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The Transportation of Hazardous Material by Rail: Do We Need More Protection?

Assembly Committee on Transportation

ASSEMBLY COMMITTEE ON TRANSPORTATION

HEARING ON

THE TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL: DO WE NEED MORE PROTECTION?

AUGUST 15, 1991
LOS ANGELES, CALIFORNIA

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DO WE NEED MORE PROTECTION?

AUGUST 15, 1991

Los Angeles, California

CHAIRMAN RICHARD KATZ: I'm Assemblyman Richard Katz. On my left, I am pleased to be joined by Assemblyman Jack O'Connell, in whose district one of the incidents occurred, and who convened an earlier meeting, as well as an on-site inspection that he and I did several weeks ago. On my right is John Stevens, Senior Consultant to the Transportation Committee. Also in the audience, Mr. Hou, representing Senator Hart. Mr. Hou, if you want to join us up here you're more than welcome on behalf of Senator Hart.

In a two week period there were two derailments. One sterilized the river and the other shut down Highway 101 for a week. Both endangered lives. The volume of hazardous material shipped by rail is increasing, as is the risk to Californians. It's clear that toxic time bombs are on trains rolling along track located near our homes, schools and work places. While rail transportation continues to be safer than trucks; that's not much comfort to the folks who lives near Dunsmuir, or live in Ventura County. Our confidence has been shaken by these accidents. But recently even more disturbing information has come to light. Information that I'd like to focus on during this hearing. We have

reports that over 90 percent of Southern Pacific locomotives failed safety inspections conducted by teams of state and federal inspectors at SP's Roseville and Tucson's maintenance facilities earlier this year.

In addition, very serious allegations have been made that in June, just weeks before the Dunsmuir and Sea Cliff derailments, a team inspection of Southern Pacific locomotives in Southern California was called off by Federal Railway Administration officials and that any major assessment of the safety of Southern Pacific trains and operations were suspended for a six week period, purportedly to give the railroad a chance to get back on their feet. During that period, both Dunsmuir and the Ventura derailments occurred.

What we want to know and we are trying to get to the bottom of today, and let me make it clear to the people who are testifying today, that while you are not under oath today, if necessary I will put you under oath. If necessary, I will subpoena documents and witnesses. This committee has the power to do that and will use it. We will do it today; we will do it at our hearing next Monday in Sacramento, if that is what is necessary to get the documentation and the truth out about some very serious allegations. We want to know if these allegations are true. We want to know if, in fact, inspections were called off. If so, why? Who ordered it? What pressure were they put under, if any, and from where? And what impact these actions had on the derailments that would have generally been attributed to equipment failure.

Those are very serious concerns, and will be the major focus of what we are doing here today. In addition to answering those questions, we need to make sure that the state is doing every thing possible to protect the public. In addition to those questions, we want to look at what the state is now doing to regulate rail transportation of hazardous material, and what should the state be doing.

What needs to be done in addition to ensure that hazardous substances are not released into our air and water? What information is available to those who are first at the scene of a derailment? What additional information needs to be available so that good decisions can be made in dealing with hazardous spills? I'm working on legislation along with Assemblyman O'Connell and Senator Killea that will address some of these issues. That legislation will be introduced next week.

We are hoping that this hearing will give us some answers and some additional information as we craft legislation to correct the problems designed and protect people. One thing that is very frightening to me, and one thing that I hope to understand better today is what role the agencies who are responsible for implementing these rules and regulations and law have played in the last several years, as far as oversight for the railroad. We can write great law and we can have great regulations, but if the enforcers are not enforcing, and the regulators are not regulating, and the bureaucrats aren't doing their job, none of it means anything and the public is at risk, and that's something that none of us will stand for.

So, we are looking for some answers today. Again, I want to remind people, if necessary we'll go to oaths and we'll go to subpoenas. But I'm hoping we can get the answers without having to resort to that. Jack, do you want to make some comments?

ASSEMBLYMAN JACK O'CONNELL: Thank you very much Assemblyman Katz. I first, of all want, to thank you not only for this hearing today to help try to answer many of the questions and the points that you raised, but also for coming to the Sea Cliff area two and a half weeks ago and staying on site as long as you did. Your staff's interest in this issue, not just for the last couple of weeks, but for a several years have really been in the forefront. I'm most appreciative of your sincere efforts in this area.

I did have an opportunity to go to the site in the Sea Cliff area on two separate occasions. I put in a total of about eight hours trying to learn first hand, as did Assemblyman Katz, by working and looking at the command center, talking to the folks that had been involved, and trying to learn as much as possible to get better educated.

Since that time, I also conducted a meeting with many of the individuals that were responsible for the cleanup operation--representatives from industry, from both local government, state government and the federal government-- who attended the meeting that I had a couple days ago. It's rather clear to me that the adequacy of the information for the mitigation and for remediation is not complete. Although on a bill of lading or the manifest there appears to be adequate information for the

first response units, that we are lacking in terms of a particular information to help us begin an immediate cleanup of that particular area.

It's also rather apparent to me that the railroads need to do more to work with local government in the event of a spill. They are inadequately involved in the planning in the event of an emergency. We need to do more to help local government work and integrate with the emergency response units that local government has responsibility for. Also the inability to identify containers which have been separated from rail cars and the potential co-mingling of incompatible materials continues to be a major concern to me.

It's also apparent that the federal government, while they do have a lion's share of the responsibility, at least historically, is not doing an adequate job of regulating the transportation of these materials.

It's clear that public confidence in the area of rail transportation of these hazardous materials has been shaken. Many of us are greatly concerned due to the fact that we have an aging rail transportation corridor. It's a major concern as these rails go through many of our bedroom communities.

I'm pleased that the Public Utilities Commission took a modest step about a week ago, the unanimous vote of general order 161, which does require some very basic and modest guidelines for the transportation of many of these materials.

I'm here today to learn first hand, (1) how can we prevent the spills from occurring, such as that which we

experienced a month ago at Dunsmuir, and a couple of weeks ago at Sea Cliff in Ventura County? (2) In the event of a spill, how we can improve the cleanup operation of the material? I want to know what works, what doesn't work, how we can improve it and I look forward to working with Assemblyman Katz and his leadership role in trying to pass legislation. As he pointed out, even more importantly, how we can follow through the implementation of that legislation. So, thanks again Richard, for being here.

CHAIRMAN KATZ: Jack, thank you. I'd like to ask from the Federal Railroad Administration, Tom Paton, the Regional Director of Safety to come forward. Also at the same time from the Public Utilities Commission, we had confirmation that Patricia Eckert, President of the Commission, was going to be here. Is she here? We had some stories yesterday that she was going to duck out of this hearing. Mr. Oliver? Mr. Oliver, why don't you join us then, as head of the Safety Division for the PUC?

Let me start. Do you want to make brief statements or just respond to questions? Lets do it this way. How about, Mr. Paton, if you'd describe for us your job and your responsibilities as the Western Regional Director of Safety for FRA.

MR. H.T."TOM" PATON: I'm responsible for safety inspection programs. I manage the safety inspection program to assure compliance with the federal laws and regulations applicable to railroad safety. In additional to that we make special investigations for compliance, waivers, and accident investigations.

CHAIRMAN KATZ: And how many people do you have working for you doing that?

MR. PATON: Roughly twenty-seven Federal Inspectors and it's supplemented by about fifteen State Inspectors.

CHAIRMAN KATZ: And that's in California?

MR. PATON: No. That's in four states--Arizona, Utah, Nevada, and California. The bulk of those are located in California.

CHAIRMAN KATZ: Was there an inspection of the Southern Pacific locomotive at the Roseville Maintain Yard?

MR. PATON: We continued to make inspections at Roseville of locomotives. We made a very special inspection of the locomotives involved in the Dunsmuir accident at Eugene, Oregon.

CHAIRMAN KATZ: I'm interested in some time, lets say, since January 1st. I don't want to lose information because I have a date off here. Was there a team inspection done out at Roseville?

MR. PATON: During the month of June we made four team inspections on the Southern Pacific; one of those included Roseville. The other three locations were in Tucson, Arizona, Bakersfield, and Sparks, Nevada.

CHAIRMAN KATZ: And that was in June?

MR. PATON: Yes, that's during the month of June. All four of them were team inspections.

CHAIRMAN KATZ: What were the results of the June inspection in Roseville?

MR. PATON: We inspected 61 locomotives, and found 48 defective.

CHAIRMAN KATZ: 48 out of 61 defective. Let me ask a question here, so that I understand the process. I'm familiar with how the Highway Patrol does it with school buses, because we've been through that with them. But I just want to understand. When we're talking about inspections like this, are we talking about some surprises? Knock, knock, guess who's here kind of thing?

MR. PATON: No, no they are almost all surprise inspections. We do not announce our coming.

CHAIRMAN KATZ: When you show up, and I understand by the intensity of this kind of inspection, its a 48-hour procedure, roughly?

MR. PATON: No, it depends on the number of people we have there. We generally work two-eight hour shifts as a routine.

CHAIRMAN KATZ: Your first intent is the equipment that is about to go out of the yard.

MR. PATON: Routinely on a team inspection, we only inspect those locomotives that have been prior inspected by the Southern Pacific.

CHAIRMAN KATZ: You only inspect those that have been prior inspected by the Southern Pacific. What I'm hearing is we have a 48 at a 61 failure rate of locomotives that SP has already cleared as being worthy of going on the track.

MR. PATON: They have offered them for service. That is correct.

CHAIRMAN KATZ: Is that a high number?

MR. PATON: It's far too high to satisfy me, yes.

CHAIRMAN KATZ: Okay, so you found 48 out of 61 locomotives. The rest of the rolling stock, was that inspected also?

MR. PATON: No, in that one it was only locomotives we inspected.

CHAIRMAN KATZ: Okay, how about Tucson --

ASSEMBLYMAN O'CONNELL: Mr. Katz, before you leave that location, how many other locomotives were there? Like are these 61 that obviously Southern Pacific thought would pass, and then of those 48 in your judgment did not pass, how many of the locomotives were there?

MR. PATON: We don't count that, quite a number.

ASSEMBLYMAN O'CONNELL: Can they roll out of the yard the day after you leave without inspection of your agency?

MR. PATON: Very possibly, yes.

ASSEMBLYMAN O'CONNELL: So, these are their 61 that they think would pass muster and 48 of those.

MR. PATON: That's correct.

ASSEMBLYMAN O'CONNELL: I'm going to confess I've never been in a railroad yard. How many other locomotives were there which potentially roll out the next day?

MR. PATON: We don't count those, but usually in Roseville they have quite a number of locomotives, some of them are standing and waiting for repair, waiting for parts, that type of

thing. Others are locomotives waiting to service and inspect and offer them for service. We routinely don't inspect those.

ASSEMBLYMAN O'CONNELL: This sounds like -- I'm going to tell one quick story. My folks use to own a motel. When we heard that AAA rating services were coming, we had one room that was spotless. When the AAA folks came to see our motel, my folks used to say that every room was full except for one, we'll show you the one. Guess which one room we used to always show? And guess who always got a AAA rating? And the place was a dump.

MR. PATON: That's not entirely different than the locomotive inspection. Usually, when we first arrive on the property, they don't know we're coming, and we have a few locomotives that they've offered for service. That's a realistic monitoring of the condition of the locomotives. Then we stay for a day, or two or three days after that, and they know we're going to be there, or they presume we're going to be there, and it's a different world the longer we stay.

ASSEMBLYMAN O'CONNELL: So, has it always been your policy that you just inspect those that have been given to you? Wouldn't it be a little better policy that if they have 200 trains and you're only going to inspect 60, maybe you'd decide to inspect every third one?

MR. PATON: Well, we don't want to perform the inspection for the Southern Pacific. The basic responsibility for that inspection rests with the railroad. And we're there to monitor, how good of a job they do on that inspection. And obviously 48 out of 61 is unacceptable.

ASSEMBLYMAN O'CONNELL: That's not very good, at all. Okay. Thank you, Mr. Chairman.

CHAIRMAN KATZ: Frankly, I'm a little taken aback by the numbers. We're talking about 78 percent failure rate of stuff that the railroad has said is okay to go on the track. We're not talking about doorknobs being out of whack here.

MR. PATON: It can be a variety of things, Mr. Chairman. Generally, we don't defect a locomotive for one light bulb out, or that type of thing.

CHAIRMAN KATZ: You might do it if the governor on the locomotive is not working properly?

MR. PATON: Absolutely.

CHAIRMAN KATZ: The sort of things that SP has said caused the Dunsmuir or could have contributed to the Dunsmuir incident. Those kind of conditions would have been the kinds of things you would have tagged a locomotive for?

MR. PATON: We take it for personal injury hazards, particularly safety hazards on the locomotive itself.

CHAIRMAN KATZ: This was a June inspection in Roseville? Were there any other team inspections, or team assessments, I guess the kinds that show up on the so-called Motive Power Equipment Forms 59, the box type that come out as fives. Were there any fives done this year?

MR. PATON: I don't follow the question?

CHAIRMAN KATZ: You're familiar with the MPE forms?

MR. PATON: Yes.

CHAIRMAN KATZ: On an MPE 59, which is the Motive Power Equipment Form, there is a box to indicate the kind of inspection that was done. That box, either routine inspection, which is designated by a 2...

MR. PATON: Right.

CHAIRMAN KATZ: ...and a team assessment, which is designated by a 5.

MR. PATON: Any special inspection is 5.

CHAIRMAN KATZ: Were there any other special assessments done at Roseville this year?

MR. PATON: None that I have documented. I made a list of these team inspections, based on those I documented by method of memorandum to Washington, telling them what we had done and what we had found. From that record, I assembled a list. There may be have been more than what I had recorded. I didn't have time to go through our volume of 59 forms to separate them all out. It would have been a manual job.

CHAIRMAN KATZ: How about team assessment? Just routine, I assume they were?

MR. PATON: That's continual.

CHAIRMAN KATZ: Continual?

MR. PATON: Usually there's one inspector who goes in on a daily basis to monitor.

CHAIRMAN KATZ: Let's move to Tucson? Tell me the results of Tucson? Tucson also occurred during June.

MR. PATON: That was the last one that performed in June. We inspected 92 units--locomotives. We found 79 defective with 255

defects. This inspection, Mr. Chairman, was a bit different than what we would have conducted as Roseville because Tucson is not a major locomotive repair point. Our purpose at Tucson was to monitor locomotives that were coming out of West Colton, out of Los Angeles, and from El Paso. We were looking at inbound locomotives, not prior inspected by the railroad.

CHAIRMAN KATZ: In that case, you found 79 out of 92? Does the FRA have the authority to take equipment out of service?

MR. PATON: Yes.

CHAIRMAN KATZ: What does it take for you to take equipment out of service?

MR. PATON: We fill out a form called a 6180.8. That's a special notice of repairs. The locomotive is no longer permitted use until it's repaired.

CHAIRMAN KATZ: Was that done either in Roseville or in Tucson?

MR. PATON: I know it was done in Tucson. I don't have with me the documentation on Roseville.

CHAIRMAN KATZ: How many locomotives in Tucson was it done on?

MR. PATON: I'd be guessing 4.

CHAIRMAN KATZ: We're averaging here somewhere 80 percent failure rate in the two yards. I would assume somebody at FRA is starting to get concerned about SP's operating ability at this point?

MR. PATON: Yes. Let me give you a little background on these team inspections, if I may? It might give you a little

better insight. Our first team inspection was in Sparks, Nevada, which is in Reno. Our findings there were unacceptable.

CHAIRMAN KATZ: What were the findings there?

MR. PATON: There were 43 defective out of 50.

CHAIRMAN KATZ: That's 86 percent.

MR. PATON: Because I was unhappy with those results and basically at that location, we're monitoring locomotives coming out of Roseville and Salt Lake City, I arranged a team inspection at Bakersfield the following week, in addition, at Roseville that following week. That was, again, unacceptable. That's why I organized a team inspection for Tucson. Tucson, basically, is a choke-off point for the Southern Pacific.

CHAIRMAN KATZ: Give me the numbers out of Bakersfield, just to complete the picture.

MR. PATON: Bakersfield, we had 36 out of 45.

CHAIRMAN KATZ: All right. What's happening is you're seeing a pattern that's alarming to you. You then go to Tucson, as the choke-point, as you refer to it?

MR. PATON: That was a seriously interrupted Southern Pacific traffic by our presence in Tucson. I was advised by the Chief Mechanical Officer that
operation we conducted for three days at Tucson cost the SP more than $1 million in loss of business, interruption of traffic, etc.

CHAIRMAN KATZ: You raise an interesting point. Interruption of traffic cost them a million bucks, which is a lot less than Dunsmuir and Sea Cliff is going to cost them. To what extent do you care how much it cost SP, at that point?

MR. PATON: I didn't care. That's why I went to Tucson.

CHAIRMAN KATZ: Okay. That was my question. I'm trying to figure out how things weigh here. It would seem to me from a safety standpoint, what it costs the railroad is irrelevant.

The question is, if they can't afford to put safe equipment on the track, they ought to be in a different business. As my understanding that's where FRA comes from on this.

MR. PATON: We have two basic methods of achieving compliance. one is filing violations on defective units. The second, is going to Bakersfield or a Tucson for a choke-off point. When we interrupt traffic because they have dispatched defective locomotives, that information goes to the General Manager and the Vice-President of Operations immediately. Violation process sometimes takes a year for them to receive official notification on it, to actually pay the fine.

CHAIRMAN KATZ: In terms of putting the equipment, you can do that on site. Why only four locomotives in Tucson out of 79 with 255 defects were put out of service?

MR. PATON: It's a judgment item, on taking a locomotive out of service. If we feel it's unsafe to continue service, then we issue a Form 8.

CHAIRMAN KATZ: That was done on only four locomotives?

MR. PATON: As I recall, it was four; I didn't bring that with me.

CHAIRMAN KATZ: You can produce for me the 79 locomotives in Tucson, or the 48 out of Roseville, are on what is referred to as MPE 59 Forms?

MR. PATON: That's right.

CHAIRMAN KATZ: You can produce that?

MR. PATON: I can, through our Chief Counsel's office.

CHAIRMAN KATZ: All right. I'd like them for all four facilities. Let me shift for a minute to the Public Utilities Commission. Before I do, let me ask a question. Are you familiar with an internal document from Southern Pacific Railroad, that I believe is about two-and-a-half years old. I think it was in response to an inspection done at Roseville about two-and-a-half years ago. I believe it was sent to you with a cover letter from Ken Moore and Ron Barry of the railroad, that was promising to make significant improvements in their compliance rate of locomotive maintenance.

MR. PATON: Dated March 1990, and they developed that Locomotive Compliance Plan based on a previous trip to Tucson, where we did a similar exercise. I have a copy here.

CHAIRMAN KATZ: It took two-and-a-half years to develop a document?

MR. PATON: No. We had conducted the inspection in Tucson before where we seriously interrupted their traffic in February of 1990, and they produced their Locomotive Compliance Plan in March of 1990.

CHAIRMAN KATZ: I'm under the impression that there is one previous to that also.

MR. PATON: I'm not aware of that.

CHAIRMAN KATZ: Going back to '89 or '88.

MR. PATON: I'm not aware of that. I think this is the one you're talking about. I'd be happy to give you a copy if you want.

CHAIRMAN KATZ: I'd appreciate that. What were the recommendations for improving the compliance step. Let me ask you this question? That was based on a Tucson inspection. What were the results of that Tucson inspection that triggered that report from SP?

MR. PATON: There were two inspections during that period. They were just of short duration. We inspected locomotives at Phoenix, again at Tucson. We defected 53 out of 53, as I recall. One hundred percent.

CHAIRMAN KATZ: 100 percent in the toilet at this time. What is it that SP said they were going to do try and get at least one locomotive that met your standards?

MR. PATON: Basically, in their compliance plan, they were going to take specific action, by July, 1990, to reduce their defect ratio by 50 percent. They have not achieved it.

CHAIRMAN KATZ: They haven't come close?

MR. PATON: I would agree.

CHAIRMAN KATZ: From SP's standpoint, they went from 0 out of 50 to 13 out of 92, making it. Let's shift to the PUC for a second, then come back. Mr. Oliver, describe for me your responsibilities and authority.

MR. BILL OLIVER: I'll zero in on what we do as far as rail safety. The Safety Division has other responsibilities before and in addition to rail safety. We are the authority from the

constitution of the Public Utilities Code, the Vehicle Code, and the Labor Codes. From these, the commission issues orders from the commission, or we have about twenty general orders that count our specifications that deal with rail safety. We're pre-empted by the federal rules of the federal government through the FRA, establishes rules. We are pre-empted from that area of safety. However, there are some areas--track, equipment and operating practices where states can become certified. We have become certified in those three areas. We have three track inspectors, two equipment inspectors and three operating practice inspectors.

CHAIRMAN KATZ: Give me the numbers, again?

MR. OLIVER: Three track inspectors.

CHAIRMAN KATZ: Three track inspectors?

MR. OLIVER: Two equipment inspectors.

CHAIRMAN KATZ: Two equipment inspectors?

MR. OLVIER: Three operating practice inspectors that enforce the federal rules.

CHAIRMAN KATZ: Three operating practices. We've got 7,000 miles of track in California?

MR. OLVIER: Yes.

CHAIRMAN KATZ: And we've got two track inspectors.

MR. OLIVER: Yes. One in Los Angeles and one in...

CHAIRMAN KATZ: How're they doing?

MR. OLIVER: They're busy.

CHAIRMAN KATZ: I've never inspected track before, but it seems to me that the ratio is off a little bit.

MR. OLIVER: We work with the Federal Railroad Administration, and our two track inspectors aren't the only track inspectors in California. What they try to do is work through a priority, looking at the high speed lines, lines that have passenger trains, and lines that have hazardous materials on them as a priority. Also, they have other duties that come about, accident investigations, and so forth.

CHAIRMAN KATZ: Mr. Oliver, specifically, what are you responsible for?

MR. OLIVER: As far as track inspection equipment, and operating practices, that's to carry out and enforce the federal rules with FRA.

CHAIRMAN KATZ: That's your direct responsibility?

MR. OLIVER: Yes.

CHAIRMAN KATZ: Working for you are the inspectors you just named? Who else? I'm just trying to get an idea of what your scope and authority and responsibility is?

MR. OLIVER: We deal in a lot of other areas. We have rail safety authority and we have people working in that area. We have rail transit authority; we have people working in that area. Besides just the federal inspectors, we have people that look at other things, and enforce our general orders. For example, clearances on rail, and the other general orders that we have to enforce.

CHAIRMAN KATZ: What was the PUC's involvement in the inspections that Mr. Paton mentioned that took place in California?

Obviously, you're not going to be in Tucson, but I would assume that in Roseville, Bakersfield, there was PUC involvement?

MR. OLIVER: Yes. We had at least one there. I'm not sure whether they were both there or not.

CHAIRMAN KATZ: At which inspection?

MR. OLIVER: At Roseville and Bakersfield.

CHAIRMAN KATZ: Who are your inspectors in Roseville? Who was there in Bakersfield?

MR. OLIVER: Jim McCall was at Roseville and Bakersfield, I'm not sure whether Jim McCall Jr. was at both of those, too.

CHAIRMAN KATZ: Jim McCall Jr. or Randy McCall?

MR. OLIVER: Randy McCall is Jim McCall Jr.

CHAIRMAN KATZ: Okay. You use the same MPE 59s--you use the federal forms for your inspections?

MR. OLIVER: Yes.

CHAIRMAN KATZ: Those forms are kept at the PUC, also?

MR. OLIVER: Yes, we keep copies. We submit them to FRA, but we keep a copy.

CHAIRMAN KATZ: Okay. I would like your MPE 59s for both inspections. In fact, what I'd like from both of you gentlemen--and I'd like it in a very expeditious manner which in my mind means before my hearing on Monday--is your MPE59s for the six months of this year, the time of this year leading up to the accidents having to do with Southern Pacific. Actually, what I'd like to see are your 59s, your 58s, and your 65s. As I understand it, your 58s are your track reports, and your 65s are your

operating practice inspections. As I understand, operating and practice inspections have to do with such things as how you operate, maybe whether you use helper cars or not, how you load hazardous materials or how you load the weight distribution in a train. Those are the things I think of when I think of operating practices. Is that not what's covered in your MPE 65s? What's covered in your 65s?

MR. PATON: That can be covered by any the federal operating rules deficiency. Also, it can cover, in some cases rare and operating rule deficiencies. It can cover hazardous materials deficiencies. It can cover hours of service, blue signal. A variety of things.

CHAIRMAN KATZ: Okay, I'm interested in them.

MR. PATON: For six months?

CHAIRMAN KATZ: Yes. For 1991. Mr. Oliver, we've heard discussion of four inspections that were done in June half in and half out of California. Do you have any information on an additional inspection done sometime in that same period, and again I'm being general specifically, having to do with either the Tailor Yards or the West Colton Yards?

MR. OLIVER: I don't have information. However, I could get it for you. I don't have personal information of when they were done or what the result was.

CHAIRMAN KATZ: Well, it's very important. Mr. Paton, how about you? West Colton or Tailor Yard inspection. Not necessarily completed but started.

MR. PATON: Could you repeat the question.

CHAIRMAN KATZ: I'm interested in knowing if there was an inspection that was begun at the Tailor Yards or the West Colton Yards sometime in the same time frame.

MR. PATON: Yes. I can answer that question. Following our exercise at Sparks, Bakersfield, Roseville, and Tucson, and prior to arranging all of those team inspections, we had organized a team inspection for freight cars at West Colton. The serious disruption of traffic through these other four team inspections caused me to change that team inspection at West Colton. It would have been the week of the 23rd I believe.

CHAIRMAN KATZ: Of June?

MR. PATON: Of June. It caused me to change that team to go to the Santa Fe at Barstow.

CHAIRMAN KATZ: Okay. Explain to me why you pulled out of Colton and went to Barstow.

MR. PATON: I felt that I had pushed the Southern Pacific as about as far as I could and still maintain effective enforcement relationship.

CHAIRMAN KATZ: Wait a minute. You're going to have to help me here because we're getting in an area that sounds real bizarre to me. I'm thinking back to how we do school buses. If we see a pattern of problems, the highway patrol sees a pattern of problems what they do is they come down hard. And if the pattern continues, they come down harder. Our interest is not the viability of the company. It is not that it costs the company a million dollars a day or it make live difficult for the shippers.

Our concern is the public protection which is, as you mentioned earlier, the role of FRA. What it sounds like you're telling me is in the wake of four inspections that scare the hell out of me hearing about now. Your decision was to pull out of the Colton Yard because it was causing too great a burden on the railroad?

MR. PATON: Basically, that's what I'm saying. I have to maintain some degree of credibility. Let me give you an example. The Vice Chairman of Southern Pacific, Bill Holtman, was advised by the chief mechanical officer that he did not feel that it was the intent of Congress for FRA to have the ability to bring a railroad to their knees, which basically is what I had done in Tucson. I felt under those conditions I would be better off to postpone the West Colton car inspection. Let me remind you, we're talking freight cars again rather than locomotives which the other four team inspections were...

CHAIRMAN KATZ: I understand. I'd also point out that it was at Seacliff that a freight car failed. At Dunsmuir, it was a locomotive. So let's keep it in context.

