.77	78.59	42.15	71.81	77.01

( ) Denotes contra

UPRRIG-000537

APPENDIX H

Earnings per share common stock, dividends, and dividends declared for Great Northern, Northern Pacific, and Burlington for the years 1951 to 1966

Year	Great Northern	Northern Pacific	Burlington
Earnings per share common stock			
1951	$3.91	$2.68	$14.78
1952	4.55	2.66	16.39
1953	4.92	2.61	15.02
1954	4.21	2.41	13.47
1955	5.27	3.22	12.97
1956	5.32	3.52	12.62
1957	4.38	3.54	10.06
1958	4.52	3.68	11.41
1959	4.35	3.97	10.36
1960	3.41	3.10	7.31
1961	3.07	2.72	8.43
1962	4.12	3.39	11.95
1963	4.80	4.09	12.51
1964	4.71	3.90	11.91
1965	6.01	4.65	9.77
1966	5.94	5.08	13.94
Dividends declared per share common stock			
1951	2.00	1.25	7.00
1952	2.00	1.50	7.50
1953	2.00	1.50	7.50
1954	2.10	1.50	7.50
1955	2.35	1.58	7.50
1956	2.63	1.50	7.50
1957	3.00	1.63	7.50
1958	3.00	1.67	7.50
1959	3.00	2.00	7.50
1960	3.00	2.20	7.50
1961	3.00	2.20	7.50
1962	3.00	2.20	7.50
1963	3.00	2.35	7.50
1964	3.00	2.50	7.50
1965	3.00	2.50	7.50
1966	3.00	2.60	7.50
Total dividends declared			
1951	12,360,044	6,199,275	11,958,709
1952	12,172,714	7,439,130	12,812,902
1953	12,172,938	7,439,130	12,812,902
1954	12,724,524	7,439,130	12,812,902
1955	14,265,083	7,812,663	12,812,902
1956	15,910,682	9,433,343	12,812,902
1957	18,214,023	9,442,385	12,812,902
1958	18,250,025	[1]53,176,149	12,812,902
1959	18,310,154	12,263,673	12,812,902
1960	18,293,929	13,174,431	12,812,902
1961	18,236,342	13,186,261	12,812,902
1962	22,776,124	14,093,629	12,812,902
1963	18,263,528	14,115,722	12,812,902
1964	18,348,813	15,052,747	12,812,902
1965	18,409,694	14,772,270	12,812,902
1966	18,456,558	15,698,550	12,812,902

[1]Includes 20 percent stock dividend of $42,728,362.

UPRRIG-000538

APPENDIX I

Burlington Truck Lines, Inc.

GENERAL BALANCE SHEET—DECEMBER 31, 1966

Assets

Current assets:		
Cash		$240,231
Working fund		3,025
Special deposits		20,228
Temporary cash investments		797,187
Receivables from affiliated companies		-------
Accounts receivable-agents, customers and interline		1,026,231
Accounts receivable-other		12,831
Prepayments		509,944
Material and supplies		212,929
Total current assets		2,822,606
Tangible property:		
Carrier operating property	$10,886,564	
Less reserve for depreciation	5,643,175	
		5,243,389
Intangible property:		
Organization, franchises		3,484
Other intangible property	328,572	
Less reserve for amortization	182,276	
Total other intangible property		146,296
Total intangible property		149,780
Investment securities and advances:		
Other investments and advances		11,727
Deferred debits:		
Other deferred debits		151,770
Miscellaneous debit items:		
Commission and expense on capital stock		825
Total assets		8,380,097

Liabilities

Current liabilities:		
Payables to affiliated companies		2,990,738
Accounts payable		638,772
Wages payable		220,196
C.o.d.'s unremitted		37,589
Taxes accrued		173,641
Other current liabilities		481,363
Total current liabilities		4,542,299
Long-term debt due within 1 year:		
Equipment obligations	758,041	
Other debt due within 1 year	37,279	795,320

UPRRIG-000539

Burlington Truck Lines, Inc.

GENERAL BALANCE SHEET–DECEMBER 31, 1966

Liabilities–Continued

Advances payable—affiliated companies		$405,267
Equipment and other long-term obligations		1,691,241
Deferred credits—others		10,666
Injuries, loss and damage reserve		106,408
Capital stock common		750,000
Surplus:		
Earned surplus	$774,547	
Income account current year	(695,651)	78,896
Total liabilities and shareholders' equity		8,380,097

