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Public Record

UP-9

September 11, 2003

BY HAND DELIVERY

The Honorable Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001



Re: *Kansas City Southern - Control - The Kansas City Southern Railway Company, Gateway Eastern Railway Company, And The Texas Mexican Railway Company; Finance Docket No. 34342*

Dear Mr. Williams:

Union Pacific Railroad Company ("UP") takes no position on the request of the Trustee of the Mexrail Voting Trust, dated September 5, 2003. However, UP is concerned that certain statements in the Board's Decision No. 7 could be construed as an inappropriately narrow characterization of the Board's jurisdiction.

The background portion of Decision No. 7 (at page 2) refers to the acquisitions by Kansas City Southern ("KCS") of The Texas Mexican Railway Company ("Tex Mex") and TFM, S.A. de C.V. ("TFM") as "[t]wo [t]ransactions" and goes on to state that the KCS proposal to acquire TFM "is not subject to the jurisdiction of the Board." As UP explained in its Comments filed on August 4, 2003, and as the Board itself recognized in its Decision No. 2 (at page 11), the KCS/Tex Mex and KCS/TFM acquisitions are part of a single broader transaction. As UP showed in its Comments, the relevant precedents make clear that the Board has jurisdiction to consider the effects in the United States of the acquisition of common control of Tex Mex and TFM. It would be wholly inappropriate (and inconsistent with the merger rules the Board adopted in 2001) to permit parties to manipulate the Board's jurisdiction by artificially splitting a transaction into two to insulate its

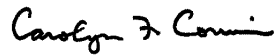
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overall effects from review. We respectfully refer the Board to pages 14-34 of UP's August 4 Comments for a further discussion of the jurisdiction issue.

We note further that, if TFM does reacquire the Mexrail stock, it will only confirm that the Board must consider a single broad transaction. Any subsequent KCS acquisition of TFM and of Tex Mex (through TFM and Mexrail) would be subject to Board approval, just as U.S. railroads' acquisitions of Canadian railroads with operations in the United States have been in the past (a point KCS itself has acknowledged). *See* KCS-10/TM-10, pp. 6-7.

Sincerely yours,



Carolyn F. Corwin
Attorney for Union Pacific
Railroad Company

cc: All Parties of Record

CERTIFICATE OF SERVICE

I, Carolyn F. Corwin, hereby certify that on this 11th day of September, 2003, I caused the foregoing document to be served by hand on:

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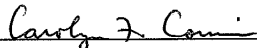
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and by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all other parties of record in Finance Docket No. 34342.



Carolyn F. Corwin