MR. PATON: The freight car problem that we were addressing at West Colton was not nearly as serious as the locomotive compliance problem that we are addressing at...

CHAIRMAN KATZ: I understand. I'm smiling because there was whole lot of room between not as serious and the problem we got with these other our inspections. We're talking 80 percent failure rates over here. There's a lot of room for serious problems before you hit 80 percent. Your decision is that because of the economics

of operating a railroad which isn't your concern. What I'm having trouble with is why should you give a damn about the fiscal condition of the railroad when your job is the safety of the public?

MR. PATON: To achieve improved compliance, I have to maintain some degree of credibility with whatever railroad I'm dealing with. It was felt, in my opinion, I would be better to postpone West Colton rather than to bring them to their knees again for the fifth week in a row.

CHAIRMAN KATZ: Let me ask you a question though. Credibility. Explain to me why you need credibility with the railroad if you've got the authority and a bunch of forms that say if you can't do your job I'm putting you out of business? It seems to me that the hammer you have with the railroad is the threat to shut them down. If they don't do their job, you shut them down until they're doing it right. That seems to me as a public employee whose role is to protect the public and somebody else can worry about the financial viability of the railroad. The bond holders or whoever. But isn't it your job to protect the public? If you're worried about credibility with the railroad, who's protecting the public?

MR. PATON: Well maybe it was bad judgment, Mr. Chairman, to have postponed it. Nevertheless, I elected to do that and I take full responsibility for it.

CHAIRMAN KATZ: Did anyone from headquarters, or Washington, or DOT talk to you about postponing that?

MR. PATON: No, but I discussed it with them.

CHAIRMAN KATZ: Who is Washington did you discuss it with?

MR. PATON: Mr. English our Director of Safety Enforcement. I told him it was my feeling actually to postpone it, that I had pushed the SP about as far as I could, and I told him that I was going to postpone that inspection.

CHAIRMAN KATZ: Your conversation with Mr. English was at your initiation or in response to an initiation from him?

MR. PATON: It was my initiation.

CHAIRMAN KATZ: I see. Anybody else? Carmichael, Skinner--anybody else have impact on that decision?

MR. PATON: No.

CHAIRMAN KATZ: Input to the decision?

MR. PATON: No.

CHAIRMAN KATZ: Totally your decision?

MR. PATON: Yes.

CHAIRMAN KATZ: Am I correct in characterizing the decision as something you decided. I think at some point, you used the phrase, give them a six-week window of breathing opportunity in order to allow the railroad to get back on their feet. Let me rephrase that. Was there a time during which you didn't want them inspected again?

MR. PATON: No.

CHAIRMAN KATZ: But you called off the inspection on June 23rd.

MR. PATON: The team inspection.

CHAIRMAN KATZ: The team inspection on June 23rd at the Colton Yard.

MR. PATON: That's correct.

CHAIRMAN KATZ: And then within two months, we have two major derailments most of which apparently is attributed to equipment failure of some sort?

MR. PATON: That's correct.

CHAIRMAN KATZ: The kind of equipment particularly with the locomotive that had inspections continued would have forced those locomotives out of service?

MR. PATON: At this point, we haven't been able to determine where the second and third locomotive failed. I'm still trying to determine that. We can only do it by documentation and employee interviews. I've not been successful so far.

CHAIRMAN KATZ: Explain to me what you mean by not being successful.

MR. PATON: We found, following the Dunsmuir accident, during a simulation run that the second and third locomotives were emitting excessive exhaust fumes, smoke which would indicate that the locomotive was loading and unloading.

CHAIRMAN KATZ: Explain. My experience with trains are real small ones you know, little Lionel things. So what's loading and unloading?

MR. PATON: You've got a diesel engine in the locomotive. The diesel engine drives the main generator which converts to fraction motor electrically which converts back to mechanically to drive the locomotive. They had electrical problems on both

locomotives that caused the locomotive to load and unload. It would load up to its maximum kick off and unload. It would equate to driving down the highway with your automobile. You step on gas and let off, step on the gas and let off, step on the gas and let off. We confirmed that through our tests when the locomotives arrived at Eugene. We spent ten days basically taking one apart and putting it back together with the Southern Pacific, and this is what we found. At this point, we don't know where they failed. Whether they were defective prior to being dispatched out of West Colton or whether they failed in route. We have not been able to determine that yet.

CHAIRMAN KATZ: If you had done the inspection at West Colton, you might know that.

MR. PATON: We weren't looking at locomotives in West Colton. That was just a freight car inspection.

CHAIRMAN KATZ: I see. Mr. Oliver, you had PUC inspectors on site at West Colton?.

MR. OLIVER: I'm not sure.

CHAIRMAN KATZ: Let me see. They work for you but he's telling me you did. How come you don't know that?

MR. OLIVER: Yes. I can't say exactly who was there, but we work as a team with them. If there's an inspection, we usually send a person from either LA or San Francisco, or if needed, we can send them both. I can't say exactly who was there.

CHAIRMAN KATZ: With all due respect, explain to me why the FRA knows where your guys are and you don't.

MR. OLIVER: Well, the FRA is the one that plans these inspections...

CHAIRMAN KATZ: I understand that. We're talking about something that took place in June. We're talking about the hearing that's scheduled today that you knew about. You know we're going to talk about railroads and inspections, and Southern Pacific. We're not talking about the universe here. I want to know why you don't where your people are and they do.

MR. OLIVER: I just don't know. I don't keep track of everyone on my staff that closely.

CHAIRMAN KATZ: Apparently. Did you or anyone at the PUC in the last, say, 72 hours, I'll keep the time frame short, instruct PUC personnel not to talk to members of the Legislature about any of these incidents?

MR. OLIVER: I instructed my staff that they should work through our legislative people.

CHAIRMAN KATZ: Okay. How about a yes or no answer to my question?

MR. OLIVER: That's what I instructed them to do. To work through our legislative people, Les Johnson.

CHAIRMAN KATZ: Did you instruct them through your computer net in the last 72 hours to work through your legislative people and not on their own to talk to members of the Legislature? If you want, I'll subpoena your computer records because they are there. So we can do it easy; we can do now or we can do it hard.

MR. OLIVER: Well, I was trying to figure where I was in the last 72 hours. No, the answer is no. Not in the last 72 hours.

CHAIRMAN KATZ: Okay, in the last four weeks?

MR. OLIVER: I sent a note out saying that when they're contacted by the legislative people, whether it is a legislator or their staff, they should work through Les Johnson, our legislative person.

CHAIRMAN KATZ: Les Johnson. Is he an inspector?

MR. OLIVER: No, he's in our Office of Governmental Affairs in Sacramento.

CHAIRMAN KATZ: So he's not a safety personnel. He's not an inspector. Does he have any expertise whatsoever in railroads or in PR?

MR. OLIVER: I doubt he has much in railroad, but he's our legislative contact person.

CHAIRMAN KATZ: Why would I want, hypothetically, to talk to him about what we're talking about today as opposed to people who understand and know where they are and know the questions to answers?

MR. OLIVER: Well, the instruction was that they should work through Les. So he's aware what's going on. If he wants to refer them to somebody else, he can do that.

CHAIRMAN KATZ: As I understand it, -- I'll tell you what I'd like you to provide me with. I'd like to have the travel vouchers for all your rail safety personnel since January of this year. Since you don't remember where they are, I'll go through

your travel vouchers and I'll let you know where they were. If we have to do this brick by brick, we will do it brick by brick. But I'm trying to understand is where the hell the PUC's been. I'm beginning to get an impression about what's happened at the FRA. It's not very good. I don't like it at all. I can't do anything to the FRA. I can write to my Congressman. I will talk to my Senators and Jack and I will talk to a number of Congressmen about the FRA and their role. But I can do something about the PUC.

What I want to know is, does the PUC, since your inspectors I believe are federally- certified. That's how you work as these teams together. The PUC has the authority to put equipment out of service. Is that correct?

MR. OLIVER: Through the federal regulations just like the FRA does.

CHAIRMAN KATZ: In other words, when an inspector goes into that yard, whether they're PUC or FRA and they're going down their MPE 59s and they're finding governor's or whatever out of whack. Either one of those people, as long as they are using the same guidelines, can put that equipment out of service.

MR. OLIVER: Yes.

CHAIRMAN KATZ: When the FRA pulled out of Colton, did the PUC?

MR. OLIVER: I imagine we did. We're part of the team.

CHAIRMAN KATZ: Can you stay on your own?

MR. OLIVER: I am not aware whether they did or did not.

CHAIRMAN KATZ: I didn't ask that. I said do you have the authority to stay and inspect on your own without the FRA?

MR. OLIVER: Yes.

CHAIRMAN KATZ: Okay.

ASSEMBLYMAN JIM COSTA: Have they ever?

CHAIRMAN KATZ: Mr. Costa asks have you ever?

MR. OLIVER: We do inspections on our own without the FRA all the time.

CHAIRMAN KATZ: What inspections have you done in the last six months of Southern Pacific yards on your own?

MR. OLIVER: I don't know specifically. I can get you a list.

CHAIRMAN KATZ: Okay. What did you think we were going to talk about today, just out of curiosity?

MR. OLIVER: What?

CHAIRMAN KATZ: What did you think we were going to talk about today?

MR. OLIVER: I understood an issue we were going to talk about was the Seacliff accident.

CHAIRMAN KATZ: Okay.

MR. OLIVER: I got your agenda last night at 5 o'clock.

CHAIRMAN KATZ: Well, I think your chairperson had it before then because she had been scheduled to testify. Can you tell me, in your memory, has a Public Utilities Commission inspector ever put a piece of equipment out of service?

MR. OLIVER: Yes.

CHAIRMAN KATZ: When?

MR. OLIVER: Numerous times.

CHAIRMAN KATZ: Give me an example.

MR. OLIVER: Well, I can't give you the time, date, and place but...

CHAIRMAN KATZ: Just give me an example. I mean and I'll give you some leeway. I mean I'm not going to hold you to the time, date, and place. Just give me some examples.

MR. OLIVER: Well, (inaudible) used to work independently and go into Roseville and taken the pieces of equipment out of service by himself without a federal inspector there.

CHAIRMAN KATZ: This year?

MR. OLIVER: I can't say exactly when or where, but I'm sure he has.

CHAIRMAN KATZ: Can you -- in view of the staggering reports coming out of Roseville and Bakersfield, assuming for a second you didn't know about Sparks and Tucson, so you're doing Roseville and Bakersfield. What action did the PUC initiate based on that horrendous failure rate?

MR. OLIVER: We just work with the FRA.

CHAIRMAN KATZ: In other words, nothing. You did nothing on your own.

MR. OLIVER: We didn't do anything independent of the FRA.

CHAIRMAN KATZ: Why not?

MR. OLIVER: Because they are the ones that set up the inspections and we work as a team. I'm not sure if we did anything additional.

CHAIRMAN KATZ: Under the situation you're describing, do you need the PUC or should we just have the FRA?

MR. OLIVER: If you want more inspectors in California, you need the PUC.

CHAIRMAN KATZ: But if they're not going to do anything unless the FRA is doing it, what's the point. What you're sitting here telling me is you've got--- You're head of safety, right?

MR. OLIVER: Yes.

CHAIRMAN KATZ: Okay. You're head of safety. Your guys come in and they say, listen, we've got this minor little problem here with Southern Pacific. We've got 36 out of 45 engines going down the tubes in Bakersfield. We've 40 out of 61 going down the tubes in Roseville. Gee boss, do you think we ought to do something about it? And your response is, wait for Uncle Sam to call? You're head of safety, not public relations, not railroad solvency, not protecting the stockholders at Southern Pacific. I mean, head of safety means, in my mind and please tell me if I'm wrong, that you're concerned about safety.

MR. OLIVER: That's true.

CHAIRMAN KATZ: So how do you sit there and tell me that when someone comes in and says, I've got a ton of locomotives that aren't worth crap, you don't do anything. I don't get it.

MR. OLIVER: Well, I don't see where we didn't do anything. As I said, we work with the FRA and we also make independent inspections. We certify their rules and enforce their rules.

CHAIRMAN KATZ: What is keeping you from showing some backbone on your own and going out there and protecting the public?

Tell Mr. O'Connell and his constituents, tell the folks in Dunsmuir what you did as the Public Utilities Commission because you didn't think the FRA was doing enough. Did you do anything?

MR. OLIVER: I don't know what we did.

CHAIRMAN KATZ: Can you point to anything concrete?

MR. OLIVER: We make our own inspections. We work as a team in investigating these accidents. We've been highly involved in trying to figure out what can be done as a result to them.

CHAIRMAN KATZ: Let me tell you why I'm having a problem here. We're looking at legislation designed to toughen the rules and regulations to put more heat on the railroads--all the railroads--to operate more safely. What good does it do me, or Jack, or our constituents to pass that legislation that tells the PUC we think you ought to be doing all this stuff in addition to what you're supposed to be doing already, if your response to everything is "Oh we're partners with the feds and when they get around to doing it we'll do it, but we're not initiating anything on our own".

MR. OLIVER: Well, I say we're enforcing the federal regulations. We can do more.

CHAIRMAN KATZ: Why haven't you done more?

MR. OLIVER: We only have two equipment inspectors in the whole state.

CHAIRMAN KATZ: Have you asked for more?

MR. OLIVER: Yes.

CHAIRMAN KATZ: Who'd you ask?

MR. OLIVER: We asked the budget people for more.

CHAIRMAN KATZ: The budget people at the Commission in the Governor's office. Budget people Where? Which budget people?

MR. OLIVER: Department of Finance through the budget process.

CHAIRMAN KATZ: And what was their response?

MR. OLIVER: We got some.

CHAIRMAN KATZ: You've got two. You went from one to two? What did you get?

MR. OLIVER: A couple of years ago, we only had three inspectors in the state. Now we have eight. We got two or three through the budget process in the last couple of years. We asked for two more in the next budget.

CHAIRMAN KATZ: We're talking current year budget or a couple of years ago?

MR. OLIVER: Current year meaning this budget.

CHAIRMAN KATZ: Fiscal '91-'92?

MR. OLIVER: '92 we did not get any inspectors.

CHAIRMAN KATZ: You requested but were turned down?

MR. OLIVER: I'm trying to remember. No, we didn't request inspectors, we requested other ones. We requested two more in '92-'93.

CHAIRMAN KATZ: Okay, but you didn't think you needed more for this year?

MR. OLIVER: This year, no.

CHAIRMAN KATZ: The Public Utilities Commission has authority granted to it by the feds to order additional safety equipment on tracks where have been, I don't remember the exact

phrasing I guess, local problems over the years. Am I phrasing that correctly?

MR. OLIVER: We have authority to address local safety issues independent of the federal government.

CHAIRMAN KATZ: The Dunsmuir track, I'm told by your staff, is among the most dangerous or hard to navigate or transverse in the western states.

MR. OLIVER: It's one of the most difficult.

CHAIRMAN KATZ: And there have been how many derailments there in the last ten years?

MR. OLIVER: Eight.

CHAIRMAN KATZ: Eight derailments. Is that high?

MR. OLIVER: I'd say it's high in that short a distance.

CHAIRMAN KATZ: Part of it's defining how large an area of track we're talking about. I'm talking about right around that curve area. We're talking about eight in the last ten years?

MR. OLIVER: Eight in the last ten years is in the two-mile stretch.

CHAIRMAN KATZ: If you go into a 20-mile stretch, I believe that number goes up significantly?

MR. OLIVER: I doubt if it goes up significantly. I think it's concentrated probably in that two-mile stretch.

CHAIRMAN KATZ: In view of that, a high accident rate, a difficult piece of track, what has the Public Utilities Commission ordered the railroads to do to increase safety in that area?

MR. OLIVER: We haven't ordered anything as far as specifically in that area.

CHAIRMAN KATZ: How come?

MR. OLIVER: We inspect the track to make sure the track is brought to the right standards in the area.

CHAIRMAN KATZ: We've got eight trains that fell off that track in the last ten years. You said yourself that's a high rate. I'm taking your work for it, but we don't do anything else?

MR. OLIVER: We haven't ordered anything in that specific area or instituted an investigation.

CHAIRMAN KATZ: Has the staff recommended changes in terms of operating practices in those areas?

MR. OLIVER: No.

CHAIRMAN KATZ: So it's not even a question of the Commissioner's turning it down. The staff hasn't even made recommendations?

MR. OLIVER: No.

CHAIRMAN KATZ: Can you enlighten me as to why? The reason I'm asking--again going back to the legislation that we're all contemplating and other things, it seems like you've got a problem, you admit there's a problem there, you acknowledge there is a problem there, you acknowledge that you have authority, but you're not doing anything to use that authority to increase the level of safety.

MR. OLIVER: Most of those accidents, it was not equipment or track, it was human failure.

CHAIRMAN KATZ: Okay. Did you recommend more humans on the train?

MR. OLIVER: No.

CHAIRMAN KATZ: Did you take a position on the issue of cabooses on trains?

MR. OLIVER: When it was before the Legislature, we did.

CHAIRMAN KATZ: The Commission did?

MR. OLIVER: Yes.

CHAIRMAN KATZ: And your position was?

MR. OLIVER: In support.

CHAIRMAN KATZ: In support of keeping cabooses on trains?

MR. OLIVER: Yes.

CHAIRMAN KATZ: Okay. I'm at a loss as to where to go from here. I'm shocked at a minimum by what both you gentlemen have told me. I am very concerned that those people with the authority to make a difference aren't doing their job. What I'm being told here is that despite a failure rate of upwards of 80 percent -- and again you know the thing that makes this so incredible is this isn't just knock, knock, surprise inspection, let's see what you got, and that's an 80 percent failure rate. This is a surprise inspection where they get to fix everything before they show it to you and its still got an 80 percent failure rate. On top of that happening on four occasions in June of this year, we find no significant increase in the amount of trains being put out of service, we find no significant numbers of locomotives being put out of service, we find no independent action at all by the Public Utilities Commission's safety staff, we find no activity by the Public Utilities Commission, which, as I understand, last week adopted some of your hazmat rules which were first proposed in 1979.

MR. OLIVER: We issued a general order, yes.

CHAIRMAN KATZ: This is the result of something that started in 1979?

MR. OLIVER: No. This is a result of something that the Commission really started three years ago. We started a lot of things in 1979, including legislation. That's where we started. None of it was successful. Then, we went into OII, three years ago, to set up the rules.

CHAIRMAN KATZ: I am overwhelmed by what has not been done, in view of such glaring safety problems. Is a failure of government and bureaucracy to protect the public of proportions that I could not imagine. I've got a pretty good imagination. Both the federal level, and I appreciate Mr. Paton taking responsibility. That's unusual for people in his position.

We heard a gentlemen say that, "I decided that the railroad was suffering too much, so we'll put the public at risk, while the railroad tries to right itself fiscally. We'll continue to put the public at risk", knowing what he knew.

The PUC just sits there, and say if the feds don't care, we don't care.

ASSEMBLYMAN O'CONNELL: It seems to me the railroads have enough lobbyist and advocacy for themselves. It's the citizens that need to be better protected. That's the disappointment that I have. Assemblyman Katz and I, and everyone this room want to emphasize the prevention. I'm just floored. Richard uses the term, he's overwhelmed. I'm underwhelmed, I think, at the level of protection, in terms of the prevention that can be taken.

Maybe you can take me through exactly what the inspection are again. It seems to me that my analogy, and maybe you can tell me if I am wrong, that the trucks that now transport hazardous materials are safer today, by talking to the Highway Patrol. We have representatives, some spoke persons here today that are on the agenda. They will tell you that the trucks are safer today in carrying these hazardous materials than they were ten years ago. Maybe they're a result of a couple of spills that we had around the state. There was one in Santa Barbara in 1984. There were others. Perhaps, we need to have this as bellringer to help the rails improve their transportation, too.

I am sure that the industry will tell you that they want to do everything that they can to help prevent these type of occurrences and incidents. Maybe you can take me through the 80 percent figure. When you come, yes, there's surprise inspections, and you knock on the door at the railroad yard, and say, "We're coming". Do the trains then have a chance. Do you give them a 24-hour period to fix their locomotives? That's the first question. Number two: How about the boxcars? The Sea Cliff accident was not a locomotive. It was a boxcar, a problem with the axle. Can you take me through how those work? Can you let me know, do the railroads also pull out 60 boxcars, like they do the locomotives and say, we think these are our 60 best. Hope you don't find 80 percent to put out of commission, because we're going to let the rest of them roll? I understand that even the boxcar at Sea Cliff wasn't owned by the railroad, but they're responsible

because they were pulling it. Can you take me through how that works?

MR. PATON: There's been concern about taking locomotives out of service--insufficient numbers being taken out of service. I think that we have to recognize that the Safety Improvement of '88 gave FRA individual liability authority. Oftentimes, it is not necessary to issue a Form 8 to take it out of service, because an individual that would order that locomotive to be used, or continued in use in defective condition is subject to an individual fine, or perhaps disqualification from that position, or perhaps both. I don't think this is really an issue that we should be to concerned about, is the number of locomotives that we take out of service. When we arrive at a locomotive service area, the locomotives that are ready at the time of our arrival is a true monitoring of their meeting of their responsibilities.

ASSEMBLYMAN O' CONNELL: So, it's not real surprise, that they know you're coming?

MR. PATON: Only, those initial ones that are ready. Following our arrival, those that are inspected and offered for service after that, they have the opportunity to do a better job, I presume, if they elect to do so. That's one reason are a bit more alarming than what...

CHAIRMAN KATZ: They're very alarming.

MR. PATON: I wanted to assure you, this committee, that I have had a very active program in locomotive compliance on the Southern Pacific, probably the most active in the country, or in the 17 states that SP runs in. I've allocated more of my resources

in P&E wise for the Southern Pacific than I have on the rest of the railroads in my region.

CHAIRMAN KATZ: Let me ask you a question? If we're getting a whole more protection that the rest of the country, I'm very concerned for the rest of the country. Your comment in terms of allocating a lot more of your resources to SP, is that because their accident rate is significantly higher?

MR. PATON: It's because their compliance is worse?

CHAIRMAN KATZ: Because their compliance is worse? How much worse is their compliance than other railroads--Santa Fe? UP? Whoever?

MR. PATON: I think it would unprofessional for me to compare one railroad to another in a public hearing. I could better answer that by saying that I have allocated more of my resources to the Southern Pacific, and I'm not happy with the improved compliance that we've achieved to date, and I'm not going to quit.

CHAIRMAN KATZ: What are you going to do to bring them into compliance if you cancel inspections because you want to give them breathing room?

MR. PATON: This was only an isolated occurrence. I've been a reasonable director for five-and-a-half years. It's the first one I've canceled. I felt that I was making a good judgment to do it then. Perhaps it was bad judgment.

To answer Assemblyman O'Connell's question on freight cars, the railroad has a responsibility to make a pre-departure inspection and a brake test when a train is assembled. Our

inspection usually occurs after that procedure has been performed. So, again, we're monitoring after they have inspected. In the case of the Sea Cliff accident, we were present at the bearing tear down at the Sacramento shops. The manufacturer of that bearing was there. He attributed the cause of bearing failure as being a loss of clamping pressure in the bearing due to rubber seals being applied behind the cap screw bolts, and backed out 3-32nds of an inch or so, and rear seal failed. Hence, you had a bearing failure. Since 1988, those rubber seals have not been installed. This one was rebuilt prior to that. I'm not sure that had the railroad or FRA or PUC had inspected that car at LATC yard, that they would have identified that as a problem bearing.

We had four more bearings in that train that we inspected. Those also were taken to Sacramento shops as suspects. They were showing signs of grease around the outer seal. Those four were torn down. They were fine. There was nothing wrong with them at all.

ASSEMBLYMAN O'CONNELL: Do you have any requirements whatsoever in terms of how often locomotives or boxcars should be inspected? Pretty much catch as catch can?

MR. PATON: We try and direct the enforcement activity and inspection activity based on the degree of compliance we're achieving at that location. A mechanical-caused accident can be due to a problem where a failure was in Chicago and that particular car failed in California.

ASSEMBLYMAN O'CONNELL: Are you a little familiar with the system that the hazardous waste haulers use where they have the certification, the stickers in the lower left or right hand corner?

Chief Rude, is it in the lower corner of your trucks, right hand corner of the front windshield, for your hazardous waste haulers? It's good for at least three months, and it won't be inspected again for at least three months. Would something like that work for your locomotives, at least? Or even for the boxcars if they do get inspected more than... Isn't there a scenario where some trains could be inspected every other month, and others may go never being inspected?

MR. PATON: That's entirely possible. The railroad is required to make a periodic inspection of a locomotive every 92 days, because that's when it's necessary. We could inspect a locomotive in Los Angeles, and again in Roseville the next day.

ASSEMBLYMAN O'CONNELL: Similarly, you may not ever inspect a locomotive, the life of that engineer.

MR. PATON: There's no practical way to track it, with two million freight cars in the country.

ASSEMBLYMAN O'CONNELL: Truly, a catch as catch can system. That jeopardizes public health, in my opinion.

MR. PATON: We have to remember that the responsibility for compliance with that freight car, that locomotive, still rests with the railroad. The PUC and FRA are there merely to monitor their meeting that responsibility.

CHAIRMAN KATZ: I've got to take issue with that. You have the ability to put them out of service.

MR. PATON: Yes.

CHAIRMAN KATZ: We shut down restaurants when roaches are found in restaurants. We shut down restaurants. We close down terminals if school buses or trucks present a danger to the public, or because the safety records aren't up to snuff, or the inspections don't make it. Yet, for some reason, we're letting the economic viability of the railroad take precedent over public safety. I don't understand that. I understand your decision. I also want to ask the Public Utilities Commission about that. There's two separate roles in this. There's the FRA role. I understand what happened there, I think. I'm not quite sure how you came to the conclusion you did. What you've told me there was no outside influence on you. The railroad didn't try and influence you. The shippers didn't try to influence you. The people in Washington didn't try to influence you. You just came to this decision on your own, even though it was different than everything you've done for the last five years.

MR. PATON: That's right. But you have to remember that my arrangement in Sparks, in Bakersfield, in Roseville, and Tucson, was at my own initiative because I was concerned with the problem. That's an aggressive program.

CHAIRMAN KATZ: I agree with you completely, but that's what your job is.

MR. PATON: That's right.

CHAIRMAN KATZ: In Sparks, in Roseville, in Tucson, you did your job. For some reason, when it came to Colton, you said to give the railroad a break.

MR. PATON: I had problems in Barstow and the Sante Fe, too, and we're addressing those problems. The SP is not the only railroad I have responsibilities for.

CHAIRMAN KATZ: I appreciate that. SP are the only guys that have dumped stuff off the track in the last month or two, at least in California. In a significant way. Bob, you can respond to that when shot. SP are the only people I know of who've sterilized a river, and shut down a major highway in the last couple of months, as far as I'm aware. Let me go back to the PUC. I'm told there are some very pro-railroad folks on the Public Utilities Commission. Is that your impression?

MR. OLIVER: I don't know.

CHAIRMAN KATZ: You don't know. Has the Commission ever communicated with you, anything having to do with inspections or the safety record, or how aggressive or non-aggressive you're to be in terms of safety issues with the railroads?