Northern Pacific Transport Company

GENERAL BALANCE SHEET–DECEMBER 31, 1966

Assets

Current assets:		
Cash		$19,977
Working funds		500
Temporary cash investments		296,061
Receivables from affiliated companies		512,145
Accounts receivable—agents, customers and interline		160,879
Accounts receivable—other		331,871
Interest and dividends receivable		1,317
Prepayments		195,350
Material and supplies		222,780
Other current assets		1,800
		1,742,680
Tangible property:		
Carrier operating property	$5,296,102	
Less reserve for depreciation	2,489,487	
Total tangible property		2,806,615
Noncarrier property	3,232,511	
Less reserve for depreciation other property	1,452,532	
Total noncarrier property		1,779,979
Intangible property:		
Organization, franchises and permits		3,638
Other intangible property	143,195	
Less reserve for amortization	24,568	
Total other intangible property		118,627
Total intangible property		122,265
Investment securities and advances:		
Investments and advances—affiliated companies		20,250
Other investments and advances		818

UPRRIG-000540

Northern Pacific Transport Company

GENERAL BALANCE SHEET—DECEMBER 31, 1966

Assets—Continued

Deferred debits:		
Other deferred debits		$85,986
Miscellaneous debit items:		
Commission and expense on capital stock		549
Total assets		6,559,142

Liabilities

Current liabilities:		
Notes payable		97,448
Accounts payable		599,474
Wages payable		133,897
Interest payable		1,363
Taxes accrued		220,607
Interest accrued		252,167
Total current liabilities		1,306,171
Long-term debt due within 1 year:		
Notes payable		161,074
Advances payable—affiliated companies		556,665
Equipment and other long-term obligations:		
Notes payable		306,252
Deferred credits		3,028
Capital stock common		500,000
Surplus:		
Other capital surplus	$868,594	
Earned surplus	2,406,042	
Credit balance transferred from income	451,316	3,725,952
Total liabilities and shareholders' equity		6,559,142

Superior & Duluth Transfer Company[1]

GENERAL BALANCE SHEET—DECEMBER 31, 1966

Name of account	Amount	Total
Assets		
Current assets:		
Cash, working funds and deposits	$13,879	--------
Accounts receivable	31,132	--------
Prepayments	4,940	--------
Materials and supplies	823	--------
Total current assets	--------	$50,774

See footnotes at end of table

UPRRIG-000541

Superior & Duluth Transfer Company[1]

GENERAL BALANCE SHEET-DECEMBER 31, 1966

Name of account		Amount	Total
Assets—Continued			
Investments:			
Carrier operating property	$64,979	--------	--------
Less: Accrued depreciation	63,352	--------	--------
Total operating property		1,627	--------
Total investments		--------	$1,627
Deferred debits:			
Other deferred debits		--------	837
Total assets		--------	53,238
Liabilities			
Current liabilities:			
Accounts payable	11,436	--------	--------
Notes payable	5,000	--------	--------
Taxes accrued	494	--------	--------
Total current liabilities		--------	16,930
Advance payable:			
Advances payable-Great Northern Railway		--------	41,729
Capital stock:			
Common capital stock		--------	35,000
Corporate surplus		--------	(40,421)
Total liabilities and shareholders' equity		--------	53,238

[1]Name changed to: Superior Transfer Company.
( ) Denotes deficit.

APPENDIX J

Description of extensions of lines of railroad to permit economical and efficient operation of properties sought to be unified under section 5(2) of the act in F. D. No. 21478, for which authority to construct and operate is sought under sections 1(18) to 1(20) of the act in F. D. No. 21480:

(1) Connecting track, approximately 1,460 feet in length, extending between N. P. Milepost 8.73 and G. N. Milepost 8.03, at Superior, Douglas County, Wis.

(2) Connecting track, approximately 2,260 feet in length, extending between N. P. Milepost 74.91 and G. N. Milepost 72.63, at Hinckley, Pine County, Minn.

(3) Connecting track, 303 feet in length, extending between G. N. Milepost 117.62 and N. P. Milepost 37.08, at Sauk Centre, Stearns County, Minn.

(4) Connecting track, 835 feet in length, extending between N. P. Milepost 165.32 and G. N. Milepost 56.04, at Wadena, Wadena County, Minn.

(5) Connecting track, 1,375 feet in length, extending between N. P. Milepost 73.46 on the Wadena, Minn.-Oakes, N. Dak., branch line and G. N. Milepost 213.38 on the St. Paul, Minn.-Seattle, Wash., main line of Great Northern, at Breckenridge, Wilkin County, Minn.

UPRRIG-000542

(6) Connecting track, 2,035 feet in length, extending between Great Northern Fargo-Minot main line at G. N. Milepost 24.7 and existing Great Northern yard trackage in 22nd Street, at Fargo, Cass County, N. Dak.

(7) Connecting track, 1,800 feet in length, extending between N. P. Milepost 5.59 and G. N. Milepost 21.59, at Moorhead, Clay County, Minn.

(8) Connecting track, 1,480 feet in length, extending between G. N. Milepost 42.33 on Great Northern Wahpeton-Moorhead main line and G. N. Milepost 21.18 on Great Northern St. Cloud-Moorhead, Minn., main line at Moorhead, Clay County, Minn.