MR. OLIVER: No.

CHAIRMAN KATZ: There's no correspondence whatsoever.

MR. OLVIER: You mean this present commission? No.

CHAIRMAN KATZ: Okay. I'll do a public records search starting in the morning. I won't find anything in your files that indicate that the Commission has shown an interest, no way or the other?

MR. OLIVER: I won't say that they showed an interest. You asked if they asked me to more aggressive. The answer is no.

CHAIRMAN KATZ: So, the Commission has never asked you to be more aggressive. What kind of information does the Commission

get? We've got some serious failures in the safety side based on inspections that you folks have been participating in. How does that go? Is the Commission aware of that?

MR. OLIVER: They only get information on something that would probably be of a serious nature that we think they should be aware of. They don't get all the routine information.

CHAIRMAN KATZ: Would you agree that Roseville and Bakersfield are of a serious nature?

MR. OLIVER: You mean the inspections at Roseville?

CHAIRMAN KATZ: Yes.

MR. OLIVER: I think that it points at that there is a problem.

CHAIRMAN KATZ: Has that been brought to the attention of the Commission?

MR. OLIVER: No.

CHAIRMAN KATZ: It has not?

MR. OLIVER: Not till now, that I'm aware of.

CHAIRMAN KATZ: Why not?

MR. OLIVER: When we feel that there is something that we have to do, we would recommend to them to do something. We did not recommend to them to do anything.

CHAIRMAN KATZ: How many spills does it take? How more severe did the disaster have to be? How many more locomotives would have had to have failed for you to tell the Commission there's a problem here?

MR. OLIVER: We told them there was a problem a while back when we tried to get this Hazardous Material General Orders,

through. We got that through. It wasn't easy.

CHAIRMAN KATZ: You started on that in '88, you said.

MR. OLIVER: Right.

CHAIRMAN KATZ: That took three years to get through, having to do with hazardous materials. That seems to me the Commission is not moving at lighting speed. Let me separate for one second the hazardous materials versus the safety problem. Has the accident rate for Southern Pacific been going up, in terms of numbers of accidents or accidents per mile?

MR. OLIVER: You mean derailments?

CHAIRMAN KATZ: No, I didn't say derailments. I said accidents.

MR. OLIVER: What kind of accidents? I can't respond. Railroad grade crossing accidents where trains run into each other?

CHAIRMAN KATZ: How do you keep your statistics?

MR. OLIVER: We keep a running list of all the accidents that are reported to us. We put out an annual report that shows trends.

CHAIRMAN KATZ: Okay, whats' the trend based on how you keep your statistics?

MR. OLIVER: I don't think it shows a large increase in accidents on SP.

CHAIRMAN KATZ: Does it show an increase?

MR. OLIVER: I can't recall exactly what it shows.

CHAIRMAN KATZ: You're the head of safety? You can recall the trend?

MR. OLIVER: It didn't point out a trend that would make us do something.

CHAIRMAN KATZ: Okay. Roseville and Bakersfield didn't point out a trend. ?

MR. OLIVER: It pointed out that SP has a problem with their locomotives.

CHAIRMAN KATZ: But not enough for you to do anything?

MR. OLIVER: No.

CHAIRMAN KATZ: Have you discussed your testimony before this hearing with any of the commissioners in the last several days?

CHAIRMAN KATZ: No.

CHAIRMAN KATZ: No, discussion at all.

MR. OLIVER: No.

CHAIRMAN KATZ: Even when the Chairwoman said she wasn't going to come?

MR. OLIVER: I haven't spoken with her.

CHAIRMAN KATZ: Have you spoken with the Executive Director of the Commission?

MR. OLIVER: No. Not in the last few days.

CHAIRMAN KATZ: Have you discussed your testimony with anybody?

MR. OLIVER: Just with the legal division.

CHAIRMAN KATZ: What did the legal division tell you?

UNIDENTIFIED VOICE: (inaudible)

CHAIRMAN KATZ: I didn't ask you the question. I asked him the question. I'll ask you the question, next.

MR. OLIVER: Mostly, what we wanted with the legal division was to try to spell out where the state role is and the federal role is, and where we're pre-empted.

CHAIRMAN KATZ: Did the legal division give you any instructions on what you could or could not testify about?

MR. OLIVER: No.

CHAIRMAN KATZ: Who was the person that started to come forward?

MR. OLIVER: Her name is Judy Lamson. She's in our legal division in San Francisco.

CHAIRMAN KATZ: Ms. Lamson, do you want to join us?

MS. JUDY LAMSON: I would like to clarify a few things that have been discussed earlier.

CHAIRMAN KATZ: Before we get to that, have you had any discussions with the commissioners about that testimony at this hearing?

MS. LAMSON: Yes.

CHAIRMAN KATZ: Would you tell me the nature of those discussions?

MS. LAMSON: Generally discussing what the scope of the hearings would be. As I as understood it, we would be discussing the Sea Cliff spill. Maybe a little bit of the Dunsmuir spill. Generally, the focus would be on what the state is authorized to do. The difference between the federal authority and the state authority, that sort of thing.

CHAIRMAN KATZ: Have you been instructed to limit testimony in any way?

MS. LAMSON:: No.

CHAIRMAN KATZ: Has the Commission instructed you to make available all relative to questions from this inquiry?

MS. LAMSON: I have no instructions of that sort.

CHAIRMAN KATZ: You will make them available, though?

MS. LAMSON: Yes. Subject to... We do have some information that is confidential under the California Public Utilities Code pending the investigation.

CHAIRMAN KATZ: What's the nature of that information?

MS. LAMSON: There would be factual matters that were investigated at the sites of the spills. We're certainly willing to work with the Legislature and the staff in developing legislation. We're not trying to be uncooperative in any sense of the word.

CHAIRMAN KATZ: You've got to keep in mind, I'm not necessarily interested in developing more legislative authority for the PUC. If you're not using what you've got. The failure of the agency to adequately protect the public raises serious questions about whether or not undue influence has been brought on commissioners or by commissioners. It raises serious questions about who's looking out for the special interests, as opposed to who's looking out for the public interest. Based on the information I hear today, I'm very much frightened for the public interest. I may be rethinking whether or not, at least for my legislative efforts, I want to give more authority to the PUC, in view of an appalling lack of use of the authority that you currently have.

MS. LAMSON: Unfortunately, we are also very limited by the federal scheme.

CHAIRMAN KATZ: Excuse me, ma'am. The limits by the federal scheme do not prevent you from taking equipment out of service. They do not prevent you from doing additional inspections on your own. They do not prevent you from exercising your authority to increase safety procedures on the track at Dunsmuir.

MS. LAMSON: There are limitations in those areas. For one, we are certified as was discussed earlier. We are certified to work with the FRA and inspect. However, our inspection reports are referred to the FRA where they are prosecuted. We do not have independent authority to prosecute beyond the law.

CHAIRMAN KATZ: No, you don't. You do have authority under the federal designation of your inspectors to put equipment out of service. You may not be able to assess penalties without the feds, but you can take stuff off the track. You can take equipment that poses a threat to the safety of Californians off the track. You haven't been doing it!

MS. LAMSON: As we noted earlier, we have eight inspectors for the entire state of California. This is the one area in California--railroad safety--that is not user-funded.

CHAIRMAN KATZ: Because there's an exemption for the railroads?

MS. LAMSON: Yes.

CHAIRMAN KATZ: Has the PUC tried to eliminate that exemption?

MS. LAMSON: Yes, we have. It has not succeeded at the legislative level.

CHAIRMAN KATZ: Passed the legislature, vetoed by the Governor, or not passed the legislature?

MS. LAMSON: I believe it did not pass the Legislature.

CHAIRMAN KATZ: The Public Utilities Commission last requested that legislation, when?

UNIDENTIFIED VOICE: Probably about five years ago.

CHAIRMAN KATZ: During Governor Deukmejian's time. You haven't requested it since then?

MS. LAMSON: Not that we are aware of at this table. We could get back with you on that.

CHAIRMAN KATZ: Let me give you some information. I believe both Senator Thompson's bill and my bill will eliminate that exemption. I'll look forward to your letters of support for both efforts. In addition, I still have serious concerns about the role of the Commission. The fact, that the Commission has not over time instructed the staff to do more inspections, or raise the question, or shift the resources which the Commission has the ability to do. We've worked with you before on that one, when we had problems in the tour bus industries, and other industries.

Until such time as the legislation was available for funding, you have ways of making it work. It hasn't been the case here. What I will do after the hearing, I will look at our options both legislatively. But I'm also concerned, and I think the relationship between the Commission and the railroads needs to be looked into. Someone is not protecting the public interests and we

need to know why. Mr. O'Connell is correct in being suspicious and concerned. I think, people who hear this testimony today, both from the federal level and what has not been done, but in our role from the state level, what was has not been done to protect the public is frightening and unacceptable. I appreciate it if you would communicate that to the Commission. We have gone as far as we can go without getting more totally frustrated.

We will be in touch. I look forward to the documentation that I've requested. I'd like it before Monday's hearing. I think everyone knows what it is. My staff will work with your staff in making sure that happens.

MS. LAMSON: May I add one other thing, sir?

CHAIRMAN KATZ: Yes.

MS. LAMSON: In terms of what the PUC is doing, they will be considering an order opening an investigation, a formal investigation at a special meeting on August 22nd, at 10 A.M., in San Francisco. That investigation would include looking at the causes of the derailment, and looking at what needs to be done at the regulatory level, at the inspection levels, state and federal levels. There will be a full investigation.

CHAIRMAN KATZ: Counsel, let me make something very clear. I frankly don't understand why it takes till August 22nd to come to that point. These accidents have occurred a while ago, already. Maybe the PUC was not aware of that. Don't for a minute expect me to be snowed by the Commission's own investigation as being an excuse to not provide documentation. Our request is in advance of your notice. It's in advance of your investigation. We

expect the materials to be provided. I do not expect the Commission to hide behind our on-going investigation as an excuse not to provide information. That will not be acceptable. Clear?

MS. LAMSON: Sure. I haven't heard any excuse having been made.

CHAIRMAN KATZ: I'm just putting you on notice.

MS. LAMSON: We will be cooperative.

CHAIRMAN KATZ: Thank you.

MR. PATON: One clarification. On the inspection reports that you want, is that solely the Southern Pacific?

CHAIRMAN KATZ: At this point, it's Southern Pacific.

MR. PATON: If I can produce a computer summary, would that be acceptable?

CHAIRMAN KATZ: It'll be for the initial request? Yes. I reserve the right to back and ask the rest of it. I appreciate your time problem.

MR. PATON: It's a lot of paper. I'm not sure I can get it to by Monday.

CHAIRMAN KATZ: The computer summary you can, though?

MR. PATON: Yes.

CHAIRMAN KATZ: I'll start with the computer summary. Mr. Oliver?

MR. OLIVER: If FRA provides you that, you want us to send you our duplicate copies of those forms?

CHAIRMAN KATZ: I believe I've asked you for more than I've asked FRA for?

MR. OLIVER: You asked for the same form that you asked FRA, plus, you wanted travel expense claim.

CHAIRMAN KATZ: That's right. I'd like to see your files, also. I want to know how much of you've got, they've got.

Let me ask, Southern Pacific Railroad. Mr. Starzel, Vice-Chairman, Michael Ongerth, Assistant Vice-President. I believe; we have some other folks.

MR. R. F. STARZEL: May I proceed with a statement, Mr. Chairman?

CHAIRMAN KATZ: I'd appreciate it, Mr. Starzel, if you would summarize your statement. You might want to also respond to some of the questions that have raised.

MR. STARZEL: First, may I introduce, Mike Ongerth, Assistant Vice-President of Operations. I also have with me, Jack Jenkins, who is the Assistant General Manager for this region and who has been on site at Sea Cliff, and Herbie Bart, who directs the Emergency Response Teams which we have at the railroad.

Since you do have the statement, which we have brought with us today, and since you have raised questions that relate in part to that statement, but also raise other questions, let me go right to those. I can understand listening to what you're focusing on, some heightened concern about safety. I want to give you some assurances that when you look at the broader picture, you'll find there is a great concern for safety by the railroads. They have programs which work, and as a result, you will find that safety on the railroads, nationally and in California, has measuredly increased.

Over the past ten years the rate of accidents has been cut down to 1/3 of what it was in 1981. That's good performance. That's performance that assures the public that they are being handled safely. The concern over the public agencies which have regulatory powers ought to receive further perspective, as well. In the structure of the complex operations of railroads, the public agencies have to depend upon the railroads to operate safely, to institute programs and systems of control, and to be certain that they do comply with them. In fact, that is what railroads do. And that is why the inspections that are on-going are only on top of those and are monitoring, as the word was used. The industry has been effective.

Let me just point to some Department of Transportation statistics and give you kind of a Harper's Index. The number of fatalities since 1980, which have resulted from, and been attributed to, the transport of hazardous materials by train. One, the number of fatalities resulting from, or attributed to, the transportation of hazardous materials by truck, 318, in the same period of time. In 1989, the last reported year for which we can get Department of Transportation statistics on trucks, the amount of ton miles of hazardous materials carried by trucks and trains was just about the same. A little over, in each case, a billion ton miles of hazardous materials carried by trucks and trains. But the difference is dramatic. In the period of '82 to '89 actually, the number of injuries resulting from truck operations with hazardous materials was 1,356 and for railroads it was 389. The number of incidents where there was a release of hazardous

materials from truck transportation was 40,241 during that period and only 7,474 from railroads. It's quite clear that railroads are four times better than trucks. Now this goes to a point that you, Mr. Chairman, raised, "Why should we be worried about cost?" Well if costs are imposed upon the railroads we move traffic to the highway.

CHAIRMAN KATZ: Let me interrupt for a second. Don't for a second assume that I'm looking to compare trains and trucks. You know, as do most people in this room, that if anyone has made a career the last five years of trying to get trucks to comply, its been me. I'm not satisfied with truck rates. I'm not satisfied with their accident rates. I'm not satisfied with the way they do business. That's why Senator Seymour and I increased inspections by 100,000 a year. It's why we carried BIT the program and a variety of terminal inspection programs. None of that is relevant, I think. I will grant you that trains are safer than trucks. That doesn't mean a whole lot to people in Sea Cliff and Dunsmuir right now. Just like it wouldn't if it had been a hazardous materials incident with a truck. I'm interested in how the railroad operates. That's what I'm interested in. I'm not interested in how the trucking industry operates because I could spend an hour telling you what we've done to hammer them in the last year.

MR. STARZEL: I only offer that as a factor to the contrast and safety, railroads are basically safe. Let me go to the accidents, but also talk to you a bit about how railroads operate.

We are in a system that is international in scope, and we must meet those standards. We're also in an international marketplace, and we must compete for business that way. Since 1981 in the Staggers Act, we are on a commercial basis. In the primary perspective of it, we are unregulated. Therefore, we are market-driven. Market-driven means we must be more reliable; we must assure the shippers that, in fact, there will be no accidents. We, as other railroads that are operating in California, have very strong programs that are intensely followed to cut down on derailments. We're much more anxious than even you can be to cut down on accidents, because they mean not only cost, but the loss of business because people want reliability and we want to give it to them.

Now, the connection between the inspections that you are talking about and these accidents that occurred is not even tenuous. There is no connection. Let us go to what the DOT statistics are for the latest years and discover what the kinds of problems are that need to be addressed. There were slightly over 3,000 accidents in '88 which is the last DOT year for which, I think, we have these statistics. The train accident causes in 3,051 train accidents only 29 related to locomotives. Only 483; that's just slightly over 15 percent related to equipment. The problems that you look at as the major problems are always the track and human problems. Now in the case of Sea Cliff, we know exactly what happened. It was a journal that burned off, it was not maintainable, it was inspected, and it can be inspected; but that's all that can be done with a bearing of that sort. Keep in

mind that particular bearing came into the industry only some 12 years ago and has been part of the reason that the rate of accidents has dropped significantly in the railroad industry. So what we have is a bearing that's sealed and they will fail. And we regret that it failed where it did because that was obviously with a very serious consequence.

Now in Sea Cliff, we have briefed you, Mr. Chairman, and we have briefed the press diligently to tell you where our investigation has taken us. You can inquire further, but let me just briefly summarize. We know that they were a complex set of factors which led to excessive lateral force that caused the wheels to pop off to the inside of the curve. We know that there is a possibility of certain kinds of engine failures. One could have been from a burnt out electronic circuit board...

CHAIRMAN KATZ: Excuse me, I believe me you mean Dunsmuir, not Sea Cliff.

MR. STARZEL: I'm sorry. Excuse me. I meant Dunsmuir. You're right.

There was a possibility of a burnt out circuit board, an improbable now but possible governor question. There was a theoretical question, not an observed question of grease on the rails. We know that the relationship of long and unloaded cars right in front of a tank car by itself create an angularity on the coupler which meant it twisted and it put greater force upon that point and could have also contributed to it.

These factors have not been finally...

CHAIRMAN KATZ: One question on that. Who is testing the governor?

MR. STARZEL: Who is testing the governor?

CHAIRMAN KATZ: Right.

MR. STARZEL: The governor was taken off the locomotive in Eugene. Both the FRA and I believe the NTSP were present at that test. Their investigation is ongoing. Taking you back to an earlier statement you said when you were questioning Mr. Paton, "Tell me what the governor is doing?" If that governor was hunting, that would cause the engine speed to increase and decrease. But in terms of what it could have been doing to the locomotive at the wheels, is that it would have been, if this was happening, would have been causing the engine to slowly load and then slowly unload. Now we had people on the locomotive during the test run after the derailment, including an FRA inspector, and they did not take exception to the operation of that locomotive. The FRA inspectors rode that locomotive leaving the site going to Eugene and they did not observe...

CHAIRMAN KATZ: Let me ask you a question.

MR. STARZEL: So this is only a possibility. The governor is...

CHAIRMAN KATZ: Let me ask a question. Why is it being tested in Eugene and not in California? Are there not facilities here to do that?

MR. STARZEL: Because that was the closest maintenance location to the point at which the accident occurred.

CHAIRMAN KATZ: Closest SP maintenance location?

MR. STARZEL: Yes, that is correct.

CHAIRMAN KATZ: So these are tested in your shops not in federal shop?

MR. STARZEL: They are in our shops. Yes sir.

CHAIRMAN KATZ: Where is the...

MR. STARZEL: The NTSP and the FRA were present during the test.

CHAIRMAN KATZ: Where is the governor physically, now?

MR. STARZEL: I believe it is still in Eugene under lock and key.

CHAIRMAN KATZ: Lock and key in whose possession?

MR. STARZEL: I think, ours.

CHAIRMAN KATZ: Okay. Go on.

MR. STARZEL: What we see in that governor is the possibility that it was hunting because it was losing governor oil, but that's not conclusive at this point.

May I also say that the question of how much that had to do with the accident really relates to how much power was then applied to the rail which is all that has to be tested through simulation using computers. Which is to say, we are not finally at a point where we can tell you with any confidence what actually has happened. But we have taken, in the meantime, steps which will result in more conservative operation of the trains through that area. We are also, at this time, designing a bridge that would have the capacity of, should we not be able to prevent further derailments there, catching cars and not allowing them to go into river.

CHAIRMAN KATZ: So you're committed to rebuilding the bridge at Dunsmuir?

MR. STARZEL: Well, we have an engineering firm under contract. They've given us five concepts. One of those was shown in the press. It is a widened bridge with a berm on it and then a sloping side so that if anything goes off, it's...

CHAIRMAN KATZ: I understand the difference between concepts and commitments. Are you committed to rebuilding the bridge at Dunsmuir or are we just looking at engineering designs as an option at this point?

MR. STARZEL: We're committed to rebuilding the bridge at Dunsmuir if after the design, we see that we have a significantly decreased risk as a result. We want to do something that is effective. We don't want to just build a bridge to make cosmetic changes and make people feel good. We want to make a real change if there's one to be made.

CHAIRMAN KATZ: I appreciate that. We can trade statistics all day. For instance, the Federal Railroad Administration shows that there were 254 accidents involving the release of hazardous materials between '85 and '89 on rail. The Research and Special Projects Administration figures show a steady increase in rail incidents involving hazardous materials during the same time up to as many as 1,195 in 1989. So we can trade stats back and forth all day and, as most people know, stats do whatever people want them to do. I can make them look one way. You can make them look one way. We can all do that stuff. What I'm

particularly interested in is your awareness of the inspections at Roseville and at Bakersfield.

MR. STARZEL: Well, we didn't come prepared because we had not been given any advice that, in fact, this was going to be discussed in any detail. We'll be prepared at a later time to do that. I would like to say, generally, that the FRA focuses on a number of things that go far beyond and outside of anything that relates to what we consider to be safety problems and certainly none that we know to be related in any way to the Sea Cliff or Dunsmuir accidents. In fact, I could probably send into the house of everybody in this auditorium inspectors who could find unhygienic conditions. There are white glove inspections that go on by the FRA.....

CHAIRMAN KATZ: There's one big difference. Not everyone sitting in this room runs a train with hazardous materials through neighborhoods or on track. So, I think your analogy off base. I think you can always find things. The difference is, and the reason I think you ought to be held to a standard, is that you take hazardous materials as a business and other materials as a business and run them up and down track that goes through neighborhoods, goes past sensitive ecological areas, goes by schools, goes by factories, and that puts you in a different position than folks in this room who may have left a can of Ajax sitting somewhere they shouldn't have.

MR. STARZEL: That's true, but we're required by law to carry those, Mr. Chairman. We have no choice.

CHAIRMAN KATZ: I understand that. You're also required by law to maintain a certain level of safety for your operations. I'm curious about something.

MR. STARZEL: ...knows whether there's any relationship that's causation between the defects. There was no inquiry with the FRA about that. Our people contended to me that the kinds of defects that are turned up and create in your mind a horrendous situation are the sorts of things that do not change the safety of the operation, do not change the eveness of the power, do not change the kinds of things which could be related generally to accidents. The statistic I just gave you is very important because if only 29 out of 3,051 accidents in 1988 were related to locomotives, we have to focus in on what are those things on locomotives that can cause a problem. It certainly isn't a dirty windshield; it's not grease on the floor which are some of the things that are cited. In fact, these are white glove inspections and they look for defects like that, and they are not directly safety-related.

CHAIRMAN KATZ: It seems to me, and I asked the question specifically of FRA. Are these door knobs out of whack or are they serious, and the response we got back was they're a combination of both. No one's maintaining that all of the 255 defects of Tucson were of the same severity. The point that I'm concerned about, and I'm concerned about your response also, is that you have locomotives that fail at an 80 percent rate on four inspections.

MR. STARZEL: We have a different measurement though, about...

CHAIRMAN KATZ: Excuse me. They're responsible for setting the standard, not you. I mean, you may have a different measure but it doesn't count because the measure that counts is the measure that the FRA says is safe and unsafe. If not, why would we have an FRA? I'm wondering already why we have a PUC.

MR. STARZEL: The question though is, "Of what severity are the defects?" I think we will find and we will be happy to produce people for you who will testify about that, under oath if you wish, and you will find that the severity of the defects are not there and they are not accident causal related. As a result, you will find that the concern that's been raised by these horrendous statistical numbers is actually misleading. The focus is not going to help us create any more safe railroad operations than we have now. We have a measurement which is really very important and that is what are the availability to us of the locomotives. We need to have locomotives that work and run. We can't have them dying out there. We can't have them become defective. So we have an inspection every day of our locomotives, and we examine our cars every thousand miles. We cannot afford to have them stopped.

CHAIRMAN KATZ: And all of these locomotives that failed were cleared by your people before they failed. All the locomotives in Roseville, in Tucson, in Sparks, and in Bakersfield, all of them that failed had already been cleared by your people. Yet the Federal Railway Administration said that they're not safe.

MR. STARZEL: That's right because we don't ask our people to inspect with white gloves and they will be willing to

send out with some dirt that the FRA may not like. They're willing to send out with some door knob problems with...

CHAIRMAN KATZ: So in other words, you don't think the FRA serves a purpose.

MR. STARZEL: I think the FRA keeps everybody on their toes. I think the same reasons that you need to have somebody watching over you are, in every area, justification for the FRA. But we do have serious dispute with them whether, in fact, the defects which they cite are of such a nature as to be a concern for public safety.

CHAIRMAN KATZ: Let me ask you this question. If they trucking industry were to take issue with the Highway Patrol inspections, who do you think I should listen to, the trucking industry or the Highway Patrol?

MR. STARZEL: Since the statistics say that 318 people died as a result of those accidents involving hazardous materials, I'd say you better listen to the police.

CHAIRMAN KATZ: So at what point, then, how many people have to die before the railroads acknowledge that the FRA has a role to play?

MR. STARZEL: We had one die in industry...

CHAIRMAN KATZ: That's not what I asked you. What you're saying to me is that the reason the Highway Patrol should be trusted instead of the industry in that case is not that their competitors of yours but because of their accident rate. My questions was, "How many people should die or how many gallons of hazardous materials should be spilled before you'd acknowledge the

FRA ought to be listened to instead of the industry? What's the cut off?"

MR. STARZEL: I don't think that's the dichotomy. The question is: Are they intelligently assessing public safety related issues when they cite defects? In fact, a great number of the defects will relate simply to things within the cab of an engine which may relate to the personal safety of the engineer. You will note that not one engineer has died in the last ten years in any one of the hazardous materials derailment.

CHAIRMAN KATZ: Mr. Starzel, if Sea Cliff had happened in Northridge, how many people would have died?

MR. STARZEL: In where?

CHAIRMAN KATZ: Northridge.

MR. STARZEL: I'm not familiar with Northridge.

CHAIRMAN KATZ: Middle of San Fernando Valley. Right where the main line runs.

CHAIRMAN KATZ: I don't know. I understand that the public authorities of the county handled this one so well from a public safety standpoint, that I would hope that given that circumstance in the same place, they would have kept anybody from dying. In fact, I hope that our Emergency Response Team Training--and we have in the last year trained over 10,000 firemen and over 3,000 policemen--will help them with that kind of problem, will help them, indeed, and they won't lose anybody. We don't to lose anybody. We desperately don't want anyone to be injured or killed as a result of any accident.

CHAIRMAN KATZ: I think there's sepaate points to this. Obviously, I think it's commendable that you've trained 10,000 firemen or whatever it is. I'm more interested in seeing that they never have to do anything. It's my view, and I assume it's probably your view, and the trucking industry's view that emergency personnel hopefully will never be used. My goal is to put enough on the front end to make that happen.

You, in your statement, alluded to the fact that market forces are much more effective at compliance, than regulators. That's the essence.

MR. STARZEL: Yes.

CHAIRMAN KATZ: I'm paraphrasing. Therefore, it's a logical conclusion that your interest is in keeping trains running as opposed to taken out of service.

MR. STARZEL: Running safely and reliably, yes.

CHAIRMAN KATZ: Has anyone from your company, to your knowledge, had any contact with the FRA or the PUC to encourage them to keep trains running as opposed to keeping them out of service?

MR. STARZEL: I don't know. Of all the contacts we've had because of the inter-reaction, as I started out saying, the FRA and the PUC have to rely on the railroads to do their job. There is a constant flow of communication. I don't know everything that's been said back and forth.

CHAIRMAN KATZ: Would you explain why market forces ought to work. I have an FRA Regional Administrator, who said in his comments that he'd had contact with the VP for the railroad. Also,

say that, for the first time in five years, he pulled off an inspection because he thought it was important that the railroad be allowed to keep running. I'm getting a real strange feeling that there are economic considerations that are driving safety decisions and that the public is not as well-protected as they ought to be because of it.

MR. STARZEL: I think that's unfair. I think, in fact, that what happened there, he referred to a statement that he had heard that Vice-Chairman Holtman had made, which was that he didn't believe that the federal law was intended to close down railroads and bring them to their knees. In fact, it's intended to bring about compliance with safety regulations. We believe that, too. We want safety as well. There are not economics driving safety problems and creating safety problems.

In fact, as you'll see from my statement, despite the fact that this railroad has produced no operating income, we are still investing heavily in this railroad to be sure that it is safe. Over the past two and a half years, we put in more than $700 million in capital expenditures. A great amount of what goes into tracks, signals, safety devices, ties, ballast, curves, all of the things that make this railroad operational. We are not stinting.

CHAIRMAN KATZ: So we ought to be content, then, with the sterilization of the Sacramento River, and Sea Cliff, were just freaks of nature, then. Accidents happen. So, hey we're doing the best we can, the market's doing it. We didn't kill anybody, just a

couple of thousand fish. We came close, but no cigar. We ought to be happy with that?

MR. STARZEL: We would never say it in such a facetious way. We are very, very sorry that these accidents happened. Nobody likes this. We don't like to have Harvey Barton go in in a moonsuit and clean up a mess. We don't want to put anybody at risk. We really tried to avoid that. So, no, we're not asking you to accept the notion. We're trying to tell you exactly what we're doing that makes the operation safe. We're putting in a lot of money. We have training programs. We have an effort to avoid derailments and to get at the causes and cut them off so we don't have derailments. We are trying to create safety. We think you can rely upon that, because that is the basis for our survival. We must be a safe railroad if we are going to survive. That's what drives us. It drives us entirely.

I think there's something backwards about the notion that somehow that regulators can make railroads safe. I think it's quite clear that railroads have to make themselves safe, and the regulators have to help us do that. I believe that they have limitations upon them, but they work do that, as well. The relationships, while they are adversarial, lead to more safety.

CHAIRMAN KATZ: What actions have you taken at your yards to increase your compliance rate? We made reference earlier to a memo by Misters Moore and Barry, that was over a year old seeking to reduce by 50 percent, based not on what you think is appropriate, but based on the FRA Rules and Regs. And they haven't come close.

MR. STARZEL: Are you talking about the locomotive compliance program?

CHAIRMAN KATZ: Yes.

MR. STARZEL: Okay.

CHAIRMAN KATZ: The little thing that failed up in Dunsmuir. Locomotives.

MR. STARZEL: We generally follow a Parreto principle rule, which is we put the greatest effort into where we can get the greatest results. So we have training programs which are essential, so that people are trained and do the right thing. We have as part of our quality programs, which is to constantly improve, we are developing process engineering steps which look at all of the places where we could go wrong. Just as the Japanese have done so successfully, we try to straighten out that process, so we don't make those mistakes. So we don't keep doing it wrong over and over. As to any specifics about what we're doing at Roseville, Mr. Ongerth, he's not actually the person that's in charge there. Perhaps he has something to add.

CHAIRMAN KATZ: What I'm curious about is--I'm looking at a memo written by a gentlemen by the name of Moore, and a gentlemen by the name of Barry. Moore is the VP for Operations, at least he was in March of 1990....

MR. STARZEL: He still is.

CHAIRMAN KATZ: ...in which he says that the goals of this program are to promote a safe and reliable locomotive fleet. By January 1, 1990, reduce by 50 percent the defect ratio. By January 1, 1991, an additional 25 percent reduction. To avoid

diverting resources from preventative maintenance to handling FRA induced service disruptions.

I don't think you're getting there. I'm looking at 78 percent in Roseville in June of 1991. I'm looking at Bakersfield, an average of 80 percent.

Six months after you've achieved a 50 percent reduction, and a 25 percent reduction on top of that. What's the problem?

MR. STARZEL: We can't answer that here, because Mr. Moore who as you say, is this Vice-President of Operations. Mr. Barry, who is the Chief Mechanical Officer are not here. We did not have notice that this would be the focus of the hearing today.

CHAIRMAN KATZ: What's your area of expertise for the company?

MR. STARZEL: My particular expertise?

CHAIRMAN KATZ: What are you in charge of?

MR. STARZEL: I'm a generalist.

CHAIRMAN KATZ: You just know a little bit about everything.

MR. STARZEL: That's what executives are supposed to do.

CHAIRMAN KATZ: But nothing about this?

MR. STARZEL: I'm not an expert in this area. The gentlemen who are here are involved in the safe operations of the trains, except Mr. Barton who cleans up after them, if there any derailments. By the way, these two derailments are the first time he's had to come into California. We've had a good record in

California. These two gentlemen are not mechanical experts. We will bring them before you if we have an opportunity.

CHAIRMAN KATZ: What can you tell me that the company has done, to your knowledge, to try and reverse the trend, without arguing whether they're white glove inspections or not? What steps have you taken to do business differently?

MR. STARZEL: With our Locomotive Maintenance Program?

CHAIRMAN KATZ: Yes.

MR. STARZEL: I cannot personally testify to what those steps are. I believe we should bring to you the right person to do that. That would be Mr. Barry. He would be the essential witness on that.

CHAIRMAN KATZ: I'd like to know how his programs are coming. He seems to be a little bit behind in it.

MR. STARZEL: We're going to convey to him your thoughts.

CHAIRMAN KATZ: I would hope that he has already figured it out, without my having to bring to his attention. If he is the VP of Operations, I would assume that he is aware that his locomotives are failing at an astronomical rate around the country, or at least in four inspections.

MR. STARZEL: They may be failing inspections, Mr. Chairman, but they are not failing on the road. We have a very good rate of availability of our locomotives and they are performing well.

CHAIRMAN KATZ: Except we have one in Dunsmuir.

MR. STARZEL: We've been able to decrease the size of our locomotive fleet, in part, because we're raising the availability,

in other words, the quality of operation of locomotive. This may be a situation where statistics are lying to all of us. We know, as a fact, that the operations are improved.

ASSEMBLYMAN O'CONNELL: I basically, have a comment or two, I'm not sure you really need to respond. I've been doing this going on ten years now, and Richard even longer.

Mr. Katz did you a real favor by not letting you read this statement. I am really offended by this statement and the tone of this statement. I hope that the operation of Southern Pacific, through all your folks and the folks that I deal with, do not reflect the attitude of this statement. I'm just going to read you one paragraph and I can find three others. I'm looking at Page 5.

Our Systems Functions, It Ain't Broke and Should Not Be Fixed.

> "We in public agencies will work together to improve constantly, but we need no new legislation."

You're the first folks that I've ever met that tell me that they're perfect. That's not the case. And you don't know where Northridge is? Or San Fernando Valley, where your trains go through? Heavily populated, densely populated area. If this train at Sea Cliff has spilled three miles north, not only would it have been in my backyard, it would have been in a community of 11,000 people who would have no access North or South. I'm not sure that you understand, for six days, what it meant for the state of

California, having the major North-South artery closed along the coast during a very busy time.

I've been saying my prayers every night since late July, how fortunate we are that they weren't any deaths. I don't think you get it, how lucky, you really, really are in this particular incident. Your folks haven't been working with the Office of Emergency Services of Santa Barbara County. Until very recently, your folks refused to meet. I'm not so sure when you stand here and talk about your 10,000 or 15,000 personnel that you've trained. I'm pleased you're making the effort. I'm not sure the training is all that great. I'm sorry that eight of your Southern Pacific employees that you contract had to be hospitalized because you were using a different level of attendance around the hot spot in the spill. I don't think that is sound judgment. That's not very smart, in my opinion. When I was there and observed, I saw all the public folks at Level B, in the near moonsuits, not like I saw Herbie on Monday. I felt sorry that he had to come here after working I don't know how many hours in Dunsmuir, having to jump on a charter jet to come down here and make these important decisions, at risk for him, his family, his personnel, and the folks in the Sea Cliff area. You are really putting folks at risk. The attitude that is reflective in your statement is outrageous.

MR. STARZEL: I apologize.

CHAIRMAN KATZ: I ask people in the audience not to do that please.

MR. STARZEL: I apologize for the tone if it reads that way.

ASSEMBLYMAN O'CONNELL: Well, it does. If you think that we simply have to sit back and allow the federal government to do it, we're not. We have higher standards in off-shore oil, in air emissions, in water emissions, in education in this state. If that's what it's going to take, we'll see you in court.

MR. STARZEL: We are to a degree caught in the same web that you are on this. As I said earlier, we do have to perform according to law. That law requires us to carry these things.

ASSEMBLYMAN O'CONNELL: That law may need to be changed. There may be a lot of laws changed. I expect you folks, to step up to the plate, step up to the table like your advocates do in Sacramento. Fortunately, they're not reflective of the attitude at this table. Mr. Katz, did you a big favor, let me tell you, by not letting you read this. You should send him a thank you letter.

MR. STARZEL: I would like to put out that we have spearheaded a subcommittee that we think, at a national level, can take the information that California wishes it to have and improve the system which is an inter-state, an international system.

ASSEMBLYMAN O'CONNELL: Are you going to support those suggestions. Like the suggestion from Barbara Boxer's committee? I heard her testify. I was talking to her on Sunday here in Los Angeles. She claims that some of your tank cars are as about as thick as a dime. She is going to be looking at double hauling and some other alternatives.

Statements that you make in this comment, you want to defer everything to the federal government. I am going to forward

this to Congresswoman Boxer. That's implicit that you're going to be supporting recommendations like that.

MR. STARZEL: We are going to make recommendations. In fact, we have to the AAR through which we have to work to provide heavier hulled cars for this purpose. We don't own the cars that are used to ship chemicals.

ASSEMBLYMAN O'CONNELL: You're responsible for those.

MR. STARZEL: As long as they meet the Department of Transportation standard, which is set, we have to accept it. In other word these thinner hulled 111s, one was involved in Dunsmuir. We did not have a choice about accepting that. It has to be accepted the way it is. In 1990, we asked the AAR to add chemicals to the list that would require heavier hulled cars. We were not able to get that through. We can only work through the industry, frankly. We hope now that the focus that's been brought here will allow us to push for much more stringent requirements for additional chemicals. Again, I apologize for the tone. It was hastily put together, because we didn't know what the subject matter was going to be until late last night.

CHAIRMAN KATZ: Let me ask you a different question before moving on. The drag detector and the hot box that were on site, those pieces of equipment are currently being tested where?

MR. ONGERTH: They were tested on the site.

CHAIRMAN KATZ: They were tested on the site.

MR. ONGERTH: Yes.

CHAIRMAN KATZ: By FRA?

MR. ONGERTH: SP Signal Maintainers and FRA Signal Inspectors.

CHAIRMAN KATZ: That same equipment is still on the site?

MR. ONGERTH: Still on the site.

CHAIRMAN KATZ: Has not been removed.

MR. ONGERTH: Not been removed. It's not defective.

CHAIRMAN KATZ: The other thing before we move on to the next set of witnesses, that you gentlemen ought to understand, that's implicit in Mr. O'Connell's comments is, I frankly, and I don't think Jack, most of our constituents, and a lot of the legislature care much what the feds do or don't do.

As Jack pointed out, in hazardous materials, inhalation hazardous in trucking, we go beyond what the feds do. In terms of storage and handling, we go beyond what the feds do. We will be asking for a state agency--I used to think it would be the PUC, but I've got serious doubts about that now--that exercises the authority they have and shuts you down when you don't pass inspections. I, frankly, don't care if the feds like it or not. We have the authority to do it under federal law. It's right now vested with the Public Utilities Commission. If they can't do the job, we will get people who can. So deferring to Washington, and hoping that Washington will come up with a solution, is not going to make this go away. We will do what we've done in the past, whether it is a response similar to what Jack and others put together for oil spills in the ocean that is unmatched in federal law. Or it's the trucking laws that are unmatched in federal law. We will find a way for you to come into compliance. I don't care

about the economy of the railroad. I care about the folks that are living on either side of the track. That's where we're going to come from in trying to put that together. Thank you for being here.

I would like to move on now and ask from the United Transportation Union, J. P. Jones, the State Legislative Director, who's going to raise some issues that are similar to issues raised also by Greenpeace, David Chatfield, and Laura Lake, representing a number of citizens groups. If they would come forward and grab some chairs. Mr. Jones, why don't we start with you, with the same request for summary as opposed to reading. Maybe this wasn't a good idea to do that today, Jack. Let's start with Mr. Jones.

MR. J. P. JONES: Thank you, Mr. Chairmen, members. J.P. Jones representing the United Transportation Union. Passing out prepared testimony, which I have. With the indulgence of the Committee I will not read, simply attempt to highlight and scope to some issues that have been raised here, today.

You heard a statement by the Federal Railroad Administration, Mr. Paton, about discretionary action that the took to discontinue an investigation of west Colton. We feel one of the items pending before the United States Congress at this present time will address this particular problem. It's House Resolution 2607, which we have outlined in our prepared testimony.

House Resolution 2607 will limit the discretionary ability of the Federal Railroad Administration to take the type of actions that Mr. Paton did at West Colton. It will restrict the agency to perform specifically what Congress as directed them to

do and cease that kind of conduct in the future. We think that this committee and the Legislature should look favorably upon some indication to Congress of the endorsement of contents of HR 2607, as it currently is written.

We think it is outrageous that the agency can discontinue the authority to police the railroads which Congress has given them, and rely upon discretionary language within the current legislation that Congress has enacted. We want to tighten that up. We want to stop that kind of conduct in the future. We have listed a few other items which are contained in that particular House Resolution which we feel we assist in aiding the Federal Railroad Administration and the application of their authority. One of those will be that those who challenge a decision of the Federal Railroad Administration in relation to the adoption of a regulation or interpretation, will be able to go immediately to the Federal Court of Appeals, skipping the District Court level of appeal, and speed up the questioning and the authenticity, if you will, of the regulations which they promulgate. In other words, speed up the challenge process. See if the courts agree that the FRA is correct in what regulations they are, in fact, applying and policing in the rail industry.

As indicated, there's a variety of other items in HR 2607 which we feel will be of assistance. We've included an analyses of that bill, in addition to a copy of that bill, in our background material. We would like to work with this committee and the Legislature to get legislation passed which would memorialize

Congress to pass this legislation and indicate the support of the California Legislature.

We are disturbed by what we hear at this committee today, as well as other members of this committee. It is unfortunate that regulation has been as lax as it is. We have had a concern for a long time about the ability of the FRA, both in an aggressive manner as well as an intents matter, to regulate the railroads. What we have heard here this morning simply confirms that particular fact. We are disturbed. We share the concern that economic consideration in relation to safety which the FRA has testified here today was a factor in their consideration of discontinuing proceedings. It's just outrageous.

In the interest of brevity, I will introduce John Easly, our International Vice-President, who has accompanied me here today to answer any questions the Committee may have, and having submitted our written presentation and touched on the one point which we feel the Committee developed this morning about the lack of regulation in an area where the Committee and the Legislature can go to correct that in relation to HR 2607, we will be available for any questions that you may have.

CHAIRMAN KATZ: Do you also represent the folks who would be doing the work in the maintenance yards at the facilities?

MR. JONES: No, we do not.

CHAIRMAN KATZ: Who would represent that?

MR. JONES: That would be the Maintenance (inaudible) and the Brotherhood of Machinists. It's a machinist union. We only

represent the operating personnel, Mr. Chairman, the people that physically hands-on operate the train.

CHAIRMAN KATZ: Have you been aware in recent months or years of increased concern from your personnel as to the safety of the equipment or the status of the equipment that they've been operating or working on?

MR. JONES: Yes. It's the jurisdictional responsibility of my office under the constitution of our organization of our union to handle as the primary responsibility the health and safety matters which are raised by our members, or which come to our attention. Yes. There has been, in the last two years a rather significant increase in concern raised by our members relative to the operation of locomotives on Southern Pacific.

CHAIRMAN KATZ: Do you have a view of the relationship between the PUC and the railroads?

MR. JONES: Between the PUC and the railroads? Let me say that we feel the relationship between the PUC and the railroads is much more oriented towards the enforcement of safety and the enhancement of safety for the public than is the case between the FRA and the railroads.

CHAIRMAN KATZ: Did you run for office, lately, J. P.? That was well done.

MR. JONES: As a matter of fact, in January.

CHAIRMAN KATZ: I understand what you're saying, is that the PUC is better than the FRA. In adding my own view, that shouldn't necessarily make anybody sleep any better at night. Those are my words, not yours.

MR. JONES: They spot what I've heard here today, Mr. Chairman. My comfort level is not raised at all. As a matter of fact, it has decreased quite a bit.

CHAIRMAN KATZ: Is there any relationship between the UTU and the FRA? Is there any inter-action between the union and the FRA?

MR. JONES: We handle complaints that we receive, or communications that we receive, about potential violations of federal law and federal regulation directly from my office to the FRA. In that regard, we do deal directly with their Washington office who in turn contacts the regional office, either in Laguna Niguel or in San Francisco, as the case may be here in California.

Let me just indicate one thing, Mr. Chairman, in that area, the area of communication with the FRA. Up until approximately three years ago, the process of handling concerns or complaints which our members raised, or came to our attention, about federal violations, was done in such a manner that we wrote directly to Washington, D.C., to the Administrator of FRA, and supplied copies of the communication to the two regional offices here in California, one in Los Angels, and one in San Francisco. We did that at the request of the FRA in an attempt to speed up the investigation process, and to have their FRA investigators go out more quickly to the site where the alleged complaint is taking place. This, in spite of the fact that they actually can't do any work or spend any money until a control number comes back from Washington, D.C., at the FRA. They can't actually show anything

being done with their resources at the FRA. I discontinued that particular procedure for one reason only.

What the FRA inspectors were doing with the information they received from the carbon copies of the communications which I sent to the local offices here in California, they were running out to the carriers with the letter, say, "Look here, the union's complaining", the carrier would fix it. By the time the control number comes back from Washington, D.C., to the local offices here in California, and another inspector goes out to officially see the problem and corrected it. The problem doesn't exits. Based on that conduct of the local offices here in California of the FRA, I discontinued the practice of carbon copying the local offices, even though it takes a longer time frame for the process to get back. We did it because the FRA was running out to carriers saying "There's a problem, correct it". So that when somebody made the official inspection, the matter would have already been corrected.

CHAIRMAN KATZ: You get the impression that the FRA sometimes is in the railroad business as opposed to the regulatory business.

MR. JONES: Clearly, clearly. That's the case, Mr. Chairman.

CHAIRMAN KATZ: Let me turn to Mr. Chatfield, representing Greenpeace. Then, Ms. Lake.

MR. DAVID CHATFIELD: Well, I've been quite amazed at some of the revelations, here, myself. I didn't come here to talk about the regulation, per se, of railroad industry. Your words at the very beginning, Mr. Chairman, that this is a toxic time bomb

waiting to happen, that's something that I should have said. It sounds like that really is the case. I should back up and say that Greenpeace is part of an alliance of organizations that represent other environmental groups, communities, Native Americans, that come together over an issue which is related to this question, which is the establishment of a low-level radioactive waste dump out in Needles. The implication of that is twofold. One is that the traffic of radioactive waste, whether it is by rail or truck, is going to change in its pattern. It is likely, given that this waste dump, if it is put in, will attract waste from other places. That's almost certain. It's likely to greatly increase the amount of radioactive waste, low level, and possibly other moving around in the state of California. That's why I'm here. That's what has brought us to this issue.

The thing that I want to say is, basically, to give a perspective on an approach that anyone considering legislation on this issue has to look at. It's very, very tempting, especially after hearing what we've heard here today, to get into the detail of safety and regulations, and double-hulled tankers, and my God, if this is a safer means of transportation than truck transport, we're in real trouble.

There are all kinds of things, some of which are outlined in the statement that your staff put together, the informational piece. I'm surprised there were only 254 accidents. I think I must have read about every single one of them in the newspaper.

You're asking good questions. You're going to have to answer more questions. Do tests of these containers. We need real

conditions. We know what happens when tomatoes fall off a truck; they splatter up on your car. Do we really know what happens when something like a radioactive waste container falls off a truck? What if it's in fire? What if it's in a fire of highly volatile materials? The safety of equipment. Our staff has seen those same dime-thin shells for toxic waste. Do communities have access to response capability. Does the government have access to response capability? What's the problem when proprietary information or the overwhelming nature of information supplied by shippers, as in the case of sodium metam in Dunsmuir, which we didn't find out for weeks that affected pregant women because it was in a stack somewhere on a shelf and there was not enough staff to look at that.

All of these issues are going to say something to me, which is simply reinforced by what I have heard here today. That is that there are going to be a number of situations with toxic wastes, and with radioactive waste, where it is simply not possible to make railroads safe to transport. We're simply not safe to have these kinds of materials in society, at all. I think that is particularly true in the case of radioactive waste. It is going to be true in all kinds of situations with toxics wastes.

Our view on, let's say on let's say, 'Well, they have to be shipped', especially these waste products, for nuclear waste, for low level nuclear waste, our position is these have to be stored in monitorable, retrievable, above ground on-site storage until there is some real way to get rid of them. In the meantime, which I suppose is a little beyond the purview of your committee,

our society has to slowly phase these things out. We have to reduce and eliminate highly-hazardous substances that are carried all over our state in trucks and trains.

What the gentlemen from SP said, that "We carry what shippers present to us". You know, that's true. Part of what you need to deal with in order to make a safe transportation system is to consider the fact that remedial action, clean-up prevention, simply isn't going to work in many cases. You simply have to stop the shipment of particularly hazardous chemicals and radioactive waste in areas by trains and trucks.

If that is the solution, and it's self-evident on the face of it. If we continue to have statistics like the one that actually links your debate about statistics--at the beginning of your statement 65 percent increase in the volume of hazardous waste carried by rail is what has driven the number of accidents. That is simply going to increase unless the Legislature puts a stop to it.

CHAIRMAN KATZ: Appreciate it. Miss Lake?

PROFESSOR LAURA LAKE: Thank you very much. I'm Professor Laura Lake from UCLA's School of Public Health. I'm here representing the National Council of Jewish Women of Los Angeles and a number of other organizations. I'd like to note that our President is here, Fran Lyons, and members of our Environment Committee.

We're part of an alliance that Mr. Chatfield referred to that is very concerned with not just the safe disposal of nuclear waste, but the safe transport of this material. All of the

questions so far of this committee have focused on the manifest, and treatment, and labeling for toxic material. Imagine if these two trains had accidents with radioactive material. This material is being transported to disposal sites out of the state, presently. It is an ongoing problem. In addition, there is the threat of the Ward Valley Nuclear Facility bringing it, not just from all over California but, but from all over the United States.

The record of shipments is something that we need to be looking at. It's making more work for this committee, but it's an important expansion to also look at the regulatory controls for the management of nuclear accidents. There have been some. I'm going to give you some clippings that we have of statistics of some of these accidents. There hasn't been a lot of research done on it.

I also want to call to your attention the washout road conditions around Needles where the railroad would have to also being going through. The proposal is to use railroads and trucks for disposal. This is a very dangerous proposition for a state to be engaged in.

Specifically, our group has several questions that we'd like to ask you to pursue. One of them is the safety and insurance record of the firms engaged in hauling radioactive waste. Another is the labeling requirements for this cargo. The status of rail and road systems leading to the dump at Needles. The liability for California and non-California radioactive waste transported to the site. The preparedness of first-responders including the Highway Patrol, and volunteer fire fighters to respond to radioactive spills. Finally, the liability for cleanup of contaminated sites.

In other words, the insurance has to be a special type of insurance called Environmental Impairment Liability. It's real hard to get such policies now, and with a track record like this (pun intended), it's real bad.

I think that it's important for the Committee to be asking, not just about property damage, but remediation costs, and what kind of safeguard can California require? What kind of insurance can we impose be carried to protect the public. Our concern is for the transportation riding through every community where these loads are going. This was never addressed in the Environmental Impact Report process for the Ward Valley Site. It was looking at the site, and not at every community at the tracks run through. We believe it is very important to look at the communities and the whole system.

In addition, we can give you an example of first response experience in other parts of the country for nuclear accidents. It's not been a pretty story. In Wichita, Kansas, a truck spilled in 1978 with 54 drums of rich uranium yellow cake. The motorists there tried to help out to roll them away. They were all walking through the yellow cake. The Highway Patrol responded immediately. The state trooper who was the first to respond died of lung cancer seven years later. People had no idea what they were walking through. There is no reason to believe that just as they was confusion with the current wrecks that we've had, there is this latent response for cancer caused by radioactive exposure. These people who are first on the site deserve to know what they're facing, deserve special treatment. We really need to address this,

because primarily it's going to be volunteer fire fighters who are going to be getting there and the Highway Patrol. That's our first response. They're not trained, not seasoned, and just out of their depth to have face that kind of nuclear spill.

The idea of remediation is a very dicey proposition. We would urge this committee to instruct the Department of Health Services to have a moratorium on the licensing for the Ward Valley Site until these issues are addressed. They are a very important public safety issue, as an important as the site is the transport element. We would urge you to take that action to get the answers on the transportation risks associated with nuclear shipments in our state.

We appreciate your holding this hearing. This is the right thing to do. In coming here for our coalition, which includes Women for Hollywood's Women Political Committee, the SHOW Coalition, Greenpeace, the Chimawa Indian Support, the Mojave Tribe, we're a very diverse coalition. I'm even more pleased that we're here to be able to know how bad the situation is and how right we were to be concerned. We do hope that you pursue these questions. I would welcome any questions you have.

ASSEMBLYMAN O'CONNELL: Your background?

PROFESSOR LAKE: I'm on the faculty at UCLA in Environmental Science and Engineering. I'm a political scientist and I've worked on environmental policy implementation for 20 years.

ASSEMBLYMAN O'CONNELL: Thank you. Thanks for being here.

CHAIRMAN KATZ: Thank you very much. I'd like to ask the last panel to come up. While we're specifically focusing on what happened in Ventura, they may also have some insight in handling of how a nuclear problem would be handled in that area, a radioactive waste problem might be handled. I'd like to ask Assistant Chief Ken Rude from the Highway Patrol, the Ventura County Fire Department Assistant Chief Jim Smith who is the Fire Marshal, and the Santa Barbara County Office of Emergency Management, Mary Barron to please come forward.

ASSEMBLYMAN O'CONNELL: Good morning, Chief, long time no see, as they say. Who would like to start? Mr. Katz will be back momentarily. Chief Rude, do you want to start? You got up early this morning from Arroyo Grande.