(9) Connecting track, 1,550 feet in length, extending between G. N. Milepost 21.18 and N. P. Milepost 5.59, at Moorhead, Clay County, Minn.

(10) Connecting track, 1,365 feet in length, extending between N. P. Milepost 69.54 on the Northern Pacific Crookston-Grand Forks branch lines and G. N. Milepost 83.38 on the Great Northern Crookston-Grand Forks main line at Crookston, Polk County, Minn.

(11) Connecting track, 1,415 feet in length, extending between G. N. Milepost 1.24 on Great Northern Grand Forks-Grafton branch line and N. P. Milepost 96.44 on Northern Pacific Grand Forks-Grafton branch line, at Grand Forks, Grand Forks County, N. Dak.

(12) Connecting track, 700 feet in length, extending between G. N. Milepost 1.4 in Great Northern Grand Forks-Grafton branch line and N. P. Milepost 96.68 on Northern Pacific Grand Forks branch line, at Grand Forks, Grand Forks County, N. Dak.

(13) Connecting track, 5,550 feet in length, extending between G. N. Milepost 105.82 on Great Northern Grand Forks-Crookston line and N. P. Milepost 93.75 on Northern Pacific Grand Forks-Crookston line, at East Grand Forks, Polk County, Minn.

(14) Connecting track, 2,020 feet in length, extending between N. P. Milepost 27.95 on Northern Pacific main line and G. N. Milepost 54.24 on Great Northern Breckenridge-Minot main line, at Casselton, Cass County, N. Dak.

(15) Connecting track, 4,615 feet in length, extending between G. N. Milepost on Great Northern Great Falls-Butte line and N. P. Milepost 2.85 on Northern Pacific main line, at Helena, Lewis and Clark County, Mont.

(16) Connecting track, 2,600 feet in length, extending between N. P. Milepost 2.51 on Northern Pacific main line and connecting track described in (15) above, at Helena, Lewis and Clark County, Mont.

(17) Connecting track, 3,309 feet in length, extending between G. N. Milepost 1401.66 on Great Northern main line and present transfer track at Sandpoint, Bonner County, Idaho.

(18) Connecting track, 2,338 feet in length, extending between N. P. Milepost 2.50 on Northern Pacific main line and present transfer track, at Sandpoint, Bonner County, Idaho.

(19) Connecting track, 6,568 feet in length, extending between N. P. Milepost 1.18 on Northern Pacific main line on westerly side of Spokane, and SP&S Mileposts 374.72 and 375.17 wye connections, including construction of bridge over Latah Creek, at Spokane, Spokane County, Wash.

(20) Connecting track, 2,540 feet in length, extending between G. N. Milepost 1497.94 on Great Northern main line and N. P. Milepost 13.75 on Northern Pacific Washington Central branch line, near Espanola, Spokane, Wash.

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(21) Connecting track, 2,700 feet in length, extending between SP&S Milepost 368.66 and Northern Pacific Milepost 8.86, at Marshall, Spokane County, Wash.

(22) Connecting track, 880 feet in length, extending between N. P. Milepost 26.89 on Northern Pacific branch line and G. N. Milepost 45.75 on Great Northern Colfax branch, at Rosalia, Whitman County, Wash.

(23) Connecting track, 4,400 feet in length, extending between N. P. Milepost 89.17 on Northern Pacific main line and Pacific Coast R. R. branch line at Milepost 27.34, at Henry's, King County, Wash.

(24) Connecting track, 2,320 feet in length, extending between N. P. Milepost 5.09 on joint NP-SP&S main line and SP&S Milepost 139.45, at Willbridge, Mutnomah County, Oreg.

APPENDIX K

Description of portions of existing lines of railroad for which authority to abandon is sought under section 1(18) to 1(20) of the act, contingent upon consummation of transactions for which authority is sought under section 5(2) of the act in F. D. No. 21478:

(1) Removal of 1,649 feet of track, extending between N. P. Milepost 73.15 and N. P. Milepost 73.46 on Northern Pacific branch line Wadena-Oakes, at Breckenridge, Wilkin County, Minn., after construction of connecting track for which authority is sought as described in paragraph (5) of appendix J.

(2) Removal of approximately 2,000 feet of track, extending between G. N. Milepost 42.33 and G. N. Milepost 42.71 on Great Northern Line between Wahpeton and Moorhead, at Moorhead, Clay County, Minn., after construction of connecting track for which authority is sought as described in paragraph (8) of appendix J.

(3) Removal of approximately 10,404 feet of track, extending between G. N. Milepost 210.44 and G. N. Milepost 212.41 on Great Northern Great Falls-Butte line, at Helena, Lewis and Clark County, Mont., after construction of connecting tracks for which authority is sought as described in paragraphs (15) and (16) of appendix J.