ASSISTANT CHIEF KEN RUDE: Yes, I did. Thank you for the privilege of being able to attend and participate in this most worthwhile hearing. In terms of commenting on the roles of the California Highway Patrol relative to this incident, I would like to point out that clearly this incident was, in terms of definition and legal responsibility, outside of the purview of the California Highway Patrol relative to specific scene management responsibility. However, under the current incident command system, a joint command venture was initiated which involved the agencies that are represented here at the table at this time. The role of the California Highway Patrol is immediately to determine, assess the impact on the local area, and proceed with securing the scene to protect the public. That was done immediately through closure of Highway 101 and surrounding roadways coming into the Sea

Cliff area. After accomplishing that scene securement, we then began to attempt to determine what we had through a command center which had been immediately set up at the fire station. It was apparent very early that because of the nature of the load that we would be faced with some sort of long-term closure. At that point we began a diversion plan which was intended to route traffic around the scene of the spill which included the use of State Route 33 to State Route 150 and back into 101 both north and south bound and clearly that was accomplished. We had limited alternatives available to us. It wasn't much of a decision to be made. We had clearly one route to use and that was the decision that drove our use of that roadway.

When we determined that this was going to be of a long-term nature, we also immediately implemented the use of changeable message signs in conjunction with California Department of Transportation to notify the users of the transportation system as early as possible that there was a problem and recommending a mitigation major--use of alternate roadways. In addition, we began to look more broadly at what transportation systems, what highways were available to us. We saw that at the north end of San Luis Obispo County, we had State Route 46 which provided the direct access across to Highway Interstate 5 where we could route traffic that was destined for the Los Angeles area. We also looked at State Route 166 for the same reason. What we actually instituted was at Highway 101 and 46 we placed changeable message signs unattended to advise the motorists what they would be faced with if they continued further south, that there was a freeway closure

south of Santa Barbara. At Highway 166, we implemented a more specific informational system. What we were able to accomplish there was to actually stop traffic, advise motorists what they would be faced with south of Santa Barbara, advise the use of the alternate Route 166 and also forewarn the motorists that there were limited services available, i.e., gas and feeding facilities on Route 166.

We were able to work in conjunction with not only the Incident Command System and the Public Information Officers to provide media information, but also accomplish this through our statewide information network which is managed by Caltrans and also through our information networks within various Highway Patrol offices throughout the state. When we initially started the mitigation measures, we were looking at somewhere in the neighborhood of a six to seven hour drive to be able to go around the actual spill incident. Through the actual information measures that were implemented, we were able to reduce that drive toward the last few days down to about an hour to an hour and a half. So we were clearly able to mitigate a lot of the traffic, to convince people to either forego unnecessary trips or to use alternate roadways.

We implemented a command post system which I will defer to the fire department to discuss and we participated at the site, at the incident command center. We also set up a division command center in San Luis Obispo which was designed to deal with the information and provide information to our operating units throughout the state.

In terms of other support that was provided at the scene at the time we began, at the time removal efforts began and they started off-floating containers onto flat bed rail cars, we conducted critical item inspections of all of the commercial trucks that were used to make that transportation prior to their actual departure. We also assisted with the inspection and final approval of the movement of the container of naptholene which was one of the final hazardous materials containers that we were able to remove from the area.

CHAIRMAN KATZ: Chief, we appreciate your help and everyone else's help when Jack and I were on site and trying to understand what was going on. What would be really helpful to us from your perspective as a professional--you're the folks who get to clean up the mess that somebody else made or stabilize, you're the line between the public and somebody else's accident--if you could tell us, based on what you learned out there that day from the standpoint of having (inaudible). In the staff report there is a copy of what I would refer to as a manifest but on trains it would be called something different, a consignment I guess. I'm looking at this consignment sheet and I mean I hope somebody can read it because it would be a long time before this thing meant anything to me. It looks like a computer printout where the computer just went nuts. It looks like one of those hazmat signs. Who knows how to read all that stuff but assuming you're not the first one on site and you get handed this thing, I mean what do you...

ASSISTANT CHIEF JIM SMITH: I'm willing to address that, Mr. Katz. I'm Assistant Chief Jim Smith, Ventura County Fire Department. I was the first chief on the scene as the county duty chief to take command of the incident. Before I could take command of the incident, I had to determine what we had. Our initial attack incident commander was on the north side of the incident and could not get, because of the accident, to where we had initially set up the command post. He was operating in his fire engine outside the door of his fire station because the accident happened, or the derailment happened that close to one of our fire stations. Within 19 minutes--now the information that's provided by the train I've always been told will be given to us by the conductor or the engineer of the train--which is not unreasonable because of the distance the engine stopped from the derailment was about a mile to a mile and a half, the conductor had come down from the engine and handed our first-on-scene fire captain the conts list, or the contents list or whatever you want to call it--the manifest. As a first responder, when I arrived and was flown over to that side of the incident, I met with the conductor and our captain on the scene. The conductor was very able to describe to me the contents of the cars that were involved and he was fairly accurate. He missed it by two cars on telling us how many cars were in the derailment. He said there were two more than there actually were, which was fine. He identified four cars that were carrying hazardous materials in the mess and he identified the one name that I quickly recognized as hazardous, as hydrazine. So, I knew at that point we had a major hazardous material incident on our hands.

Already evacuations had been ordered of the Sea Cliff colony. The CHP had been asked to shut down 101 because the vapor cloud was impacting that roadway above the spill. We set our initial evacuation because of the name hydrazine at a larger limit than what we finally did. I then took this list and flew back to the command post side of the incident and handed it to our hazardous material response team members who were at that time on the scene. They then had to use this list to determine what was actually involved and what other consequences we could have besides hydrazine. We then allowed the experts to tell us what we had to do. We had accomplished and the railroad had accomplished what they always said they would do and that is give us enough information as first responders to provide a level of safety for the public and for the emergency service workers that are responding. At that point, then, we were able to accomplish that and turn the mitigation effort and the determination and the reconnoitering of what else is involved and what other things may be happened. We turned it over to the hazardous material team. Captain Dysart from our hazardous material response team can talked to the other information that may have been beneficial.

MR. DEAN DYSART: First of all, I would like to thank you for allowing a responder to come and speak to you. I feel that there is a lot of information that you need to know that we the responders have whether it be information that is valuable to us or information that is lacking and I'm here today to address the documentation that is valuable and the documentation that is missing and maybe give you some insight into legislation.

When I arrived, I was handed a conductor's work report. That is the formal name of the document. It is not a conts list, it is not a manifest, it is a conductor's work report. It's four phases. The first phase is the line up of the train from the engine to the rear end device. The second phase gives you more information about the train which is only important to the train people. The third phase goes into those hazardous materials that are carried on the individual cars within the train. And the fourth phase of the document says first responder safety information to deal with those hazardous materials. I'm not going to go through my dramatics of showing you this engineer's work report, but it is a computer printout of approximately 28 pages. An on-scene commander, a fire engine, is supposed to decipher that information quickly and make some immediate decisions.

Within this conductor's work report, we identified Car 23 which was a flat car carrying containers. The one container was hydrazine in 55-gallon drums. The second container was a single intermodal container carrying, at that time we had the information, combustible liquid NOS. NOS indicates 'not otherwise specified'. It carries a UM number of 1993. I have identified 67 different products that carry UM-1993. It is a catch-all. We can include perfume. We can include certain combustible liquids that carry pesticides to the plant. It's a wide spectrum of ____ UM-1993.

Also, missing on the work report is the size of the container. What we have...

CHAIRMAN KATZ: The quantity of what you're dealing with.

MR. DYSART: the quantity. The original first officer on site from the railroad--hazmat ____ officer--indicated we should not be too concerned about the combustible liquid in NOS because it was a single drum. As it turns out after much more research, we determined that it was a single drum of between 52,000 and 60,000 gallons. This information is missing on the work report. I defy someone from the railroad to show me, quickly, how I can that container size off this work report and make a determination how broad the incident is.

CHAIRMAN KATZ: Is it supposed to be on the work report?

MR. DYSART: To my knowledge the work report meets all the requirements of federal law.

CHAIRMAN KATZ: Okay.

MR. DYSART: It doesn't meet the requirements of first response. There's two things we have to deal with as first responsders. Number one is the product. Number two is the volume. A small container of a pesticide is much less hazardous to us than a 50 to 100 gallon (inaudible). So that was missing. Also missing was what the NOS--actually what that product was. Very late in the incident before we received that information. Contained within the work report are codes; it's codified. A railroad officer, through a knowledge of those codes, would be able to tell us what that product was, but we do not have privy to that code on a day-to-day operation. We're missing, basically, clear text. We would like to see clear text information relative to the product, relative to the container, size, and the makeup of the container.

Had it been an aluminum container, we would have handled that differently than if it had been stainless steel, which in fact it was stainless steel. We're missing some clear text information for the first responders and have these materials response people be able to deal with that incident in a timely manner.

Another piece of information that was missing was the shipper. We do have a shipper, and it was shipped from a codified shipper to the same codified shipper. The manufacturer of the product was not identified on the work report. Therefore, we had to go with the process of dialing up KimTrek to make contact with the shipper.

CHAIRMAN KATZ: Was there a problem during the cleanup of the -- were you able or were the railroad personnel able to get their hands on enough of what they needed to neutralize or stabilize what was there or was availability of those products a problem in this?

MR. DYSART: I was not made aware of any problem with availability of the neutralizing products. In a timely manner, there was a lot of processes that had to happen before the neturalizing took place. Another item that was missing, until approximately 2 o'clock in the morning, was the Material Data Safety Sheet from the manufacturer of the hydrazine. We had to operate on the premise that we were dealing with hydrazine in an acreus solution more than 64 percent which is the worst factor of the two, until approximately 2 o'clock in the morning determined that it was hydrazine 51.2 percent, which is a lesser of our concern.

Another problem that we have to deal with is containerized freight. Within our work report, we have the flat car number. On that flat car we have containers. To us, the containers were not identified. Whenever the container in the flat car upset, we actually had the result of the flat car on one side and a pile of containers on the other side, not even closely related to the flat car that they were tied to. We feel there is a need for at least separate lists. Redundancies on flat cars, numbers, and container numbers so that we can track the car once it leaves the flat car.

CHAIRMAN KATZ: Do you have a sense in terms of equipment and personnel available and the ability to respond that we need to put something in place, similar to what Jack did and I'm sure some of you in terms of ocean disasters, that we ought to replicate that? What's that, Jack?

ASSEMBLYMAN O'CONNELL: Clean Seas.

CHAIRMAN KATZ: That we ought to do something for land based incidents, that we need some kind of a... or do we have everything? I don't need to work create another layer or another agency, if it's all there. I'm curious because we heard from some of the people in Dunsmuir. Obviously, the Dunsmuir incident provided much greater problems in terms of being able to respond for first people on the scene, because of major holes in federal law that allowed chemicals to go not properly identified and caused problems for on-site personnel. Do we need something more comprehensive, like Clean Seas?

MR. SMITH: Mr. Katz, I believe that due to the proximity of this incident, of the Sea Cliff incident being in the urbanized Southern California area, we had more than enough or we had adequate mitigation teams in and around the vicinity. We had Santa Barbara County north of us. We had two teams along with ours for a total of three in Ventura County. We had all of the resources in the LA Basin.

Such as you reported on Dunsmuir, this same incident, say in the northern part of the state, you (inaudible) the highways and the ocean in the same way this one did, would not have the availability of resources as we did. We had approximately 60 trained fire department personnel on the scene at various times throughout that incident.

CHAIRMAN KATZ: To some extent we benefited from the fact that the oil industry is so much in evidence in the counties, and you've been prepared to work with those kinds of situations in advance of this. In that case, I would assume that you drill more than a lot of areas do and you work more closely together because of what you had in the Ventura-Santa Barbara areas having to do with petro-chemical industry and the potential for problems there. Something that, obviously, you wouldn't find in Dunsmuir kor Alturas. I'm not even sure if you find it in Fontana, for that matter.

ASSISTANT CHIEF SMITH: That's exactly correct. The urbanized areas have higher-level, on-duty mitigating teams. I believe, Ventura County daily staffs approximately, along with our cities, 15 on-duty Hazardous Material Mitigation personnel.

CHAIRMAN KATZ: Not many volunteer fire departments, is what you're saying, in the urbanized areas.

ASSISTANT CHIEF SMITH: That's correct. In Ventura County there's only two. Santa Paula and Filmore City, neither one of which participant in a Hazardous Material Mitigation team.

CHAIRMAN KATZ: Up the coast -- go up Highway 5, north of Redding, I'm not sure where tracks are in that area.

ASSEMBLYMAN O'CONNELL: Do they contract with hazardous materials or are they totally dependent upon, like on Herbie's operation, when they get there?

ASSISTANT CHIEF SMITH: I can't speak to that.

ASSEMBLYMAN O'CONNELL: Mutual aid?

ASSISTANT CHIEF SMITH: It could be that they provide strictly on mutual aid.

CHAIRMAN KATZ: When Jack and I were there, we both commented from a layman looking in, there seemed to be a lot of cooperation;it seemed to be running very smoothly. Still from an information standpoint, you had a lot, but not everything you needed. There were still holes there. Ms. Barron, do you want to add; we'll get you into this discussion here.

MS. MARY BARRON: My name is Mary Barron. I'm with the Santa Barbara County Office of Emergency Services.

I think my comments will echo what Mr. O'Connell was saying earlier this morning. The main point that I wish to make is that from a local agency's standpoint, we need to formalize the Emergency Response Planning and Coordination Process between local agencies and the railroads. I speak from two past experiences that

occurred in Santa Barbara County. One, obviously, was the Sea Cliff incident, which was just a few miles from our border. The other was another incident which occurred on Vanderberg Air Force Base in just March of this year. That was a derailment with Southern Pacific that involved 20-foot cars and a number of hazardous materials. Fortunately, it was in a very remote area of our county on the Air Force Base, so it didn't receive the notoriety the last two incidents did. It did involve two derailed cars each containing 30,000 pounds of anhydrous ammonia, which can pose a significant hazard to the public.

CHAIRMAN KATZ: If I remember right, anhydrous ammonia is classified as an inhalation hazard and covered by our AB 2705 of a couple of years ago.

MS. BARRON: I believe so. I don't know it if it's classified under DOT in the strict sense...

CHAIRMAN KATZ: It is under California. We use the federal lists under my legislation, and was interested in the comments going back to the railroad. There is an example where shipping something by truck is actually under a stricter requirement. To ship that by truck under California law, you need escort vehicles; you need a breathing apparatus, emergency response, and notification of local emergency response personnel.

MS. BARRON: The main points that were evident during that incident was that the local agencies were not even notified by the railroad that there had by an incident. We heard about it on local radio, and needed to follow up from our end with both the Southern Pacific Dispatch Center up in Roseville, as well as their

corporate headquarters in Monterey Park. The response from the local agency's standpoint, while it wasn't directly in a county jurisdiction--it was on federal property on the Air Force Base--we needed to initiate the process.

CHAIRMAN KATZ: What was the cause of the derailment? Was that ever determined?

MS. BARRON: I believe a culvert washed out during the March rains on Vanderberg Air Force Base.

CHAIRMAN KATZ: This took place, when?

MS. BARRON: March 19, 1991. While it didn't have the off-site impacts that the last two incidents presented, it did present significant planning concerns from our standpoint. The main issue that we have as a local agency is that we need some kind of formal coordination process with the railroads. It's ironic that we have very high standards for fixed facilities in this state, but that the railroads pass through our backyards posing the same risks and don't have those same standards that they have to comply with. That's our main concern from a planning standpoint. That we need this process formalized. In an earlier meeting this week that Assemblyman O'Connell pulled together, Southern Pacific indicated that they voluntarily coordinate with local agencies through a program called CARE. This is a voluntary effort. While I wholeheartedly support CARE, which stands for Community Awareness and Emergency Response, it's borne out of the chemical manufacturers industry.

I think that the incidents in the last six months have pointed that we more than a voluntary effort on the railroad's part

to coordinate with the agencies who are going to be the ones who respond to the incidents.

CHAIRMAN KATZ: Anything else we ought to know from the responders standpoint as we try to put this together?

ASSISTANT CHIEF SMITH: Yes. One other thing that I would like to say, Mr. Katz, on Page 7 of your staff report, I'd like to correct the unified command components that were initially put into place. It was the CHP, Ventura County Sheriff's Department, and Ventura County Fire Protection district personnel that made up the initial unified command that was in charge of the Sea Cliff incident.

Unified Command is the state, I guess I could call it the state-mandated system for handling multi-jurisdictional incidents where the CHP is involved. Ventura County has used the incident command system and unified command for many years. We were happy to put it into effect on this incident. We were also very pleased with the effect that it had on the eventual outcome of the incident in bringing it to I believe, as swift a conclusion as could have occurred in any respect. Also, I would like to have Lt. Wells from Ventura County Sheriff's Office -- he was one of the unified commanders on the scene--ask him if he has anything else to say.

CHAIRMAN KATZ: Let me ask before Lt. Wells makes his comment. Because the spill was still contained on SP right-of-way, does that mean a different response or a different... To what extent does the company involved have control or input, if any, into what procedures are undertaken, when you decide to move, not move, and how you decide to treat and not to treat?

MR. SMITH: The responsible party, which would be SP, has every right to come in and affect the cleanup. We want them to do that, as we would with any business that has a spill. We want them to take the responsibility for the cleanup, as SP has done in this case. But they have to coordinate their efforts for cleanup along with litigation and the public safety efforts that the public agencies have. So, that means there must be a coordinated effort in that cleanup so that mitigation and the cleanup effort are not in ...

CHAIRMAN KATZ: What I want to understand is whether or not it's on their right of way. If they say left and you say right, it goes right?

ASSISTANT CHIEF SMITH: It goes right.

CHAIRMAN KATZ: ... So, what operations I saw SP involved in was with your unified commands, knowledge, involvement and agreement that SP would pursue course A, B and C. I mean they couldn't come in and say, we've got this great solution. We are just going to go and do it. We've got your guys all feeling comfortable that this was the proper way to respond. That it was up to your agencies to make that unified command decision that then allowed SP to go do whatever they were doing.

ASSISTANT CHIEF SMITH: That is exactly correct.

CHAIRMAN KATZ: Okay. Lieutenant, do you want to give us some more?

LIEUTENANT WELLS: Basically, just embellish on what other personnel have said here today. This is a system impact and any part of the system that's deficient is going to create a

sub-optimazation of the result. I think, in terms of being an incident commander on the scene for over seven days and working with the Highway Patrol and the Fire Department, the unified command which is a component of the ICS system--incident system--was probably one of the best things we can do to manage the incident.

Firmly, we are an advocate of that being in place throughout the state because in order for any successful resolution you have to have a quick start on the management of the incident itself. We are able to do that and I commend everybody at the scene for working together. We had over 26 other agencies that we had to deal with and the instant command system allowed us to do that as best we could.

One area that we've touched on before in conversation with Assemblyman O'Connell that I would like to see, and, I think, concurrence from the rest of our group is that we need to be able to have the ability and the wherewithall to debrief and do that, and be exempt from discovery. One of the reasons that we need that is so we can outline mistakes, be able to identify deficiencies, and not fear future litigation from the identification of those deficiencies. Right now in Ventura County, County Counsel has indicated that we should not discuss these types of incidences in a debriefing or a post-incidence analysis.

CHAIRMAN KATZ: Because of the liability?

LIEUTENANT WELLS: Because of the liability. There, again, it is part of the system. That's an integral component of the system. That's all the remarks that I have.

CHAIRMAN KATZ: I appreciate that, Lieutenant.

ASSISTANT CHIEF SMITH: Along with the liability lines, if we could identify these types of incidents the same as a medical emergency would be protected under the law. They are allowed to have a debriefing or a post-incident analysis in a medical emergency in the hospital. All that is confidential information, not allowed in discovery. If hazmat incidents have that same protection, we would feel a lot freer to let everybody know what lessons we learned. We will do it, but it is going to be under the table, and the people that worked with us will know the lessons learned, what successes we had, and what failures we felt we had. But, it would be a lot better for Californiaand the United States if these lessons learned could be publicized a little better.

CHAIRMAN KATZ: Okay. The frightening part of what you are saying is that it almost implies that the _____ is right about lawyers. I really hate to get to that point. It is a frightening concept. Of course, he is one.

I appreciate what you have to go through because part of what Jack and I are looking at are looking at a couple of aspects. Obviously, today's hearing, more than others, focused on maintenance and some regulatory agencies that seem to get the roles confused with private sector entrepreneurial concepts, or something like that.

But, we also when we address this, because we've been looking at the rapid deployment issue. Your comments, Chief, in terms of having stuff available in these kinds of areas is real

important because that will impact on how we're trying to put this kind of thing together and may cause us to re-think some of that.

Obviously there are areas where we do need it and areas where you don't. You may need a response team in Southern California, but you may not need it at the LA-Ventura-Santa Barbara area. You may need it in the San Bernardino high desert area, or somewhere like that. So, I appreciate that, and your view in terms of what is available and what's readable on those things--on the conscripts. That's very helpful to us.

If you have more thoughts as you chat, but don't debrief, and review in your own minds what took place--I know Jack had a much longer meeting with you earlier in the week--we would be real interested because we need to approach this from two sides. One is obviously what do you do after an incident occurs and how do you respond and minimize the potential danger and the potential exposure both to your personnel as well as the public at large. One of the scariest hearings that I have ever sat through on the Toxics Committee was listening to somebody in the Orange County area a couple of years ago, a Fire Chief who told me that this was two weeks after an explosion of 55-gallon drums. He still didn't know what he had sent his men into two weeks later, and he was scared to death for his men. It is horrifying to sit and listen to that kind of testimony, let alone having actually to go through it.

On the other hand, we also want to do whatever we can to make sure that we are doing enough on the front end to ensure that you never have to come into play and the laws and the rules are adequate. What I'm particularly concerned about today is learning

that not only are the laws inadequate in some areas which confirms some suspicion, but I have some real serious doubts about regulatory agencies--I'm not referring to your emergency response--at the federal and the state level, whether or not they are doing their job, whether or not they have been subject to political pressure, or they are making judgments based on things inappropriate for safety-orientated agencies, or are not just doing their job at all. We will look into, as a Committee and working with Jack, all aspects that we discussed today.

Also, I think that we have to look very seriously at the implications of some of the testimony from the safety agencies, whether or not laws have been broken, and whether or not undue pressure has been brought to bear, and look at what the appropriate agencies, whether it is the Attorney General, whether it is something like the Fair Political Practices Commission, or a Grand Jury, or some members of Congress ought to be investigating it. We have to figure out how we sort out what I heard today. That really frightens me.

The comforting side is how you are able to respond to minimize danger. Our goal, again, is keeping you guys out of action, as much as possible, which I know is yours as well. I appreciate your being here today coming down from Ventura and San Barbara to help us on this. Jack, do you want to ...

ASSEMBLYMAN O'CONNELL: I want to thank you again, Mr. Chairman, for putting this together on a very short notice. I know how busy your schedule is. Your staff has been very cooperative. Also, I want to thank all the witnesses. Everybody that's been

here has to be part of the solution to this. It is certainly not to be the problem.

CHAIRMAN KATZ: Thank you. I appreciate Mr. Hope from Senator Hart's staff, and John Stevens from my staff, and Kate Riley, and others who put this together. I appreciate the cooperation of the witnesses. Thank you.

ASSEMBLYMAN O'CONNELL: And the Sergeants.

CHAIRMAN KATZ: ... and the Sergeants, of course.

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CONSULTANTS
John R. Stevens
Principal

L. Erik Lange
Kathryn B. Riley

COMMITTEE SECRETARY
Alice Livingston

ADDRESS
State Capitol
Sacramento, CA 95814
(916) 445-7278

Assembly California Legislature

ASSEMBLY COMMITTEE ON TRANSPORTATION

RICHARD KATZ
Chairman

AGENDA

August 15, 1991
Los Angeles, California
9:00 a.m. - Noon

THE TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL
DO WE NEED MORE PROTECTION?

Public Utilities Commission
Patricia Eckert, President
Bill Oliver, Safety Division

Federal Railroad Administration
H. T. "Tom" Paton, Regional Director of Safety

Southern Pacific Transportation Company
R. F. Starzel, Vice Chairman
Michael Ongerth, Assistant Vice President, Operations

United Transportation Union
J. P. Jones, State Legislative Director

Greenpeace Action
David Chatfield, Regional Director

California Highway Patrol, Coastal Division
Asst. Chief Kenneth Rude

Ventura County Fire Department
Asst. Chief Jim Smith, Fire Marshal

Santa Barbara County Office of Emergency Management
Mary Barron, Deputy Director

Public Testimony

STATEMENT

THE TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL:
DO WE NEED MORE PROTECTION?

TWO DERAILMENTS IN TWO WEEKS ... ONE STERILIZED A RIVER ... THE OTHER SHUT DOWN 101 FOR A WEEK. BOTH ENDANGERED LIVES. THE VOLUME OF HAZARDOUS MATERIAL SHIPPED BY RAIL IS INCREASING -- AS IS THE RISK TO CALIFORNIANS.

IT'S CLEAR THAT TOXIC TIME BOMBS ARE ON THE TRAINS ROLLING ALONG NEXT TO OUR HOMES ... SCHOOLS AND WORK PLACES.

OUR CONFIDENCE HAS BEEN SHAKEN BY THESE ACCIDENTS.

BUT EVEN MORE DISTURBING ARE REPORTS THAT OVER 90 PERCENT OF SOUTHERN PACIFIC'S LOCOMOTIVES FAILED SAFETY INSPECTIONS CONDUCTED BY TEAMS OF STATE AND FEDERAL INSPECTORS AT SP'S ROSEVILLE AND TUSCON MAINTENANCE FACILITIES EARLIER THIS YEAR.

2-2-2

IN ADDITION ... ALLEGATIONS HAVE BEEN MADE THAT IN JUNE ... JUST WEEKS BEFORE THE DUNSMUIR AND SEACLIFF DERAILMENTS ... A TEAM INSPECTION OF SP'S LOCOMOTIVES IN THEIR TAYLOR YARD MAINTENANCE FACILITIES IN LOS ANGELES WAS CALLED OFF BY FRA OFFICIALS AND ANY MAJOR ASSESSMENT OF THE SAFETY OF SP'S TRAINS AND OPERATIONS SUSPENDED FOR SIX WEEKS PURPORTEDLY TO GIVE THE RAILROAD A CHANCE TO GET BACK ON THEIR FEET. WITHIN THAT PERIOD ... THE DUNSMUIR AND VENTURA DERAILMENTS OCCURRED.

WAS THE EQUIPMENT INSPECTION CALLED OFF IN LOS ANGELES? IF SO ... WHY? ... AND WHO ORDERED IT? AND WHAT IMPACT D THESE ACTIONS HAVE ON THE DERAILMENTS THAT HAVE GENERALLY BEEN ATTRIBUTED TO EQUIPMENT FAILURES?

IN ADDITION TO ANSWERING THESE QUESTIONS, WE NEED TO MAKE SURE THAT THE STATE IS DOING EVERYTHING POSSIBLE TO PROTECT US.

3-3-3

WHAT WE WILL INVESTIGATE TODAY IS THE FOLLOWING:

* WHAT IS THE STATE DOING NOW TO REGULATE RAIL TRANSPORTATION OF HAZARDOUS MATERIAL AND WHAT SHOULD WE BE DOING?

* WHAT MUST WE DO ADDITIONALLY TO ENSURE THAT HAZARDOUS SUBSTANCES ARE NOT RELEASED INTO OUR AIR AND WATER?

* WHAT INFORMATION IS AVAILABLE TO THOSE WHO ARE FIRST AT THE SCENE OF A DERAILMENT?

* WHAT ADDITIONAL INFORMATION NEEDS TO BE AVAILABLE SO THAT GOOD DECISIONS CAN BE MADE IN DEALING WITH HAZARDOUS SPILLS?

IT'S MY INTENTION TO INTRODUCE A BILL NEXT WEEK THAT WILL ADDRESS THESE ISSUES. WE HOPE THIS HEARING WILL GIVE US SOME ANSWERS AND INFORMATION AS WE CRAFT LEGISLATION TO CORRECT THE PROBLEMS AND PROTECT THE PEOPLE.

ASSEMBLY TRANSPORTATION COMMITTEE
August 15, 1991
Los Angeles, California

STAFF REPORT

THE TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL: DO WE NEED MORE PROTECTION?

Introduction

Two derailments of trains operated by the Southern Pacific Railroad which carried hazardous material within a two week period -- one causing an environmental catastrophe, one a traffic nightmare and both posing serious human health hazards -- have created concern about the safety of transporting hazardous material by rail. This report provides information about the accidents, and discusses policy issues raised by those events.

Background: Transportation of Hazardous Material by Rail

Between 1985 and 1989, the volume of hazardous materials -- chemicals, poisons, pesticides, and other dangerous substances -- transported by rail in the United States increased by 65% -- to 1.52 million carloads annually. Federal Railroad Administration (FRA) statistics record 254 accidents involving the release of hazardous materials during that period. Research and Special Projects Administration (RSPA) figures show a steady increase in rail incidents involving hazardous materials during the same period -- up to 1,195 in 1989.

The Derailments

On Sunday, July 14, a Southern Pacific train over 6,000 feet long and weighing 4,295 tons derailed at the Cantara Loop, a 2.2% grade around a 14 degree curve, in the vicinity of eight other derailments between 1981 and 1989. A tank car containing metam sodium fell approximately 25 feet into the Sacramento River, releasing about 15,000 gallons of its 20,000 gallon load into the river. The spill resulted in the effective sterilization of approximately 45 miles of the river from the derailment site to Shasta Lake. Additionally, half a dozen people were hospitalized, and approximately 300 received medical treatment. Other long-term effects on pregnant women for exposure to metam sodium, for example, are not yet known.

Two weeks later, on July 28, fourteen container cars of a Southern Pacific train derailed adjacent to State Route 101 near the Santa Barbara/Ventura County line. Apparently an equipment failure caused an axle to snap off a car. Approximately 16 55-gallon drums of diluted hydrazine ruptured in the accident. SR 101 was closed for five days as a team of experts attempted to neutralize and remove the toxic substance, prevent the mixing of other hazardous materials from the train, and evaluate possible damage to a freeway overpass.

Investigation of the Derailments

Investigations of the derailments are being conducted by the FRA, the Public Utilities Commission (PUC), and, for the Dunsmuir

spill, the National Transportation Safety Board (NTSB). It will be several weeks or more before these investigations are complete.

While the results of the state and federal investigations are yet unknown, SP has completed a preliminary investigation of the Dunsmuir derailment, and concludes as of now that it was due to a combination of the following factors:

1) Momentary wheel slip on one or more of the locomotives;

2) The combination of two empty centerbeam lumber cars coupled to the car carrying the metam sodium caused excessive sideway movement at the head end of the train;

3) Possible faulty electrical panel in the third locomotive;

4) Curve grease distribution on the rails used along with sand to provide traction on tight curves;

5) The governor unit in the second locomotive out of balance which could have contributed to the wheel slippage.

What role should the state play a role in establishing stronger rules for local safety hazards such as the Cantara Loop? Should there be state oversight of changes by the carrier in operating rules in such situations?

Should railroads' rules be codified by the state in order to ensure that they are not weakened?

A 1976 SP derailment at the site of the Dunsmuir spill killed thousands of fish. Press reports indicate that SP had established a weight limit of 4,250 tons before requiring a helper engine in 1976. The train that derailed last month weighed 4,295 tons -- under the current helper limit of 4,500 tons, but over the 1976 limit of 4,250 tons.

Would a helper engine and/or a differently arranged train have prevented the Dunsmuir derailment?

Two types of electronic track-side detection devices are in use: the "dragging equipment" detector and the "talking hot box" detector. These devices read information about a train as it passes, and communicate that information to the train crew. An unanswered question about the Seacliff derailment is whether the electronic hot box sensor located along the track accurately reported the status of the wheel assembly equipment prior to the derailment.

Have electronic sensors along tracks adequately replaced tail end staff and equipment, as was promised by the railroads in the early 1980's?

Regulation of Rail Safety -- Is It Sufficient?

The Federal Railroad Safety Act of 1970 (P.L. 91-458) provides for federal enforcement of rail safety practices. FRA's Region 7 includes the states of Utah, Nevada, Arizona, New Mexico, and California. Twenty-three non-managerial FRA inspectors work in the region.

The federal government has generally preempted state authority to regulate rail safety except when there is no federal rule covering the subject, and when necessary to deal with an "essentially local safety hazard". The proposed reauthorization of the federal act does not tamper with the existing state authority to regulate local safety hazards.

The PUC is the state agency responsible for regulating rail safety. There are eight federally certified PUC inspectors who may issue citations for the FRA: three track inspectors, two motive power and engine inspectors, and three operating procedure inspectors.

Do state and federal authorities have sufficient staff to inspect and enforce rail safety for over 7,000 miles of railroad track and hundreds of thousands of locomotives and cars that operate in California?

In 1979, the PUC proposed a package of regulations relating to the transportation of hazardous material by rail. Railroads strongly opposed the package, and the PUC spent the next twelve years revising the package. In part, the revised rules narrow the definition of hazardous material covered, remove the incorporation of federal rules into state rules, and otherwise limit the scope of the regulations. On August 7, the PUC adopted the new regulations.

State Role in the Enforcement of Rail Hazardous Material Transportation

The 1990 Hazardous Material Transportation Uniform Safety Act (P.L. 101-615) allows states to participate in enforcement of federal regulations on hazardous material transportation. Currently, certified state inspectors can enforce motive power and equipment, track, and other federal regulations. The state participation program for hazardous materials will begin this fall

in California. The PUC must certify staff to participate in this program.

Are there sufficient state staff to enforce federal hazardous material regulations?

Information: Do we get enough on toxic shipments?

Trains carry information regarding toxic substances on board in the form of a "consist" -- a listing of each car and its contents. The consist includes information on the weight, destination, and any restrictions for each car. For hazardous materials, as defined by the federal Department of Transportation, the consist is "enriched" to include placarding requirements, the UN number, and brief information on what to do in the case of a spill. The consist from the Dunsmuir train is Attachment A.

The consist is held at the head end of the train by the conductor and, usually, the engineer. As the composition of a train changes, the consist is changed.

When a train derails, the consist provides the first information for emergency responders. The responders must be able to decipher the consist's code in order to determine the appropriate response.

Are consists sufficiently understandable to local emergency responders?

It took several hours before emergency responders in Dunsmuir came to understand the severity of the situation. It should be noted that metam sodium was not required to be placarded, and the manufacturer of the product had to be called to receive

information. Only additional research produced the necessary information on the toxic effects of metam sodium and its by-product, methyl isociothionate.

Should more information on substances which might be hazardous be readily available to first responders?

Consists and other information on toxics carried by trains, such as material safety data sheets, tend to emphasize effects of exposure on persons in the occupational environment. The environmental effects of pesticides such as metam sodium are not as well known.

Should information about the environmental effects of transported chemicals when they interact with water, air, or fire be available to first responders?

The lead agency at the Dunsmuir spill was the Department of Fish and Game. Emergency response was coordinated by the state Office of Emergency Services. At the Seacliff spill, emergency responses were coordinated by a three-way group consisting of the California Highway Patrol, the Ventura County Office of Emergency Services, and the Ventura County Environmental Health Department.

Should there be a consistent lead agency to respond to hazardous material train incidents?

ATTACHMENT A

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R197800 0 1 0037 07/15/91 U725      JS N002     GA97800
 0032 07/15 PRINT FROM GA97800
 TRAIN INQUIRY RESPONSE
 1WWEUM  13                    VIA-RVILLE     3B4      2518
 DEPT DUNSMUIR   14 2104
 CONDUCTOR ENSIGN        GT 142030 0830  ENGINEER LEAHY          JB 142030 0830
  SETOUT 03000
   SSW    9693:03:0726:Q:0726:48:0423:7:28:W: :CC:0808:          :N  F
   SP     9333:03:0819:Q:0819:36:0512:5:08:W:T:CC:0822:          :N  B
   SSW    8373:03:0829:Q:0829:36:0209:7:13:T:T:$$:0722:          :N  B
   SP     7561:12:0807:Q:0807:36:0129:5:13:2:R:CC:0812:          :N  B
  SETOUT 05000
  BN   732746 ELB3040 KLMBN A7                C                 *NO TOPS W/B 049
  BN   244656 EA6C032 KLMBN E8                C                 NEWPORT  WA  049
  TTZX 86632 EFI7032 KLMBN E7                 C                 GRAFORKS BC  049
TTZX 86632 HAS A 45MPH SPEED RESTRICTION - SEE TIMETABLE
  BN   625123 EFI7033 KLMBN E7                C                 CURLEW   WA  049
BN  625123 HAS A 45MPH SPEED RESTRICTION - SEE TIMETABLE
  GATX 19764 LT5C127 KLMBN XWEEDKL            B T               EPASCO   WA  049
  MDW  10306 EB63031 KLMBN P7       AGENT     C                 MI2229       049
  LVRC  5112 EB23032 KLMBN P7       AGENT     B                 MI2229       049
  CNA 419148 EB23032 KLMBN A7                 C                              049
  SOU 526468 EB23033 KLMBN N7       AGENT     C                 MI2229       049
  SOU 550163 ED5N038 KLMBN A7  233 AGENT      C                 *NO TOPS W/B 049
  SOU 540237 EA24034 KLMBN A7                 C                 *NO TOPS W/B 049
  MRR   4010 EB23033 KLMBN B7       AGENT     C                 MI3593       049
  SOU 532119 EB23034 KLMBN B7       AGENT     C                 MI3593       049
  SOU 526287 EB23033 KLMBN B7       AGENT     C                 MI3593       049
  CNW 716346 EB23031 KLMBN P7       AGENT     C                 MI2229       049
  MDW  10147 EB64032 KLMBN B7       AGENT     C                 MI3593       049
  GATX 19761 LT5C126 KLMBN XWEEDKL            B                 PASCO    WA  049
  SOU 528837 EB23033 KLMBN B7       AGENT     C                 MI3593       049
  MP   367759 EA6D035 KLMBN B7      AGENT     B                 *NO TOPS W/B 049
  CS   616445 EFB6033 KLMBN A7                C                 *NO TOPS W/B 049
CS  616445 HAS A 45MPH SPEED RESTRICTION - SEE TIMETABLE
  GN   319234 EB6C037 KLMBN G7      AGENT     C                 MI2229       049
       2 LDS    19 MTYS   , 891 TONS   1234 FT  BLK SUMMARY
  SETOUT 03000
  WCRC  9176 EFI7033 01000 A7       P1455     C T               BROOKLAGENT  010
      FOR CASCADE WEST
WCRC  9176 HAS A 45MPH SPEED RESTRICTION - SEE TIMETABLE
  SP   240575 EB64033 01325 A7      RII       C                              012
  BN   244430 EA6C032 PTLBN E7  223           C                 VANCOUVERBC  01K
  SP   226199 EABD036 04705 A8      P0019     F                              030
  BN   222796 EB24033 PTLBN G8      AGENT     C                 MI2229       01C
  SSW   67759 EABD036 03220 D8      P0023     G                 AGENT        033
  SP   226292 EABD036 04705 A8      P0019     F                              030
  SP   700054 EFP5033 00800 A7      PDR       B                              010
  SP   700080 EFP5034 00800 A7      PDR       B                              010
  SP   700102 EFP5033 00800 A7      PDR       B                              010
  SP   700198 EFP5033 00800 A7      PDR       B                              010
  SP   700103 EFP5034 00800 A7      PDR       B                              010
  DRGW 18096 EC21032 01500 D7       P0431     B                 AGENT/CASCAD 015
  GVSR  8561 EPTC039 PTLUP W8                 B                 PORTLAND OR  01N
  GVSR  8562 EPTC038 PTLUP W8                 B                 PORTLAND OR  01N
  SP    13261 EB23030 PTLBN D7      P0115     B                 VANCOUVERBC  01K
  BCOL 17733 EFB6029 PTLBN G7                 C                 *NO TOPS W/B 01C
BCOL 17733 HAS A 45MPH SPEED RESTRICTION - SEE TIMETABLE
  BCOL 17068 EFB6029 PTLBN G7                 C                 *NO TOPS W/B 01C
BCOL 17068 HAS A 45MPH SPEED RESTRICTION - SEE TIMETABLE
  BCIT818676 EFB6029 PTLBN G7                 C                 *NO TOPS W/B 01C
BCIT818676 HAS A 45MPH SPEED RESTRICTION - SEE TIMETABLE
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124

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  SP  247125 EA6D033 01430 B7       NEWBERG C                    MI6547          010
  SP  247990 EA6D033 01430 B7       NEWBERG C                    MI6547          010
  SP  246321 EA6D033 01430 B7       NEWBERG C                    MI6547          010
  SP  246914 EA6D034 01615 B7       ORECITY C                    MI6551          010
  SP  246989 EA6D033 01615 B7       ORECITY C                    MI6551          010
  SP  248613 EA6D033 01430 B7       NEWBER  C                    MI9280          010
  CLC   1226 EFB7042 PTLBN E7                 C                  COLJUNCTIWA     01B
CLC   1226 HAS A 45MPH SPEED RESTRICTION - SEE TIMETABLE
  CLC   1108 EFB7043 PTLBN E7                 C                  COLJUNCTIWA     01B
CLC   1108 HAS A 45MPH SPEED RESTRICTION - SEE TIMETABLE
  GVSR767062 EB63034 02100 B7       AGENT   C                    MI0250          021
  SP  246840 EA6D033 01430 B7       NEWBER  C                    MI9280          010
  SP  247023 EA6D033 01430 B7       NEWBERG C                    MI6547          010
  SP  246760 EA6D033 01430 B7       NEWBERG C                    MI6547          010
  SP  247391 EA6D032 01430 A7       P9906   C                                    010
  SP  246288 EA6D033 01430 B7       NEWBERG C                    MI6547          010
  SP  228535 EABD035 04705 A7       P0019   F                                    030
  BN  410458 EC4A035 PTLBN E7                 B                  SEATTLE   WA  01K
  HOKX132056 ET42043 EPTUP W7                 B                  TACOMA    WA  01F
  SP  247711 EA6D032 01430 A7  223  NEWBER  C                                    010
  SP  245966 EA64036 04000 A7  233  P0102   C                                    040
  GATX 16263 LT5D131 04700 HPHENOL  DAN PB    B                  BORDENCHEMIC    030
       470 S SECOND STREET
  SP  700095 EFP5033 00800 A7       PDR     X                                    010
  MP  356991 EB23030 PTLUP A7  233  P1477   B                                    02D
  SP  228744 EABD036 04705 A7  233  XXX     F                                    030
  SSW  70451 ECJC033 PTLBN D7       P3467   C                  VANCOUVERWA     01B
  GVSR767070 EB63034 02100 B7       AGENT   C                  MI0250          021
  SP  246987 EA6D033 01615 B7       ORECITY C                  MI6551          010
  SP  247701 EA6D032 01615 B7       ORECITY C                  MI6551          010
  CBRY  5021 LG5C126 EPTUP XISCRAP            B                PORTLAND OR     02A
  HOKX  7832 ET42044 PTLBN E7       DAN     B                  COLJUNCTIWA     01B
  HOKX  7726 ET42043 EPTUP E7       DAN     B                  TACOMA    WA    01F
  SP  338056 LGP 119 01500 XBILLET            B                CASCADSTEROL    015
       SPIN 4901
  DRGW 56148 LG5C121 01500 XSTLBAR            B                CASCADSTEROL    015
       3200 N HWY 99 W
       SPIN # 4901
  SSW  70152 ECJC033 PTLBN D7       P3467   C                  VANCOUVERWA     01B
  SSW  70365 ECJC033 PTLBN D7       P3467   C                  VANCOUVERWA     01B
  SSW  74648 ECJC033 PTLBN D7       P3467   C                  VANCOUVERWA     01B
  BCOL866599 EFI7037 PTLBN G7                 C                *NO TOPS W/B    01C
BCOL866599 HAS A 45MPH SPEED RESTRICTION - SEE TIMETABLE
  BCIT873951 EFI7032 PTLBN G7                 C                *NO TOPS W/B    01C
BCIT873951 HAS A 45MPH SPEED RESTRICTION - SEE TIMETABLE
  BCOL873419 EFI7032 PTLBN G7                 C                *NO TOPS W/B    01C
BCOL873419 HAS A 45MPH SPEED RESTRICTION - SEE TIMETABLE
  SP  245870 EB64034 00840 B8       JRIVER  C                  MI0910          010
  SP  226304 EABD035 GRDLP D7       P0016   F                  GARJUNCTIOR     033
  GATX 43107 ET5D038 PTLBN W7                 B                FTSASKATCAB     01K
  SP  243627 EB64034 00840 B8       JRIVER  C                  MI0910          010
  GVSR767056 EB63034 02100 B8       AGENT                      MI0250          021
  SP  247100 EA6D033 01430 B8       NEWBERG C                  MI6547          010
  CP  208579 EA23031 PTLBN G8                 B                *NO TOPS W/B    01C
  CLC   3352 EB6D033 PTLUP P8       P1495   C                  MI1015          02D
  SLC   1013 EA63032 02100 A7                 C                                021
  SP  508090 EFB5031 EPTUP D7       P0610   B                  PORTLAND OR     02A
  SP  508075 EFB5031 EPTUP D7       P0610   B                  PORTLAND OR     02A
  CR  577312 LG50119 EPTUP XISCRAP            B                PORTLAND OR     02A
  SP  800077 LG4C123 EPTUP XISCRAP            B                PORTLAND OR     02A
  CR  582191 LG5C131 EPTUP XISCRAP            B                PORTLAND OR     02A
  CR  582210 LG5C128 EPTUP XISCRAP            B                PORTLAND OR     02A
  TCC 246588 LG5C128 EPTUP XISCRAP            B                PORTLAND OR     02A
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SPEF 91275 EZIE    03000 A7      F7950   X
     0 LDS    0 MTYS      0 TONS      0 FT  BLK SUMMARY
    11 LDS   86 MTYS   4294 TONS   5802 FT  TRAIN TOTAL
       UNITS  14000 OK HORSEPOWER   HPT   3.26  00267 FT
6069 FT-TOTAL TRAIN LENGTH
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COMMENTS BY ROBERT STARZEL, VICE CHAIRMAN, SOUTHERN PACIFIC TRANSPORTATION CO. FOR HEARING HELD BY ASSEMBLYMAN RICHARD KATZ, LOS ANGELES, AUG. 15, 1991

To achieve legislation which effectively improves safe handling of hazardous chemicals first requires an understanding of the interrelated events which collectively produce transportation. The safety of the system as a whole cannot be measured by single events, no matter how tragic they may be.

The second fundamental point to consider is that the railroads are a national system. At this moment we are moving cars from more than 100 different railroads and car owners, which have been maintained, inspected, and repaired on more than 50 different railroads around the country. Locomotives from a dozen railroads may at any time be operating on Southern Pacific, powering run-through trains, or working off mileage credits earned by our locomotives working on their lines. The safety of operations on Southern Pacific is dependent, not just on the employees of Southern Pacific alone, but on uniform practices and procedures followed by inspectors and repairmen on other railroads, in other states, which feed us traffic as part of the national system.

The basic components of the transportation system are locomotives, cars, track, signals, communication and information systems, and people. Management controls seek to bring these components together to work smoothly to produce an efficient, safe, reliable, consistent, transportation product.

Railroads require heavy capital investment, but they simultaneously remain labor intensive. Of our total of around 23,000 rail employees, the majority have first-line positions which significantly affect rail operations. Our systems of control must be well thought out in advance and they are. Railroads operate three to four times more safely than trucks because

potential problems have been well thought through and provided for.

Decisions about how to run railroads through difficult terrain such as the Sacramento River Canyon follow studies of many scenarios and are not lightly made. Neither are the simpler issues of operation of freight trains on relatively level terrain between Los Angeles and Santa Barbara.

Our company does not make an operating profit. We face tremendous rail and truck competition. We cannot rely upon huge commodity shipments such as coal and grain which can be operated more efficiently with few people. We constantly seek to improve the railroad operations to offer better service to our shippers and thereby achieve higher and ultimately profitable traffic levels. Currently we must subsidize the railroad operations, and thus our customers, through application of large amounts obtained from asset sales. What this means to us is that we need to carefully allocate our funds to make them work effectively for us. We constantly need to focus on fundamentals, not cosmetics.

We are very concerned about avoiding derailments. Intense efforts to accomplish this were in place long before these accidents. The cost of failure here is too high for us to do otherwise than that.

Will regulation help? That depends upon what it requires, what it costs, its purpose, and its probable direct result. If it simply generates reports, and creates a corps of kibitzers and paper checkers, nothing will be achieved. That will not help us do our job.

However, if they improve information available, it may help to avoid some confusion at a derailment.

Let's look at the two spills with respect to information available. At

Dunsmuir we knew nothing of metam sodium, how it separated into two compounds, how one could kill fish and other life in the water and how the other was irritating but not deadly. The information process is subject to federal regulation and demands upon the Department of Transportation. Railroads are without power to set requirements for information or to police it. We cannot be experts in the characteristics of the myriad commodities that modern industry produces.

Computer printouts carried by train crews do provide information needed to respond where hazardous materials, designated as such, are involved in an accident. That was the case at Seacliff, where our engineer could walk a short distance to a fire station with up-to-date and useful data on hydrazine, a very difficult chemical to handle.

The difference between those spills is relevant to you. Information provided in advance means no one died, no one was injured, even though the cleanup at Seacliff meant handling a deadly substance. Lack of information at Dunsmuir meant a lot of flailing around before correct action could be taken. It might have made no difference as to the effect on the people, but advance information might have meant the compounds could have been broken down and dispersed close to the spill.

Congress has designated the Department of Transportation as the lead agency to analyze accident statistics, to review rail safety procedures, and to institute rulemaking to be followed nationally. This obviously makes sense, because cost-effective measures which should be instituted to improve safety ought to be installed nation-wide, not on some patchwork pattern which differs from state to state. Recognizing that opinions may differ as to the order of priorities to be followed, and that the railroad industry is

essentially national in character, Congress has designated one agency, DOT, as the agency which is to receive data from the railroads, consider requests from the states for new or revised regulations, and decide what should be implemented, for the safety of people in all states. Whatever you legislate must be consistent with the federal statutory and regulatory scheme. The risk of enacting legislation in California which is inconsistent with federal laws and regulations is not simply that they will be nullified by the federal pre-exemption doctrine, but if they become too burdensome the traffic will have to be priced at such a tariff level that the dangerous chemicals will be forced on to the highways. The safety record of the rail industry is four times better than that of trucking. The rights-of-way are not constantly filled with passenger vehicles and can be controlled. There certainly is no question that rail is the preferred mode of transportation for hazardous loads generally. It would be ironic if through well-meaning efforts to legislate for a safe environment you caused a worse problem. On the I-5 corridor alone, what is currently placarded as hazardous, if moved off the SP and onto the highway, would mean an additional 27,000 trucks every year on that highway. Add what is now classified as non-hazardous, such as the metam sodium which caused the Dunsmuir problem, would mean additional trucks on the roads.

What we ought to do together is insist that the federal legislation and regulations meet the needs of Californians. We will work with you to this end. We have already spearheaded the establishment of a subcommittee to the Inter-Industry Task Force of the American Association of Railroads which would include the CEO's of SP, UP and Conrail together with three major chemical companies. They will promptly present to the Congress and the federal Department of Transportation recommendations to include chemicals not

presently labeled as hazardous under categories requiring the use of strong tank cars. We can incorporate the interests of the State of California through that process. Enactment of different or inconsistent laws introduces confusion and slows response.

Let's look at response. Just so there is no misunderstanding. It is the railroads who perform the work to respond to accidents. All railroads have emergency response teams. Ours is the best. They train emergency workers in fire stations in hundreds of towns and cities along our line, more than 11,000 in 1990. SP people react immediately and arrive quickly on the scene. They also work with long-experienced contractors whose special skills and experience help deal with hazardous materials remediation.

These teams did their work well at both Dunsmuir and Seacliff. Public authorities took charge of public safety, and communication and railroad crews handled most of the physical work.

Our system functions. It ain't broke and should not be "fixed." We and public agencies will work together to improve constantly, but we need no new legislation.

Do reporting requirements need change? Reports are useful to regulatory agencies only if they enhance analysis to predict and then prevent possible accidents. Just creating new reporting demands without a reasonable basis for expectation that they will lead to better operations would not be an efficient nor necessary change. Potentially unnecessary and burdensome requirements serve only to raise costs, create distractions and inefficiencies, and ultimately thereafter affect the jobs of our 10,000 California employees. It is, furthermore, the task of the federal DOT to collect and analyze statistics and reports, and to decide when to move forward.

Much of the publicity and many of the statements in the aftermath of these accidents have created an imbalance in public perception which needs to be righted. Southern Pacific and its employees work hard and effectively to run operations safely. Yet simple-minded critics paint SP and its people to be less than safe. We carry what shippers present to us. Regulations require us to accept traffic even if we prefer not to take it. We make no operating profit to create an insurance fund which can be used to finance amelioration of all problems resulting from derailments. We strive to improve safety and cut risk, and on our mainlines, have a better record than the industry does. That's a reversal from the years ago when we were worse. Safety improvement is a testament to the efforts of our people.

Looking forward, with all that, accidents will happen, as they do for all of us. When they do, we cannot be held to pay for all consequences. Where we could not foresee the causes of consequences, we cannot be expected to pay all costs arising from the accident.

We always try to meet humanitarian needs without regard to liability. We will continue to do that.

Costs cannot be passed through to shippers in all cases. Where they are, it means higher costs to shippers and consumers and ultimately threatens thousands of jobs in agriculture and manufacturing. Or it could mean that more shipments of hazardous materials end up on the highways.

Our rail operations do not currently produce one dollar for capital expenditures. Yet in the last two and a half years we have put more than $700 million cash into capital expenditures. That is no the performance of someone who needs further regulation.

In short, we are already more than meeting our responsibilities. It is

doubtful that additional legislation can do better than the marketplace on this score. Shippers demand reliability and that means fewer derailments. That already motivates the railroads sufficiently.

# # #

TESTIMONY OF THE UNITED TRANSPORTATION UNION

Before the

ASSEMBLY TRANSPORTATION COMMITTEE

TRANSPORTATION OF HAZARDOUS MATERIALS BY RAIL

DO WE NEED MORE PROTECTION?