(4) Removal of approximately 18,543 feet of track, extending between G. N. Milepost 1477.79 and G. N. Milepost 1479.35 on Great Northern main line, at Spokane, Spokane County, Wash., after construction of connecting track for which authority is sought as described in paragraph (19) of appendix J.

(5) Removal of approximately 1,300 feet of track, extending between SP&S Milepost 376.89 and SP&S Milepost 376.63, at Fort Wright, Spokane County, Wash., after construction of connecting track for which authority is sought as described in paragraph (19) of appendix J.

(6) Removal of approximately 7.7 miles of line extending between N. P. Milepost 1.18 and N. P. Milepost 8.86 on Northern Pacific main line, between Spokane and Marshall, Spokane County, Wash., after construction of connecting track for which authority is sought as described in paragraphs (19) and (21) of appendix J.

(7) Removal of approximately 4,000 feet of connecting track, between N. P. Milepost 8.90 and SP&S Milepost 367.50, at Scribner, Spokane County, Wash., after removal of track described in (5) above.

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APPENDIX L

1. Upon consummation of the transaction in whole or in part, NuCo shall maintain and keep open all routes and channels of trade via existing junctions and gateways, unless otherwise mutually agreed upon by the carriers affected or otherwise authorized by this Commission.

2. The present neutrality of handling inbound, outbound and overhead traffic by the merged and leased railroads shall be continued by NuCo so as to permit equal opportunity for service to, from, and via all lines reaching its rails without discrimination as to routing or movement of traffic and without discrimination in the arrangement of schedules or otherwise.

3. Existing traffic and operating relationships, including contracts, between any of the merged and leased railroads, on the one hand, and, on the other, all lines connecting with their tracks, shall be continued insofar as such matters are within the control of NuCo.

4. NuCo shall accept, handle and deliver all cars inbound and outbound and in overhead or switching service, loaded and empty, without discrimination in promptness or frequency of service and irrespective of origin or destination or route of movement.

5. NuCo shall do nothing to restrain or curtail the right of industries served by it or the merged and leased lines to route traffic over any or all available routes and gateways.

6. Any party or any person having an interest in the subject matter may, at any future time, make application for such modification of the above conditions, or any of them, as may be required in the public interest, and jurisdiction will be retained by this Commission to reopen these proceedings pursuant thereto or on our own motion.

7. NuCo and Southern Pacific shall join in the establishment and maintenance of joint through rates via Klamath Falls, Oreg., on bases no less favorable than via other routes, on all traffic to and from points on their lines, and their short-line connections. NuCo shall observe strict neutrality between the Bieber, Calif., and Klamath Falls gateways as to solicitation of traffic, regardless of origin or destination. NuCo and Southern Pacific shall conduct operations without discrimination or limitation, including the furnishing of specialized equipment, switching services, and the maintenance of train schedules so as to handle traffic interchanged between them at Klamath Falls in a prompt and expeditious manner and in no respect with less favorable treatment than is accorded by NuCo on traffic handled via Bieber or by Southern Pacific on traffic handled via Portland, Oreg.

8. NuCo and Southern Pacific shall establish and maintain joint through rates via Portland to and from all points to the same extent as hereafter established via Klamath Falls and shall conduct operations via Portland without discrimination or limitation, including the furnishing of specialized equipment, switching services and maintenance of train schedules, said service to be equal or superior to that presently provided by Northern Pacific and Southern Pacific in operating via Portland.

9. Southern Pacific, following the effectuation of condition 24 hereinafter, shall solicit all traffic to and from Oregon, Washington, northern Idaho and British Columbia, as follows:

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(a) From and to territory north of Los Angeles, Calif., Southern Pacific shall observe strict neutrality between Union Pacific, NuCo and the Milwaukee.

(b) From and to territory Los Angeles and south and east thereof served in common by Union Pacific and Southern Pacific and where Union Pacific now maintains or may maintain rates via its Salt Lake line that are competitive with Southern Pacific through Portland, Southern Pacific shall solicit all traffic in favor of NuCo and the Milwaukee, without preference as between them.

(c) From and to territory Los Angeles and south and east thereof except as provided in paragraph (b), immediately above, Southern Pacific shall observe strict neutrality between Union Pacific, NuCo and the Milwaukee.

10. NuCo and Western Pacific shall join with each other and with Santa Fe in establishing and maintaining joint through rates via Bieber, Calif., on bases no less favorable than via other routes, on all traffic between points in Washington, Oregon, Idaho and British Columbia located on the lines of NuCo and its connections, on the one hand, and, on the other, points on the lines of (1) Western Pacific and its short-line connections in California, Nevada and Utah; (2) points in California, Arizona, New Mexico, Texas, and Louisiana on the lines of Santa Fe and its short-line connections; and (3) Rio Grande in Utah; and on transcontinental traffic between points other than those described above, the rates via Bieber shall be maintained on bases equal to the rates applicable via all other routes between points on the lines of NuCo and all transcontinental origins or destinations to the same extent as provided via Bieber in Trans-Continental Freight Bureau Tariff No. 5 series, I.C.C. 1576.