Hearing Held in Los Angeles, California

Thursday, August 15, 1991

* * *

Submitted

by

James (J.P.) Jones
State Legislative Director

Good Morning Mr. Chairman and Members:

My name is James (J.P.) Jones. I am the California State Legislative Director for the United Transportation Union. With me today is Mr. John Easley, International Vice President of the United Transportation Union.

The United Transportation Union represents, among others, operating employees on all major Class 1 railroads in California (**Southern Pacific; Union Pacific; & Atchison, Topeka & Santa Fe**), as well as many shortline railroads within the state. Our organization represents the conductors, assistant conductors, brakemen, yard operating personnel (switchmen), firemen, and a large number of locomotive engineers that are the operating employees of these railroads.

Our organization appreciates the invitation to comment and participate in your hearing today. Our organization has an ongoing and sincere interest in safe rail operations within the State of California, but especially those rail operations where hazardous materials are being handled and transported. Our organization is convinced that the information developed at this hearing today will serve to enhance the preservation of safety on all railroads in California.

Our organization would take this opportunity to commend you personally, Mr. Chairman, the members of this committee, as well as your able staff, for the leadership role which has been displayed by the holding of this hearing today.

"Do we need more protections in the **transportation of hazardous materials by Rail**?" The answer to this question is a clear and emphatic YES. Some of the actions which the California Legislature can take to both support the needed protections, as well as to enhance existing protections, are as follows:

1.) Support the enforcement and enhancement of **General Order No. 161**, which was recently adopted (08/07/91), by the California Public Utilities Commission (copy attached). An enhancement our organization would suggest is a requirement for additional copies of the EMERGENCY RESPONSE INFORMATION, already required by federal regulations to be given to the train crew, for use by representatives of emergency response agencies at the accident/incident scene. Additional copies of this information, kept in the possession of the train crew for the use of emergency response personnel, would certainly reduce the response time for corrective action to commence.

2.) Support **House Resolution No. 2607**, currently pending before the United States Congress. This legislation is known as the Rail Safety Reauthorization Act of 1991. A copy of H.R. 2607, as well as a section-by-section analysis of the proposal is attached for your information and review.

3.) Support and encourage a **requirement for additional safeguards and protections to be placed on all railroad tank cars in the existing car fleet**, as well as those which may be built in the future. This would include **mandatory head shields, thermal protection, and shelf couplers.** Head shields are extra thick plating on each end of the car to protect against punctures of the tank car from objects during a derailment. Thermal protection reduces the possibility of tank car ruptures under fiery accident conditions. Shelf couplers are devices which reduce the potential for the car couplers to punch holes in other cars during an accident, by keeping the cars attached (coupled) to each other during derailments.

4.) Support and endorse the full and complete **implementation** of the **1990 Hazardous Materials Transportation Uniform Safety Act.** This federal legislation was enacted by Congress to attempt to achieve greater uniformity in the regulations governing **the transportation of Hazardous Materials.** Our organization believes that one of the priority items that should be immediately implemented is to allow for full **state participation in the FRA's Hazardous Material inspection program.** This will allow for the State of California, through the California Public Utilities Commission, to enforce current federal regulations dealing with Hazardous Materials.

5.) Support and encourage the **consolidation of the U.S. Department of Transportations' Hazardous Materials list** with the Hazardous Materials list of the **U.S. Coast Guard.** This consolidation will address the question of **safe rail transportation, near or adjacent to bodies of water, of commodities** such as the material involved in the **Dunsmuir disaster** (metam sodium), which is classified as a Hazardous Material by the U.S. Coast Guard, but not by the U.S. Department of Transportation.

Your announcement letter for today's hearing indicated that the Committee would examine the circumstances surrounding and the issues raised by the two (2) recent train derailments and toxic spills near Dunsmuir and near Santa Barbara. Our organization strongly believes that both of these unfortunate and costly derailments could have been avoided by implementation of **"common sense"** railroad operational practices. We shall comment on each of the derailments, pointing out some of the peculiarities in each of these incidents, which we feel could have avoided both of these unfortunate incidents.

DUNSMUIR: This derailment could have been avoided had there been sufficient helper locomotives added to this train. The **helper locomotives would have assisted** in the trip up and through this mountainous territory. The **helpers would have allowed for a reduction of the strain on the cars** toward the front of the train, **by the helper locomotives pushing from the rear.** With the entire motive power of the train coming from the lead locomotives, as was the case in the Dunsmuir situation, the greatest strain is on the cars closest to the lead locomotives; thereby, contributing to the "Stringlining", which took place.

The only other alternative to avoid the Dunsmuir derailment was to rearrange the loads and empties in the train to allow for more equalized distribution of the total weight. This would have

required a relocation of the loads, which were primarily towards the rear of the train, to be redistributed in the middle or front end of the train.

SANTA BARBARA (SEACLIFF): This particular derailment could have been avoided. It could have been avoided if either: (1) heat-sensitive detectors, located trackside, would have been placed closer than 35 miles away from the derailment; and/or (2) if an occupied caboose had been the rear car of this train.

(1) HEAT-SENSITIVE DETECTORS (Hot-Box Detectors): Our organization believes that these types of wayside detectors, as well as dragging equipment detectors, do serve a useful safety function in rail operations. However, these detectors, once installed, must be maintained to function properly. Our organization believes there is a grossly insufficient amount of these wayside detectors currently in place. Clearly, there is an insufficient number of wayside detectors for operation of hazardous materials commodities by RAIL. If heat-sensitive detectors would have been installed less than 35 miles apart in this area, this tragedy would have been avoided. More frequently-spaced dragging equipment detectors could have detected the derailed train once it was on the ground.

(2) OCCUPIED CABOOSE: A trained railroad operating employee, occupying a caboose on the rear of the Seacliff train, would have also prevented this derailment. This trained railroad employee in the caboose would have been observing forward, and to the side of train, looking intently for such things as;

(1) fires adjacent to the track right-of-way as the caboose passed;
(2) to see if things such as smoke, fire, sparks, or dust were coming from any of the cars in the train; and
(3) any marks or cuts (gouges) in the ties and ballast of the road bed, or in the pavement of an at-grade street crossing, which would indicate danger.

Also, a trained operating railroad employee would be very attentive to any unusual smells they may detect, such as those associated with any of the circumstances listed above.

All of the above-listed occurrences are an indication to the trained railroad operating employee that danger exists and corrective action needs to be taken.

In the unlikely event that the presence of an occupied caboose could not have prevented this derailment itself, clearly, the amount of damage and destruction which was caused, could have been significantly reduced by an early detection of the warning signs and simply taking quick decisive action to stop the train.

In closing, our organization would again like to restate our gratitude to the committee for the opportunity to express our views on the general subject of **HAZARDOUS MATERIALS TRANSPORTATION BY RAIL**, as well as the specific circumstances and issues surrounding the **derailments at Dunsmuir and Santa Barbara (Seacliff)**.

This concludes the formal written presentation of our organization of the hearing today, and both Mr. Easley and myself are available for any questions you, the committee members, or your staff may have.

Thank you.

Enclosures 2 - General Order No. 161 (Adopted 8/7/91)
House Resolution No. 2607 (With Analysis)

JPJ:cw

ALJ/AVG/jft

Mailed

AUG 9 1991

Decision 91-08-019 August 7, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Adopt a General Order Prescribing Rules and Regulations for the Transportation of Hazardous Materials by Rail.	)	R.88-07-039 (Filed July 22, 1988)

O P I N I O N

Summary of Decision

Due to the increased transportation of hazardous materials by rail throughout the state and incidents involving hazardous materials which pose a threat to public safety and the environment, the Commission today adopts rules and regulations governing the transportation of hazardous materials by rail. The recent tragic spill of toxic liquid from a derailed tank car near Dunsmuir highlights the need to ensure that this state and its communities can rely on railroads having solid effective emergency preparedness plans. The rules we adopt today have been under development for some time. They address a number of concerns relating to the transportation of hazardous materials, such as local emergency response in the event of an incident and the storage of hazardous materials. We are confident that they fill a void in the existing state-federal regulatory scheme governing the regulation of hazardous materials transportation by rail.

While we recognize that federal rules extensively regulate the transportation of hazardous materials, coordination between the state, local agencies, and the railroads, particularly in the area of emergency response, is necessary to enhance safety in the transportation of hazardous materials. These rules are intended to complement the federal regulatory framework by, among other things, encouraging communication between local emergency response agencies and railroads transporting hazardous materials.

Many other states have adopted hazardous materials regulations. Because these rules address safety concerns not addressed by the federal rules, we conclude that these rules are not preempted by federal law.

Background

On July 22, 1988, the Commission issued an Order Instituting Rulemaking (R.) 88-07-039 to adopt a general order (GO) prescribing rules and regulations for the transportation of hazardous material by rail.

A copy of the proposed GO was served on all railroad corporations subject to the Commission's jurisdiction (respondents), and to all police, sheriff, and fire departments through whose jurisdictions common carrier rail operations occur. The Commission invited respondents and other parties to comment on the proposed GO.

Law enforcement agencies and fire departments supported the GO. However, certain parties opposed the proposed GO on grounds that the rules were (1) preempted by federal law and (2) unduly burdensome.

After reviewing the objections to the proposed GO, the Transportation Division of the Commission filed a motion on November 10, 1988 requesting suspension of the schedule for filing reply comments. The Transportation Division also requested hearings on the proposed GO to resolve factual contentions raised by parties. On November 16, 1988, the Administrative Law Judge (ALJ) extended the deadline for filing reply comments on the proposed GO indefinitely.

On February 15, 1989, the Commission created the Safety Division and transferred responsibility for monitoring railroad safety from the Transportation Division to the Railroad Safety Branch (Safety Branch) of the Safety Division. Safety Branch modified the proposed GO. The modified GO prescribed rules and regulations for the transportation of hazardous material by rail

which, according to Safety Branch, were not preempted by federal law and were not burdensome to railroads.

On September 28, 1989, Safety Branch filed a motion requesting hearings on the modified GO. Safety Branch's motion also requested that a prehearing conference be held to schedule hearings and the exchange of prepared testimony. A copy of the modified GO was attached to the motion. The ALJ allowed parties until November 30, 1989, to file comments on the modified GO as well as Safety Branch's request to hold hearings. (ALJ ruling dated October 4, 1989.)

Various parties including certain fire and police departments, The Atchison, Topeka and Santa Fe Railway Company (Santa Fe), Southern Pacific Transportation Company (Southern Pacific), Union Pacific Railroad (Union Pacific), and the California Manufacturers Association (CMA) filed comments on Safety Branch's motion. The fire and police departments which filed comments supported the modified GO. CMA and the railroad companies pointed out various problems and ambiguities in the modified GO. To remove ambiguities, parties provided extensive comments on the proposed rules and requested explanations.

As to Safety Branch's request for hearings, CMA and the railroads urged that the question of hearing be addressed only after Safety Branch responded to the comments regarding ambiguities and clarified its proposed rules.

On February 1, 1990, Safety Branch filed a motion to hold a prehearing conference. Safety Branch claimed that a prehearing conference would provide the best means to formulate legal and factual issues in the case.

Santa Fe and Southern Pacific filed responses to Safety Branch's February 1, 1990 motion. These railroads reiterated their claim that Safety Branch's request for a prehearing conference would not be useful until the questions raised in respondents' November 30, 1989 filings were answered.

The ALJ denied Safety Branch's request for a prehearing conference and directed Safety Branch to file its response to the issues raised by CMA, Santa Fe, Southern Pacific, and Union Pacific. (ALJ ruling dated March 21, 1990.)

On June 22, 1990, Safety Branch filed its response to questions raised by CMA, Santa Fe, Southern Pacific, and Union Pacific. Safety Branch explained the modified GO and answered the question raised by the parties. Safety Branch made additional revisions to the GO.

Subsequent to June 22, 1990, Safety Branch met informally with Santa Fe, Southern Pacific, and Union Pacific to resolve any disagreements about the GO revisions. Based on these discussions, Safety Branch further revised the GO and filed a motion on March 29, 1991 to adopt the GO. The GO in its final form is designated as GO 161 and is attached to this order as Appendix A.

In its motion Safety Branch contends that GO 161 is not preempted by federal law and is not burdensome. Safety Branch asserts the need for GO 161 as a supplement to other federal and state requirements to enhance public safety and to protect the environment.

Cities of Azusa, Downey, El Segundo, and Santa Clarita filed comments in support of Safety Branch's motion to adopt GO 161.

Southern Pacific and Union Pacific also filed comments on Safety Branch's motion to adopt GO 161. Although Southern Pacific and Union Pacific do not oppose the adoption of GO 161, they believe that there is a substantial likelihood that GO 161 is preempted by the Federal Railroad Safety Act (FRSA) and the Hazardous Materials Transportation Act (HMTA).

Safety Branch filed a response to comments filed by Southern Pacific and Union Pacific.

Following is a brief description of positions of parties.

Position of Southern Pacific

Southern Pacific recommends that GO 161, if adopted, should be submitted to the Research and Special Programs Administration (RSPA) of the Department of Transportation for a determination of federal preemption. Southern Pacific also recommends that GO 161 should contain an additional rule (Rule 10) which should read as follows:

"Rule 10

> To the extent that the provisions of this General Order conflict or are inconsistent with Federal statutes or regulations, the Federal requirements shall prevail."

Position of Union Pacific

According to Union Pacific, FRSA provides that states may not "adopt or continue in force any law, rule, regulation, order or standard relating to railroad safety" if the Secretary of Transportation has adopted rules on the same subject. Union Pacific cites CSX Trans. Inc. v Public Utilities Commission of Ohio, (6th Cir. 1990) 901 F 2d. 497, in which the Federal Appeal Court invalidated an Ohio statute that had adopted the provisions of HMTA as state law. The court ruled that because the HMTA, and the implementing rules adopted by DOT, were laws "relating to railroad safety," the FRSA precluded Ohio from adopting the HMTA as state law. On January 22, 1991, the United States Supreme Court refused to review the 6th Circuit's ruling.

Union Pacific opines that although Congress amended HMTA (after the CSX case) by adopting the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), which authorizes the states to participate in the enforcement of HMTA violations, there is still a possibility that provisions of GO 161 may be preempted by FRSA and HMTUSA.

Position of Safety Branch

According to Safety Branch, although CSX Transportation is not binding on this Commission, it has withdrawn its recommendation to adopt any provisions of HMTA in GO 161. Safety Branch believes that no other provisions of GO 161 are preempted by federal law under the provisions of FRSA or HMTA.

Safety Branch also disagrees with Southern Pacific's recommendations to submit GO 161 to RSPA for a determination of preemption and to add Rule 10 to GO 161. Safety Branch maintains that the Commission has the initial authority to determine if its rules are preempted by federal law. Safety Branch asserts that it has responded to Southern Pacific's and other railroads' preemption arguments and that the Commission has adequate information to determine if GO 161 is preempted by federal law. According to Safety Branch, a decision to adopt GO 161 will, implicitly if not explicitly, constitute a determination that the Commission is not preempted by federal law. Safety Branch opines that the Commission, having made a determination about federal preemption, should not apply to RSPA for a ruling.

Discussion

The key provisions of GO 161 will require each railroad which transports hazardous materials to:

1. Immediately notify by telephone the appropriate emergency response agency (ERA) about a release or threatened release of a hazardous material.

2. Provide ERAs along each rail line the railroad's 24-hour emergency telephone number.

3. Have in place an emergency preparedness plan to respond to hazardous material spills.

4. Ensure that train crew members have the ability to communicate via radio transceivers with each other and with the train dispatcher.

Neither FRSA nor HMTA/HMTUSA include such specific provisions. Therefore, the provisions of GO 161 supplement, rather than duplicate or conflict with, federal safety requirements; and they are needed to address valid health and safety concerns arising out of transportation of hazardous material by rail. Adoption of GO 161 will enable an ERA to mitigate the harmful effects of accidental release of hazardous material transported through the agency's jurisdiction. We will adopt GO 161.

Turning to Southern Pacific's and Union Pacific's federal preemption concerns, these railroads assert only that there is a likelihood that GO 161 is preempted by federal law. The railroads have not cited any specific provision of GO 161 which would be preempted by federal law nor have they cited any federal statutes which prevent a state agency from adopting rules which do not duplicate or conflict with federal law. Besides, we have already noted that neither FRSA nor HMTA/HMTUSA include the specific provisions of GO 161. In its final form, proposed GO 161 does not conflict with federal statutes. We believe that no purpose would be served by submitting GO 161 to RSPA for determination of preemption.

Finally, we see no need to add Southern Pacific's proposed Rule 10 to the GO. If a party perceives a conflict between provisions of the GO and federal statutes, the party can raise the issue in an appropriate forum.

Findings of Fact

1. On July 22, 1988, the Commission issued R.88-07-039 to adopt a GO prescribing rules and regulations for transportation of hazardous material by rail.

2. All railroad corporations subject to the Commission's jurisdiction were made respondents to this rulemaking.

3. A copy of the proposed GO was served on respondents and on all police departments, sheriffs, and fire departments through whose jurisdictions common carrier rail operations are conducted.

4. Respondents and other parties were invited to comment on the proposed GO.

5. Law enforcement agencies and fire departments supported the proposed GO.

6. Certain parties opposed the proposed GO on grounds that the rules were (1) preempted by federal law and (2) unduly burdensome.

7. Safety Branch met informally with railroad companies to resolve any disagreements regarding the proposed revisions to the GO.

8. Based on its discussion with the railroad companies Safety Branch revised the proposed GO.

9. The revised GO, which in its final form is designated as GO 161, is included in Appendix A.

10. On March 29, 1991, Safety Branch filed a motion to adopt GO 161.

11. Safety Branch contends that GO 161 is not preempted by federal law because it has removed all provisions from the GO which would duplicate federal requirements for railroad safety.

12. Southern Pacific and Union Pacific believe that there is a possibility that GO 161 is preempted by FRSA and HMTA/HMTUSA.

13. Provisions of GO 161 require railroads which transport hazardous material to notify the appropriate ERA regarding release or potential release of hazardous material.

14. Provisions of GO 161 require railroads which transport hazardous material to have an emergency preparedness plan and to have other safety devices such as radio communication available to its crews.

15. Neither FRSA nor HMTA/HMTUSA contain the specific provisions included in GO 161.

16. No party has requested a hearing in the matter.

Conclusions of Law

1. No hearings are necessary.

2. GO 161 is needed to address valid health, safety, and environmental concerns arising out of transportation of hazardous material by rail.

3. GO 161 is not preempted by federal law.

4. GO 161 included in Appendix A should be adopted.

5. Concern for public safety requires that this order be made effective immediately.

O R D E R

IT IS ORDERED that:

1. Appendix A is adopted as General Order 161 of the Commission.

2. The proceeding is closed.

This order is effective today.

Dated August 7, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
NORMAN D. SHUMWAY
Commissioners

Commissioner Daniel Wm. Fessler, being necessarily absent, did not participate.

APPENDIX A

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GENERAL ORDER NO. 161

RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF HAZARDOUS MATERIALS BY RAIL

Adopted August 7, 1991 Effective August 7, 1991

IT IS ORDERED that these regulations for the safe transportation of hazardous materials by railroads shall be observed in the State on tracks served, leased, owned or operated by common carrier railroads.

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RULE 1 - PURPOSE

The purpose of this order is to establish safety standards for the rail transportation of hazardous materials. These rules and regulations supplement the Hazardous Materials Regulations prescribed by the United States Department of Transportation, Title 49 of the Code of Federal Regulations, Parts 171-174, 178 and 179 and implement the overall state policy of promoting railroad safety as set forth in California Public Utilities Code sections 768 and 7671-7673.

RULE 2 - DEFINITIONS

Unless the context otherwise requires, the following definitions govern the construction of this Order:

2.1 "Administering agency" means such agency as defined in Health and Safety Code section 25501(a).

2.2 "Commission" means the California Public Utilities Commission.

2.3 "Emergency response agency" ("ERA") means the fire department or district or other public agency with responsibility for responding to an emergency occurring in the area of an incident.

2.4 "Hazardous materials" means any material transported by rail which is designated "hazardous material", "hazardous substance", or "hazardous waste" under Title 49 of the Code of Federal Regulations, section 171.8, as may be revised, amended, and published in the Federal Register.

2.5 "Identification number" means the identification number assigned to hazardous materials in Title 49 of the Code of Federal Regulations, Part 172, Subpart B.

2.6 "Incident" means any condition involving a release or threatened release of hazardous materials where there is a reasonable belief that the actual or threatened release poses a significant present or potential harm to persons, property or the environment.

2.7 "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, unless permitted or authorized by a regulatory agency.

2.8 "STCC" means the first four digits of the Standard Transportation Commodity Code, as contained in Standard Transportation Commodity Code Tariff STCC 6049 series, as amended, and all supplements issued thereafter.

2.9 "Threatened release" means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or the environment.

RULE 3 - EMERGENCY NOTICE OF INCIDENT

3.1 Each railroad shall immediately notify by telephone the appropriate ERA of any incident, as defined in Rule 2.6 in addition to any other state or federal reporting requirements.

3.2 To comply with Rule 3.1, each railroad which transports hazardous materials in California shall provide to each of its dispatchers procedures for the immediate notification of the appropriate ERA of any incident. Such procedures shall include the name and 10-digit (area code and local number), 24-hour emergency number of each ERA along each rail line.

RULE 4 - NOTIFICATION REQUIREMENTS

4.1 Each railroad shall provide to each ERA along each rail line the railroad's current 10-digit, 24-hour emergency telephone number(s). The railroad shall notify each ERA of any change in the emergency telephone number(s).

4.2 Within 60 days of a written request by an ERA or an administering agency, the railroad shall provide to the ERA or administering agency a list of each type of hazardous material, by hazard class and by carload or container, transported through or within the line segment that includes the ERA or administering agency, for the most recent prior 12-month period available.

4.3 Upon written request by an ERA or an administering agency, the railroad shall provide to the ERA or administering agency the following information regarding leases for storage of hazardous materials within the jurisdiction of the requesting ERA or administering agency:

a) Name of the commodity, STCC and identification number;
b) Maximum number of cars to be stored at any one time; and
c) Location of cars specific to track number and street address.

RULE 5 - EMERGENCY PREPAREDNESS PLAN

Each railroad which transports hazardous materials in California shall have an emergency preparedness plan. The plan shall include, as a minimum, the following:

a) Notification procedures for advising the appropriate ERA in case of an incident;
b) Procedures for mitigation of a release or threatened release to minimize any potential harm or damage to persons, property or the environment; and
c) Training procedures to instruct railroad personnel on what actions to take in the event of an incident.

RULE 6 - RADIO REQUIREMENTS

To ensure that train crew members have the ability to communicate with each other and with the train dispatcher while transporting hazardous materials, all trains (including yard and switch engines) transporting hazardous materials shall be equipped with at least two (2) radio transceivers in good working order. The radios shall be able to transmit and receive on the same frequency. One radio shall be in the lead locomotive and at least one radio shall be of the handheld type. If a radio becomes inoperable, it shall be repaired or replaced at the earliest practicable opportunity.

RULE 7 - RULES APPLICABLE TO INDUSTRIAL TRACK

7.1 The Commission adopts as its own standards, and incorporates by reference, the Track Safety Standards contained in Part 213 of Title 49 of the Code of Federal Regulations, and any subsequent revisions thereto, for application to railroad track outside the general railroad system of transportation.

7.2 Each railroad shall provide its customers with appropriate standards for static protection for all track over which the railroad operates which is outside the general railroad system of transportation and which is used for the transfer of flammable liquids and flammable gasses.

7.3 When a railroad transporting hazardous materials is notified or otherwise becomes aware that the standards set forth in Rules 7.1 and 7.2 are not met, the railroad shall not operate on an affected track until the standards are met or until appropriate remedial action is taken.

RULE 8 - INSPECTION OF DOCUMENTS BY COMMISSION STAFF

Upon request by a duly authorized representative of this Commission, each railroad shall provide for inspection, at an office in California, any documents required by this Order. (See Public Utilities Code section 314(a).)

RULE 9 - EXEMPTIONS

BY WRITTEN REQUEST. If, in a particular case, exemption from any of these rules and regulations is desired, a written request may be made to the Commission for such exemption. Such a request shall be accompanied by a full statement of the conditions existing and the reasons relied on to justify the exemption. It is to be understood that any exemption so granted shall be limited to the particular case covered by the request.

(END OF APPENDIX A)

102D CONGRESS
1ST SESSION

H. R. 2607

To authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 through 1994, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 1991

Mr. SWIFT introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 through 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Enforcement and Review Act".

SEC. 2. ISSUANCE OF REGULATIONS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended—

(1) in subsection (a), by striking ", as necessary." both places it appears;

(2) in subsection (d), by striking "take such action as may be necessary to";

(3) in subsection (g), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(4) in subsection (h)(1)(A)—

(A) by striking "such initial rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "initial rules, regulations, orders, and standards";

(B) by striking "make such revisions in any" and inserting in lieu thereof "revise"; and

(C) by striking "as may be necessary" and inserting in lieu thereof ", based on such additional safety data as may be presented to the Secretary in such review";

(5) in subsection (i)(1), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(6) in subsection (n)—

(A) by striking "such rules, regulations, orders, and standards as may be necessary"

and inserting in lieu thereof "rules, regulations, orders, and standards";

(B) by striking "including" and inserting in lieu thereof "on railroad bridges. At a minimum, the Secretary shall provide";

(C) by striking "such as" and inserting in lieu thereof "including"; and

(D) by striking "relating to instances when boats shall be used" and inserting in lieu thereof "for the use of boats when work is performed on bridges located over bodies of water";

(7) in subsection (o)(1), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards"; and

(8) in subsection (q), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards".

SEC. 3. REMEDIAL ACTIONS.

(a) REPORT BY RAILROADS.—Any railroad required, under the authority of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.), or the Act of March 4, 1907 (45 U.S.C. 61 et seq.; commonly

referred to as the "Hours of Service Act") to undertake remedial action, shall be required by the Secretary of Transportation (hereafter in this Act referred to as the "Secretary") to report on the execution of such remedial action.

(b) REPORT TO CONGRESS.—The Secretary shall, within one year after the date of enactment of this Act, submit a report to the Congress outlining procedures established to ensure that remedial actions described in subsection (a) are executed.

SEC. 4. ENFORCEMENT.

(a) MINIMUM AND MAXIMUM PENALTIES.—(1) Section 209(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(b)), section 6 of the Act of March 2, 1893 (45 U.S.C. 6; commonly referred to as the "Safety Appliance Acts"), section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act"), section 25(h) of the Act of February 4, 1887 (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act"), and section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") are each amended by striking "$250" and inserting in lieu thereof "$1,000".

(2) Section 5(a)(1) of the Act of March 4, 1907 (45 U.S.C. 64a(a)(1); commonly referred to as the "Hours of

Service Act") is amended by striking "penalty of up to $1,000 per violation, as the Secretary of Transportation deems reasonable," and inserting in lieu thereof "civil penalty in an amount not less than $1,000 nor more than $10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed $20,000 may be assessed, and".