11. With respect to all traffic described in paragraph 10, via routes from, to, or through California, NuCo shall preferentially solicit for its Inside Route (i.e., via either Klamath Falls, Oreg., or Bieber) and shall not by any means, including the adjustment of divisions of freight revenue, give preference to its route via Portland; and NuCo and Western Pacific shall observe practices, including those with respect to solicitation and the adjustment of divisions of freight revenue, which will afford to the Bieber route no less favorable an opportunity than the Klamath Falls route to share in the traffic moving between the areas described in paragraph 10, immediately above. As used in this paragraph, the term Klamath Falls route or gateway includes, and the provisions thereof shall cover traffic interchanged at Chemult, Oreg., a point on the Klamath Falls route.

12. NuCo and Western Pacific shall conduct operations via Bieber without discrimination or limitation, including the furnishing of specialized equipment, switching services, and the maintenance of train schedules so as to handle traffic interchanged between them there in a prompt and expeditious manner and NuCo shall accord such traffic no less favorable treatment than it accords traffic interchanged with connecting lines at Klamath Falls, Chemult, or Portland.

13. Western Pacific shall solicit all traffic to and from Oregon, Washington, northern Idaho and British Columbia via the Bieber route and in favor of NuCo and the Milwaukee, without preference as between them.

14. NuCo and Santa Fe (and its Texas subsidiaries) shall join with each other and with Western Pacific in establishing and maintaining joint through rates via Bieber on bases no less favorable than via other routes, on all traffic

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between points in Washington, Oregon, Idaho, and British Columbia located on the lines of NuCo and its connections, on the one hand, and, on the other, points in California, Arizona, New Mexico, Texas and Louisiana on the lines of Santa Fe and its short-line connections; and on transcontinental traffic between points other than those described above, the rates via Bieber shall be maintained on bases equal to the rates applicable via all other routes between points on the lines of NuCo and all transcontinental origins or destinations to the same extent as provided via Bieber in Transcontinental Freight Bureau Tariff No. 5 series, I.C.C. 1576.

15. With respect to all traffic described in paragraph 14, via routes from, to, or through California, NuCo shall preferentially solicit for its Inside Route (i.e., via Klamath Falls or Bieber) and shall not by any means, including the adjustment of divisions of freight revenue, give preference to its route via Portland; and NuCo and Santa Fe shall observe practices, including those with respect to solicitation and the adjustment of divisions of freight revenue, which will afford the Bieber route no less favorable an opportunity than the Klamath Falls route to share in the traffic moving between the areas described in paragraph 14. As used in this paragraph, the term Klamath Falls route or gateway includes, and the provisions hereof cover, traffic interchanged at Chemult, a point on the Klamath Falls route.

16. NuCo and Santa Fe shall join with Western Pacific in conducting operations via Bieber without discrimination or limitation, including the furnishing of specialized equipment, switching services, and the maintenance of train schedules so as to handle traffic interchanged between them there in a prompt and expeditious manner and NuCo shall accord such traffic no less favorable treatment than it accords traffic interchanged with connecting lines at Klamath Falls, Chemult, or Portland.

17. NuCo shall establish and maintain joint rates with Western Pacific and its connections, via Bieber, and with the Milwaukee, via Portland and via Vancouver, Wash., between all points on the Milwaukee and its connections, on the one hand, and, on the other, all points on Western Pacific and its connections, on bases no less favorable than shall apply from time to time via the Milwaukee and Southern Pacific via Portland.

18. NuCo shall establish and maintain joint rates with Western Pacific and its connections, via Bieber, and with Union Pacific, via Ben, Oreg., and via Vancouver, Wash., between all points on Union Pacific and its connections in the Pacific Northwest, on the one hand, and, on the other, all points on Western Pacific and its connections, on bases no less favorable than shall apply from time to time via Union Pacific and Southern Pacific via Portland.

19. The Milwaukee, as a condition to its securing trackage rights over the lines of NuCo between Longview Junction, Wash., and Portland, Oreg., between Renton and Snohomish, Wash., and between Everett and Bellingham, Wash., shall:

(a) Establish and maintain joint rates via Portland, Oreg., and Vancouver, Wash., with NuCo and with Western Pacific and its connections, via Bieber, between all points located on the Milwaukee and its connections, on the one hand, and, on the other, all points on Western Pacific and its connections, on bases no less favorable than shall apply from time to time via the Milwaukee and Southern Pacific via Portland, and

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(b) Maintain in connection with freight traffic moving via the Bieber route freight train schedules and service no less favorable than it shall contemporaneously maintain in connection with Southern Pacific via Portland.

20. The Milwaukee, as a condition to its securing various gateways and trackage rights herein:

(a) In connection with freight traffic moving from, to, or via any point located on its lines (or which in the future may be located on its lines or the lines of its successor as a result of merger or consolidation of trackage rights or lease or an extension of line) in Illinois, Missouri, Iowa, Wisconsin, Michigan, and Kansas, on the one hand, and, on the other, points in California north of and including Caliente and Santa Margarita, shall: (1) join with its connections in maintaining via the various central transcontinental routes freight train schedules and service at least equal in all respects to the freight train schedules and service contemporaneously maintained by the Milwaukee and its connections between such territories via any of the northern transcontinental routes, (2) join with its connections in maintaining via the various central transcontinental routes joint through rates on bases no less favorable than those which the Milwaukee shall join with its connections in maintaining via any of the northern transcontinental routes, and (3) cooperate with its western connections to secure by active solicitation the routing of the maximum of freight traffic via the various central transcontinental routes and shall route unrouted traffic via such routes, and

(b) In connection with freight traffic moving from, to, or via any points located on its lines (or which in the future may be located on the lines of its successor as a result of merger or consolidation of trackage rights or lease or an extension of line) in Illinois, Missouri, Iowa, Wisconsin, Michigan, and Kansas, on the one hand, and, on the other, points in Oregon and Washington and the Province of British Columbia, shall join with its connections in maintaining via the various central transcontinental routes joint through rates on bases no less favorable than those which the Milwaukee contemporaneously shall maintain, or shall join with its connections in maintaining, via any of the northern transcontinental routes.

21. NuCo and Soo Line shall, subject to any necessary approval of this Commission, promptly enter into and execute the agreements indicated below and shall thereafter prepare and file with this Commission any and all required applications and supporting evidence to:

(a) Amend that certain contract dated September 18, 1959, between Great Northern and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, covering coordination of certain lines of Great Northern and Soo Line between Lignite, N. Dak., and Crosby, Minn., and Hankinson and Geneseo, N. Dak., approved by order of this Commission dated January 28, 1960, in Finance Docket No. 20837, so as to give Soo Line the full and equal joint use of the "Crosby Joint Section" as that term is defined in said contract, and all spur tracks.

(b) Amend that certain contract dated July 5, 1955, between Great Northern and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, covering

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coordination of certain lines of Great Northern and Soo Line between Schley and Bemidji, Minn., and between New Aberdeen Line Junction, Minn., and Hankinson, N. Dak., approved by order of this Commission dated December 6, 1955, in F. D. No. 18992, so as to give Soo Line the full and equal joint use of the "Cass Lake Joint Section" as that term is defined in said contract, and all spur tracks.

(c) Amend that certain contract dated April 15, 1929, between Northern Pacific and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, pooling Northern Pacific and Soo Line traffic on iron ore tonnage originating on the Cuyuna Range, approved by order of this Commission dated June 3, 1929, in F. D. No. 7569 (154 I.C.C. 279) in the following respects:

1. The first 500,000 tons of ore transported from the Cuyuna Range yearly shall be divided 75 percent Soo Line and 25 percent NuCo; tons exceeding 500,000 shall be divided equally.

2. Soo Line's share of the Cuyuna car pool will be fulfilled by Soo Line's furnishing a minimum of 375 seventy—or seventy-five-ton cars and any deficiency during the first 10 ore shipping seasons after coordination of Allouez dock shall be made up with 70-ton cars furnished by NuCo at a per diem rate of $1 during said seasons.

3. The obligation of Soo Line to pay $7,850 annually on account of abandonment of its line between Lawler and East Lake shall be canceled.

4. Soo Line shall be admitted on fair and equitable terms to the use of NuCo yards and docks at Allouez, and a rail connection will be installed at Saunders to handle Soo Line ore.

(d) Authorize Soo Line, on fair and equitable terms, to use the existing Great Northern trackage between Soo Line's Shoreham Yard and the easterly end of Great Northern's Union Yard, including necessary yard tracks, so that Soo Line can make direct interchange with The Minnesota Transfer Railway Company and the Chicago, Rock Island and Pacific Railroad Company.

22. Following consummation of the transactions for which authority under section 5(2) of the act is sought, NuCo and Soo Line shall continue their cooperative efforts to find ways and means of jointly providing improved service to the shipping public by eliminating delay and reducing costs and to that end the parties shall consider the installation of automatic interlockers at various crossings now manually operated and coordination of additional lines where practical on the basis set forth in the contracts dated September 18, 1959, and July 5, 1955, further described in paragraphs 21(a) and 21(b) above.

23. NuCo shall publish and file appropriate tariffs and routing schedules to be effective on and after the date of consummation of the merger, providing for the opening of junctions and gateways at Linton and Fargo, N. Dak., and Missoula, Mont., and Spokane, Seattle, and Tacoma, Wash., with respect to traffic moving through said junctions, at the lowest applicable rates available via the Twin Cities and Sioux City gateways (on a reciprocal basis, with the Milwaukee affording equal privileges to NuCo) with just and reasonable divisions thereof as may be agreed upon, or fixed by this Commission if such carriers cannot so agree, and the Milwaukee shall, on traffic obtained pursuant

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to this condition or those in paragraph 24, below, open or keep open, in similar manner, its junctions at Twin Cities, Sioux City, and Council Bluffs with North Western, and on traffic obtained pursuant to this condition or those in paragraph 24 below, open or keep open in similar manner its junction at Twin Cities with Soo Line.

Routing via the 11 first-named gateways so opened shall be restricted to one such gateway on any single shipment, and to traffic destined to or billed for transit or stopoff at any station on the other line beyond the junction up to and including the terminal area of the next junction, except that routing via Linton and Fargo shall be provided to and from Billings and Great Falls, Mont., and stations intermediate thereto.

24. At the request of the Milwaukee, presented in writing not more than 6 months after date of consummation of the unification authorized herein or not more than 6 months after the effective date of any certificate or order of this Commission:

(a) Permitting that railroad to extend its operations to Portland, Oreg., and to acquire trackage rights over the line of NuCo between Longview Junction, Wash., and Portland, Oreg., NuCo shall grant to the Milwaukee, upon such fair and reasonable terms as the parties may agree or as determined by this Commission in the event of their inability to agree, trackage rights to operate freight trains over NuCo lines between Longview Junction and Portland, including the right to serve on an equal basis all present and future industries at Portland and intermediate points and the use of NuCo facilities at Portland necessary for the switching of traffic to other railroads and industries. NuCo shall maintain Portland as an open gateway on a reciprocal basis with the Milwaukee to the same extent as with other connecting carriers;

(b) Permitting that railroad to acquire trackage rights over the lines of NuCo between Renton and Snohomish, Wash., and between Everett and Bellingham, Wash., NuCo shall grant to the Milwaukee, upon such fair and reasonable terms as parties may agree or as determined by this Commission in the event of their inability to agree, trackage rights to operate freight trains over NuCo lines between Renton and Snohomish, and between Everett and Bellingham; and

(c) Permitting that railroad to extend its service to Billings, Mont., and the handling of its traffic by NuCo from and to Judith Gap, Miles City, and Bozeman, Mont., on the one hand, and, on the other, to, from, and through Billings, Mont., including the switching of cars to or from industries at Billings, NuCo shall impartially handle the empty and loaded cars of that railroad from, to, and through Billings as though a station on the other road, such cars to be delivered to and returned by NuCo at Miles City, Judith Gap, or Bozeman, according to the direction of the traffic, upon such fair and reasonable terms as the parties may agree or as may be determined by this Commission in the event of their inability to agree.

25. NuCo shall join with the Milwaukee in:

(a) Eliminating at their common points the dual basis of switch charges by canceling in their respective tariffs the higher switch charges required to be paid when absorbed by the line-haul carrier, and by providing in their respective tariffs for the absorption by the line-haul carrier of switch charges on all traffic, subject to a reasonable minimum carload revenue, and

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(b) Reestablishing rate relationships via all routes with that railroad when, by reason of this unification, the relationships of rates via such routes with rates via other routes of the component lines merged into or operated under lease by NuCo are disturbed.

26. NuCo shall (1) establish and maintain competitive joint rates and routes with North Western, reciprocally, on a reasonably related divisional basis (a) via Oakes, N. Dak., as specified in sheet 3 of appendix N-9 of the examiner's report in F. D. No. 21478, with exceptions and upon terms as mutually agreed upon between said railroads, and (b) via Crawford, Nebr., as specified in sheet 4 of appendix N-9 of the examiner's report in F. D. No. 21478, with exceptions and upon terms as mutually agreed upon by said railroads, to the extent that Great Northern, Northern Pacific, or Burlington now have or to the extent that NuCo shall have joint rates and routes (A) via Laurel-Billings, Mont., through Crawford and Ellsworth, Nebr., or (B) on traffic moving from or to former Burlington lines in Montana, Wyoming, and South Dakota through Alliance, Nebr., (2) maintain connecting service schedules and interchange service at Oakes and Crawford so as to provide an efficient and effective service to the shipping public, (3) maintain efficient and effective service between Oakes, N. Dak., and Jamestown, N. Dak., for through traffic which is reasonably consistent with the service, including schedules provided by North Western between Huron, S. Dak., and Oakes, N. Dak., and (4) pick up and set out through cars (originating or terminating at points beyond Edgement, S. Dak., or Alliance, Nebr.) at Crawford in its through trains so as to provide efficient and effective service on such through traffic.

27. NuCo shall deliver Minneapolis interchange cars to the North Western at the latter's Cedar Lake and East Minneapolis Yards separated as between the two yards as that railroad may designate, and shall accept deliveries of Minneapolis interchange traffic therefrom at NuCo's Lyndale Yard, Union Yard and Northtown Yard (when it is placed in operation).

28. NuCo shall permit North Western to operate trains between Minneapolis and St. Paul, Minn., over track now owned by Great Northern known as the "Short Line" without restriction as to character or origins and destinations of the traffic in the trains using the line, and shall subject to terms mutually agreed upon (1) offer to rescind all or any part of the contract between North Western and Northern Pacific governing use by North Western of trackage of Northern Pacific between Minneapolis (20th Avenue South) and St. Paul (otherwise known as Line A), and (2) provide for partial use of that line by North Western on mutually agreeable terms, cancellation of such agreement on 90 days' notice, and in the event of such cancellation, provide for use of alternate routes which would permit North Western equivalent service, including, but not limited to, the right for North Western and Chicago Great Western Railway Company to make direct interchange in the vicinity of St. Anthony Tower, or for North Western to provide direct service to St. Anthony Tower in the event the transactions approved in F. D. No. 23388, et al. are consummated.

29. NuCo shall (1) offer to lease to North Western, upon terms mutually agreeable, its tracks in Union Yard in Minneapolis, as follows: (a) track E-4 from its commencement on the east to a connection to be constructed at a

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point approximately 800 feet west of 10th Avenue S. E. Minneapolis, and (b) tracks C-29 and C-30 from a point on the east end where they join track Q-13 to the point where they join track E-4, (2) subsequent to consummation of the unification construct a connection between the leased tracks and Great Northern main line track 1 in its yard and a connection between Great Northern tracks in the vicinity of the point where tracks C-29 and C-30 enter into track Q-13, and such other change as necessary to give North Western access to the leased tracks, and (3) after Northtown Yard is placed in operation, consider leasing track Q-13 from its point of connection with tracks C-29 and C-30 to the crossover in vicinity of St. Anthony Tower semaphore.

30. NuCo shall (1) grant such trackage rights at Duluth, Minn., to Duluth, Winnipeg & Pacific Railway, upon terms mutually agreeable, as will permit the latter to handle through traffic between the present connection of that railroad and Northern Pacific in Duluth to the connection of the North Western and Northern Pacific in Duluth, and (2) grant such trackage rights to North Western at Head of the Lakes, upon terms mutually agreeable as will permit the latter to handle such traffic over St. Louis Bay Bridge and related facilities.

31. Railroad interveners, as beneficiaries under the conditions herein imposed upon them and upon applicants as conditions precedent or subsequent to consummation of the authority granted herein, shall cooperate with each other and with applicants in order that these conditions be given full effect. Such cooperation shall, where practicable, take the form of agreements to be entered into by the parties within 180 days from the effective date of this order, or within such other period as this Commission may specify. The failure to so cooperate shall, upon the filing of an appropriate pleading by an aggrieved party hereto, be considered by this Commission as the assent by the party failing to so cooperate to modification or cancellation of such condition or conditions benefiting such party. Nothing in this paragraph shall be deemed to affect the consummation by applicants of the authority herein granted.

32. All motor-carrier operating authority (under part II of the Interstate Commerce Act) coming under the control of NuCo as a result of these proceedings shall be amended by the addition of a condition reserving the right of this Commission to impose such future conditions as it may find necessary to insure operation in the public interest under such authority.

33. The Commission shall retain jurisdiction over these proceedings for a period of 5 years following consummation of the transactions herein authorized, for the purpose, among others, of considering petitions, under section 5(2)(d) of the act, by any railroad in the territory involved requesting inclusion in the merger so authorized. The Commission shall also retain jurisdiction over these proceedings for a period of 5 years following consummation of the transactions herein authorized to impose such just and reasonable conditions upon petition by any party in interest, or on its own motion, after hearing, as may be necessitated by any cumulative or crossover problems stemming from approval of this merger and any other transaction authorized under section 5 with respect to the territory involved. Consummation of the transactions herein authorized shall constitute irrevocable assent by applicants to the power of this Commission to impose, after hearing, such just and reasonable conditions as may be necessary or appropriate.

34. NuCo shall be required to provide employees not now covered and to the extent contemplated under section 5(2)(f) of the act with the basic protection as

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particularly described in the contract entered into between applicants and the Brotherhood of Locomotive Engineers and Brotherhood of Railway Trainmen. NuCo shall apprise the affected employees of the protection provided herein, as more fully set out in this report.

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