(3) Section 2 of the Act of May 6, 1910 (45 U.S.C. 39; commonly referred to as the "Accident Reports Act") is amended by striking "one hundred dollars" and inserting in lieu thereof "$1,000".

(4) Section 3711(c)(2) of title 31, United States Code, is amended by striking "$250" and inserting in lieu thereof "$1,000".

(b) ENFORCEMENT DECENTRALIZATION PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a pilot program, involving more than one region of the Federal Railroad Administration, to demonstrate procedures designed to reduce the backlog of cases, reduce the workload of headquarters staff, streamline initial case review, and streamline transmittal and settlement procedures, with respect

to the enforcement responsibilities of the Federal Railroad Administration.

(2) ELEMENTS OF PROGRAM.—The pilot program established under paragraph (1) shall provide for regional directors to be authorized to perform initial case review, assess penalties, and settle cases. With respect to a violation for which a regional director assesses a penalty in excess of $5,000, the person against whom such penalty is assessed may request that settlement-related actions be taken at the headquarters level.

(3) COMPLETION AND REPORT TO CONGRESS.—The pilot program established under paragraph (1) shall be completed within 18 months after the date of enactment of this Act, and within 2 years after such date of enactment the Secretary shall submit a report to the Congress describing the results of such pilot program.

(c) CONSIDERATIONS FOR COMPROMISE OF CIVIL PENALTIES.—(1) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) by inserting "In compromising a civil penalty assessed under this section, the Secretary shall consider the safety record of the person to whom the penalty applies subsequent to the date of the

violation with respect to similar violations or the same locations." after "referral to the Attorney General.".

(2) Section 5(e) of the Act of March 4, 1907 (45 U.S.C. 64a(e); commonly referred to as the "Hours of Service Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall consider the safety record of the person to whom the penalty applies subsequent to the date of the violation with respect to similar violations or the same locations.".

(3) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6; commonly referred to as the "Safety Appliance Acts") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall consider the safety record of the person to whom the penalty applies subsequent to the date of the violation with respect to similar violations or the same locations.".

(4) Section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall consider the safety record of the person to whom the penalty applies subsequent to the date

of the violation with respect to similar violations or the same locations.".

(5) Section 25(h) of the Act of February 4, 1887 (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall consider the safety record of the person to whom the penalty applies subsequent to the date of the violation with respect to similar violations or the same locations.".

(6) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall consider the safety record of the person to whom the penalty applies subsequent to the date of the violation with respect to similar violations or the same locations.".

SEC. 5. JUDICIAL REVIEW.

(a) IN GENERAL.—Except as provided in section 203 and 210 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 432 and 439), a proceeding to enjoin or suspend, in whole or in part—

(1) a rule, regulation, or order of the Secretary of Transportation under the Federal Railroad Safety

Act of 1970 (45 U.S.C. 431 et seq.), the Act of March 2, 1893 (45 U.S.C. 1 et seq.; commonly referred to as the "Safety Appliance Acts"), the Act of May 6, 1910 (45 U.S.C. 38 et seq.; commonly referred to as the "Accident Reports Act"), section 25 of the Act of February 4, 1887 (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act"), the Act of February 17, 1911 (45 U.S.C. 22 et seq.; commonly referred to as the "Locomotive Inspection Act"), the Act of Mareh 4, 1907 (45 U.S.C. 61 et seq.; commonly referred to as the "Hours of Service Act"); or

(2) to the extent applicable solely to railroads, a rule, regulation, or order of the Secretary of Transportation under any other Act,

shall be brought in the court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

(b) TECHNICAL AMENDMENTS.—(1) Section 202(f) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(f)) is amended by striking "chapter 7 of title 5 of the United States Code" and inserting in lieu thereof "section 5 of the Rail Safety Enforcement and Review Act".

(2) Section 2341(3)(B) of title 28, United States Code, is amended by inserting "or the Secretary of Transportation" after "Secretary of Agriculture".

(3) Section 2342 of title 28, United States Code, is amended—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(7) all rules, regulations, or final orders described in section 5(a) of the Rail Safety Enforcement and Review Act.".

SEC. 6. PROTECTION OF RAILROAD SAFETY ENFORCEMENT PERSONNEL.

Section 1114 of title 18, United States Code, is amended by inserting "any officer or employee of the Federal Railroad Administration assigned to perform investigative, inspection, or law enforcement functions," after "any employee of the Coast Guard assigned to perform investigative, inspection or law enforcement functions,".

SEC. 7. POWER BRAKE SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(r) POWER BRAKE SAFETY.—(1) The Secretary shall conduct a review of the Department of Transportation's rules with respect to railroad power brakes, and, within 18 months after the date of enactment of this subsection, shall revise such rules based on such safety data as may be presented during that review.

"(2) In carrying out paragraph (1), the Secretary shall, at a minimum, consider—

"(A) whether to require 2-way end of train devices (or devices able to perform the same functions) to enable a train crew to initiate braking from the rear of a train; and

"(B) whether to issue requirements or standards regarding dynamic braking equipment.

"(3) The Secretary shall, within 2 years after the date of enactment of this subsection, report to the Congress on the results of the review conducted under paragraph (1) and any revisions of rules or other actions taken in connection therewith.".

SEC. 8. TRACK SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(s) TRACK SAFETY.—(1) The Secretary shall, within 6 months after the date of enactment of this subsection, initiate a review of the Department of Transportation's standards relating to track safety. Within 2 years after the date of enactment of this subsection, the Secretary shall issue rules, regulations, orders, or standards to revise such standards, based on such safety data as may be presented during that review.

"(2) The review required under paragraph (1) shall, at a minimum, address—

"(A) procedures associated with maintaining and installing continuous welded rail and its attendant structure;

"(B) revisions to rules with respect to track subject to exception from track safety standards; and

"(C) employee safety.".

SEC. 9. APPLICABILITY OF RULES, REGULATIONS, ORDERS, AND STANDARDS.

(a) APPLICABILITY.—Section 202(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(a)) is amended by adding at the end the following: "Rules, regulations,

orders, and standards issued by the Secretary under this title shall apply to any owner, manufacturer, lessor, or lessee of railroad equipment or facilities, to any contractor providing goods or services to a railroad, and to any employee of such owner, manufacturer, lessor, lessee, or contractor, to the same extent as they apply to a railroad with respect to the same activities.".

(b) PENALTIES.—Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended by inserting ", an owner, manufacturer, lessor, or lessee of railroad equipment or facilities, a contractor providing goods or services to a railroad, and any employee of such owner, manufacturer, lessor, lessee, or contractor" after "agent of a railroad".

SEC. 10. LOCOMOTIVE CAB SAFETY AND WORKING CONDITIONS.

The Secretary shall, within 18 months after the date of enactment of this Act, submit to the Congress a report on the status of efforts to improve the safety of employees in locomotive cabs. Such report shall, at a minimum, address—

(1) the crashworthiness of existing locomotives of various designs, including issues raised by different sill heights;

(2) the effectiveness in improving crashworthiness of adding features such as collision posts, anticlimber devices, thicker hoods, and occupant restraints;

(3) the estimated costs and benefits associated with various improvements to crashworthiness;

(4) the advisability of requiring the retrofitting of locomotives built before August 1, 1990, in accordance with the Locomotive Crashworthiness Requirements Standard S–580, adopted by the Association of American Railroads in 1989;

(5) whether locomotives equipped with toilets should be subject to requirements that such toilets are functioning, sanitary, and maintained on a regular basis;

(6) the effects on train crews of the presence of asbestos in locomotive components; and

(7) the Secretary's plans for related regulatory action or, if no regulatory action is planned, an explanation of why the Secretary considers such action unnecessary.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

Section 214(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444(a)) is amended by inserting ", $51,524,000 for fiscal year 1992, $55,022,100 for fiscal

year 1993, and $57,933,400 for fiscal year 1994" after "fiscal year 1991".

SEC. 12. LOCAL RAIL FREIGHT ASSISTANCE PROGRAM.

Section 5(q) of the Department of Transportation Act (49 U.S.C. App. 1654(q)) is amended—

(1) by inserting "There are authorized to be appropriated to the Secretary for the purposes of this section $20,000,000 for fiscal year 1991, $22,000,000 for fiscal year 1992, $27,000,000 for fiscal year 1993, and $30,000,000 for fiscal year 1994." after September 30, 1990."; and

(2) by striking "any period after September 30, 1990" and inserting in lieu thereof "any period after September 30, 1994".

O

Section-by-Section Analysis
HR 2607
Proposed Legislation to Reauthorize Railroad Safety Programs
July 11, 1991

Section 1. Short Title.

Provides short title: "Rail Safety Enforcement and Review Act of 1991."

Section 2. Issuance of Regulations.

This section clarifies existing provisions of law directing the Secretary of Transportation to issue regulations regarding certain safety issues. It reaffirms the intent of Congress that such regulations were required to be issued by the Rail Safety Improvement Act of 1988, and confines the issue of agency discretion to the content of regulations.

Section 3. Remedial Actions.

The General Accounting Office reported to Congress that FRA currently does not monitor whether railroads take action to correct safety defects identified by agency inspectors. This section requires railroads to report remedial actions taken. In addition, it requires FRA to monitor this reporting to ensure such remedial actions are implemented.

Section 4. Enforcement.

This section implements three additional recommendations of the General Accounting Office.

Subsection (a) increases minimum civil penalties for regulatory violations from $250 to $1000. Maximum penalties were increased from $2500 to $10,000 by the Rail Safety Improvement Act of 1988; the section seeks to make changes in minimum penalties commensurate with those in maximum penalties. In addition, it conforms all existing railroad safety statutes to a single civil penalty standard.

Subsection (b) requires the Secretary to run an pilot program to experiment with conducting enforcement activity in regional offices. The pilot will be based on a similar program that has been run successfully by the Federal Highway Administration. FHWA regional directors have been permitted to conduct initial case reviews, assess penalties, and settle cases on a trial basis. The goals are to reduce the time lag between violation reporting and case settlement; confine the cases settled by Headquarters attorneys to only the most serious; and give headquarters attorneys more time for regulatory and legislative matters. The pilot program will be followed by a report to Congress summarizing the results.

Subsection (c) amends the provision of law that allows the Secretary to compromise civil penalties during settlement. When exercising the option to compromise penalties, the Secretary will now be required to consider the safety compliance record of a railroad subsequent to the assessment of the penalties being settled.

Section 5. Judicial Review.

Current law allows parties in dispute with rules, regulations orders and standards issued by the Secretary in matters of rail safety to challenge the Secretary's actions in District Court. This provision enables such parties to proceed directly to the court of appeals to challenge any rule, regulation, order, or standard regarding rail safety. This conforms the rail mode to judicial review procedures for both the highway and aviation mode.

Section 6. Protection of Railroad Safety Enforcement Personnel.

This section makes it a federal crime for a person to assault an officer or inspector of the FRA. Similar protection is accorded employees of other federal agencies involved in inspection and investigative activities.

Section 7. Brake Safety.

The FRA Power Brake Rules have not been comprehensively reviewed in over a decade. In the time since, the industry has undergone significant transition. New technologies have developed, and continue to evolve. This section requires FRA to reopen its Power Brake Rules and examine the potential safety benefits of requiring the use of two-way end of train devices that enable a train crew located in a locomotive to apply brakes from the rear of the train. In addition, the section asks the agency to evaluate rules, regulations, or standards on dynamic braking equipment.

Section 8. Track Safety.

FRA has not reviewed its track standards since 1982. However, a string of accidents related to defects in continuous welded rail has taken place over the past few years. These incidents have been caused by buckling of welded rail under extreme heat. Known as "sun-kinks" these instances suggest a comprehensive look at this technology is warranted. This section requires the Secretary to review and revise the track standards. The review shall include examination of the installation and maintenance of welded rail, provisions for track subject to exception from current standards, and employee safety in general.

VENTURA COUNTY
SHERIFF'S DEPARTMENT
800 SOUTH VICTORIA AVENUE, VENTURA, CA 93009

- JOHN V. GILLESPIE
  SHERIFF
- LARRY CARPENTER
  UNDERSHERIFF
- RICHARD S. BRYCE
  ASSISTANT SHERIFF
- OSCAR L. FULLER
  ASSISTANT SHERIFF

August 14, 1991

Assemblyman Richard Katz, Chairman
Assembly Transportation Committee
State Capitol
Sacramento, Ca. 95814

The Unified Command Team of the Seacliff Train Derailment Incident, on behalf of Ventura County, would like to present the following areas of concern identified after the recent Seacliff train derailment.

We feel that more protection could be provided to residents of rail thru-ways and highways intersecting rail areas if the following information was available to local jurisdictions and emergency personnel responding to the incident:

1. Obtain correct off-loading site information.

2. Achieve enforcement of rules and regulations of incidents.

3. See that information is available that portrays MSDS sheets. Need more detailed information on manifests.

4. Require container identification to relate back to the manifest or flatcar. Possibly identify cars and containers.

5. Obtain access to railway computer information on products.

6. Allow local jurisdictions to approve railroad's emergency operations plan and possibly designate critical areas.

7. Allocate funding of "superfund" money for railroads. Explore concept of "clean seas" organization for rail.

8. Determine the appropriate on-scene responsibility of responsible party and local jurisdiction.

9. Require for Cal-OSHA personnel to report and remain at site for duration of incident.

☐ WEST COUNTY DIVISION
800 South Victoria Avenue
Ventura, CA 93009
(805) 654-2311

☐ CENTRAL COUNTY DIVISION
67 Palm Drive
Camarillo, CA 93010-7995
(805) 482-9844

☐ EAST VALLEY DIVISION
2101 East Olsen Road
Thousand Oaks, CA 91360
(805) 494-8200

10. Develop legislation to exempt emergency personnel on hazardous material incidents from liability and to permit debriefings without disclosure.

11. Require State personnel presence on scene for haz mat response.

12. Establish criminal penalties for agencies/persons deliberately lying at scene.

13. Resupply State Superfund money to existing hazardous materials teams.

If you have any questions regarding these items, you may direct them to Karen A. Guidi, Assistant Director, Sheriff's Office of Emergency Services at (805) 654-2551, 800 So. Victoria Avenue, Ventura, Ca. 93009.

SS-OES-91-104

SANTA BARBARA COUNTY AGENDA REPORT

Agenda Number:

Clerk of the Board of Supervisors
Room 407 105 E. Anapamu Street
Santa Barbara, CA 93101
(805) 568-2240

Department: Office of Emergency Services/Fire
Agenda Date: 8/20/91
Placement: Departmental
Estimated Time: 20 minutes
Continu

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To Kate Reilly	From Mary Barron
Co.	Co.
Dept.	Phone # (805) 568-3415
Fax # (916) 445-6392	Fax #

TO: Board of Supervisors

FROM: MBarron for Ken Knight, Interim Director
Office of Emergency Services

STAFF CONTACT: Bruce Carter, ext. 3429 or Mary Barron, ext. 3416

SUBJECT: Assessment of Recent Railroad Derailments in Santa Barbara, Siskiyou/Shasta, and Ventura Counties, 1991

RECOMMENDATIONS: A. O. Recommendation:_____

That the Board of Supervisors:

Receive and discuss the attached staff report and findings regarding the recent train derailments in Santa Barbara, Siskiyou/Shasta, and Ventura Counties and to consider ideas for improving local preparedness.

This report summarizes the findings of the County Office of Emergency Services for the Southern Pacific train derailments occurring on Vandenberg Air Force Base in March, 1991 and at Seacliff in July, 1991. In addition, staff has provided an overview of the Southern Pacific train derailment at Dunsmuir, which impacted both Siskiyou and Shasta Counties in July, 1991.

Budget Unit: 4320	Current Yr.	Next Year	Concurrences Obtained	Y/N NA
Appropriation Chg.	$0	$0	Aud/Controller	N/A
Revenue Chg. "( )" = Incr.	0	0	County Counsel	N/A
Inter-Dept Transfer Chg. "( )" = Increase	0	0	Risk Manager	N/A
Net Cnty Cost/Reserve Chg.	$0	$0	Personnel	N/A
				N/A
Perm. Positions Chg. (FTE)	0	0	Policy Change	No
Ex. Help/Contract Chg. (FTE)	0	0	Fee Increase	N/A

A.O. Budget Target Recommendation:_____

[HazMat\TrainDrl.bdl]

ASSESSMENT OF RECENT RAILROAD DERAILMENTS IN SANTA BARBARA, SISKYOU/SHASTA AND VENTURA COUNTIES

STAFF REPORT

August 20, 1991

OFFICE OF EMERGENCY SERVICES

prepared by:

Mary Barron
&
Bruce Carter

I. INTRODUCTION

As you know, there have been three major railroad accidents within the last six months involving hazardous materials; the first in Santa Barbara County on Vandenberg Air Force Base (VAFB) in March, the second in Siskiyou and Shasta Counties at Dunsmuir in July and most recently in Ventura County at Seacliff. All of these derailments involved the Southern Pacific (SP) Railroad and resulted in the release, or threatened release, of hazardous materials.

This report will briefly summarize the findings from the derailments in Santa Barbara and Ventura Counties, from staff assessments on site. An account of the Dunsmuir derailment which affected both Siskiyou and Shasta Counties is also included. However, this synopsis was compiled from phone conversations and various newspaper articles as staff was unable to visit the site of this derailment.

II. FINDINGS

A. VANDENBERG AIR FORCE BASE DERAILMENT

The VAFB derailment occurred on March 19, 1991 at 4:45 am at milepost 313, about 5 miles north of Jalama Beach. The derailment, which occurred during the March rains, resulted when a culvert at Canada Ridge gave way. The derailment involved a southbound SP freight train originating from Oakland. Of the train's 31 cars, 24 derailed including two locomotives.

Local agencies were not notified by SP. The County Office of Emergency Services (OES) unofficially received a report of the incident around 7:30 am on KTMS radio. The County Sheriff's Department was notified by VAFB at 7:45 am. OES spent the first day trying to establish contact with SP and obtain accurate information. Initial information was obtained through VAFB Command and Control Center and their Public Affairs office.

A key concern was the lack of direct communication with the site - temporary telephone lines had to be installed since cellular phones and radios did not reach this remote area. This took several days. Consequently, initial contact with SP was through their dispatch center in Roseville (near Sacramento) and the Corporate Headquarters in Monterey Park.

The main concern was determining whether hazardous materials were on board. Reports confirmed that two pressurized tank cars, each containing 30,000 gallons of *anhydrous ammonia*, had derailed along with several other cars containing hazardous materials. VAFB handled initial stabilization of the incident by constructing a dike around the spilled hazardous materials (*diesel fuel* and *petroleum naphtha*). SP hazmat teams arrived around 6:00 pm that evening, nearly 14 hours after the incident occurred. While the *anhydrous ammonia* tanks withstood the derailment, the primary concern was for a subsequent release of hazardous materials, from either a damaged tank or during transloading (offloading) procedures.

Jurisdictional Authority

The jurisdictional authority for this incident was unique in that it occurred on private property (the SP right of way), on federal lands (VAFB), and within the County of Santa Barbara. In addition, the wreck was situated on a Native American burial ground. Because the incident occurred on VAFB, County agencies did not have primary response authority.

Since the incident could have resulted in offsite impacts, OES took a lead role and requested a meeting with the SP incident management team. The following agencies were called together in a meeting with SP: County OES, Fire (Lompoc and County), Sheriff, Environmental Health Services (EHS), Board of Supervisors (4th District office), the Air Pollution Control District (APCD) and VAFB. The main objectives of this meeting were to verify that the situation was stabilized, obtain the incident plan and establish a County liaison on scene. Through the establishment of an OES liaison on site, coordination with County response agencies was initiated: APCD provided plume dispersion modelling for critical transloading operations and the Sheriff's Office was notified in the event that an evacuation was needed. EHS was also present on site throughout the response and recovery phases.

Hazardous Materials

The derailed cars of concern were carrying:

SUBSTANCE	VOLUME	HAZARD
Anhydrous ammonia	2 tank cars 30,000 gal each, intact	Toxic and irritant by inhalation; inhalation of concentrated fumes may be fatal. Tolerance 25 ppm in air.
Diesel fuel	2 locomotives 2,600 gal diesel spilled	Moderate fire risk, environmental hazard.
Hydrofluorsilicic acid	1 tank car (residual only) None spilled.	Highly toxic, extremely corrosive by skin contact and inhalation.
Petroleum naphtha	1 tank car residual, 200 gallons spilled	Flammable, dangerous fire risk.

Impacts

Fortunately, this incident occurred in a remote area of VAFB - the nearest residents were three miles away at Sudden Ranch and five miles away at Jalama Beach. Both locations were notified by VAFB which had an Air Force helicopter standing by for potential evacuations. With the exception of disrupted rail service, both freight and Amtrak, public impact was minimal. Had this occurred in a populated area, an evacuation would have been likely during the five-day process to transload the *anhydrous ammonia*.

In addition to ammonia transloading and removal, the site restoration included hazardous materials removal of diesel fuel and paraffin wax, installation of fibre optics (MCI) cable and reconstruction of the culvert. Final restoration was expected to be completed in June, 1991.

B. DUNSMUIR DERAILMENT

The next incident, and perhaps the most devastating in terms of off-site impacts, was the train derailment and subsequent release of *metam sodium* into the Sacramento River at Dunsmuir in Siskiyou County at railroad milepost 327.98. On Sunday, July 14, 1991 at 11:50 pm, six empty cars and one tank car containing the chemical jumped the tracks at a small river crossing along the Sacramento River. The single-walled tank car broke open in several places, emptying approximately 19,500 gallons of the toxic chemical, *metam sodium*, into the river which flowed downstream into Shasta County. The seven derailed cars were part of a 97-car, 4-locomotive SP freight train.

Hazardous Materials

The *metam sodium* spill flowed downstream, into Shasta County, and eventually reached Lake Shasta, approximately 40 miles from the train derailment, at 3:00 am on Wednesday, July 17, 1991. According to a Material Safety Data Sheet (MSDS), *metam sodium* is a weed and tree killing compound in the dithiocarbamate family. 19,500 gallons of a chemical concentrate, containing 32.7% pure *metam sodium (a trade name for sodium N-methyldithiocarbamate)*, was being carried in the tank car. *Metam sodium* is water soluble and decomposes into *methylisothiocyanate, or MITC*, a heavy gas that is also soluble in water. As a heavy gas, the *MITC* remained in or just above the water surface. *MITC* is classified as a strong lacrimator, an irritant to humans causing symptoms such as nausea and tearing. In turn, *MITC* is water soluble and can decompose to *monomethylamine*. *Hydrogen Sulfide (H_2S)* can also be created if a high Ph value is encountered.

The hazardous materials of concern were as follows:

SUBSTANCE	VOLUME	HAZARD
Metam Sodium, (Sodium N-methyldithiocarbamate)	One tank car (19,500 gal spilled)	Highly toxic to rats, thought to cause low toxicity in humans (although never tested). Strong irritant to skin and mucous membranes. Potential chronic carcinogen.
Methylisothiocyanate (MITC)	Unknown quantity of solution in river	Highly toxic by ingestion, inhalation, and skin contact. Strong lacrimator and irritant to skin and mucous membranes.
Monomethylamine (methylamine)	Unknown quantity of solution in river	Flammable, dangerous fire risk (gas or liquid). Toxic; irritant to tissue. Explosive limits in air, 5-20%. Tolerance, 10 ppm in air.
Hydrogen Sulfide, (H_2S)	Unknown quantity of solution in river	Toxic by inhalation; strong irritant to eyes and mucous membranes. Highly flammable, dangerous fire risk. Explosive limits in air 4.3 - 46%. Tolerance, 10 ppm in air.

Impacts

190 people sought medical attention with complaints ranging from headaches to burning mucous membranes and nausea, all related to the spill. Of those, only 13 people have had marked effects presumably from exposure to the MITC and were admitted to hospitals. In addition to impacts on the local human population, the liquid chemical devastated the river's ecosystem beginning at the spill site and downriver to Lake Shasta; killing virtually the entire fishery and most of the vegetation in and along the river. Long term effects from loss of the

aquatic food chain organisms and riparian habitat are expected. Secondary toxicity to birds and mammals which rely on the river may also be expected. In short, the spill has rendered that length of the Sacramento River almost entirely sterilized. Long term impacts to the river's ecosystem are anticipated; however, the degree of impact is unknown.

Fish and wildlife biologists will continue to monitor impacts and have already begun developing restoration plans. The impacted section of the Sacramento River will remain closed to fishing until mid-September.

C. SEACLIFF DERAILMENT

The latest incident occurred at 12:08 pm on Sunday, July 28, 1991 when a SP freight train derailed and crashed into the Highway 101/Seacliff overpass in the northern Ventura County community of Seacliff. Railroad officials cite the cause of the derailment as due to a loose axle on one of the freight cars which apparently caught a switching station. Twelve of the 37 cars on the SP Railroad train were then catapulted off the tracks. The broken axle had sent off sparks and ignited several small brush fires along the railroad tracks at least 10 miles south of the crash site. The derailed cars were carrying tractor-trailers on flatbeds known as "piggy-backs". The trail of twisted metal and wood wreckage stretched more than 1,000 feet and dug up at least 300 feet of railroad ties and track. The train was traveling approximately 55 miles per hour when the axle bearing froze. A groove had been created along the railroad tracks from the broken axle as it was dragged underneath the northbound train. Railroad and National Transportation Safety Board (NTSB) officials are still investigating the cause of the broken axle.

Hazardous Materials

Roughly 440 gallons of the highly toxic material *aqueous hydrazine*, a jet fuel component, splashed across the tracks after 12 cars of the northbound 39 car SP train derailed. The train was carrying at least 4,100 gallons of Hydrazine in seventy-six 55-gallon drums. The *aqueous hydrazine* spilled when 8 of the drums were ruptured in the crash. Clean-up crews used an 8% solution of *calcium hypochlorite* to neutralize the spilled hydrazine. When this chemical was sprayed over the contaminated area, the resultant chemical reaction with the *calcium hypochlorite* neutralized the *hydrazine*. A secondary chemical reaction from this neutralization process caused a cloud of hydrogen gas and ammonia to be released. *Hydrazine* was also siphoned out of 15 other drums using a stinger (similar to a giant hypodermic needle). The "needle" is jammed into the drum and the *hydrazine* is then removed by a vacuum hose into a stainless steel truck. The remaining drums were removed by a process known as "overpacking", which involves placing the unruptured drums into oversized containers and sealed.

The train was also carrying a cargo container with 6,240 gallons of naphthalene, an industrial solvent which would potentially ignite and/or explode if it came in contact with the *hydrazine*. Another concern was the location of two natural gas pipelines, running parallel to the tracks and buried just 3-4 feet underground.

The derailed cars of concern were carrying:

SUBSTANCE	VOLUME	HAZARD
Aqueous Hydrazine	One car carrying fifty-six 55-gallon drums; eight of which spilled a total of 440 gallons.	Highly toxic by ingestion, inhalation, and skin absorption. Strong irritant to skin and eyes. Highly corrosive. Explosion hazard when exposed to heat or by reaction with oxidizing materials. A known carcinogen. Tolerance, 0.1 ppm in air.
Dichlorodifluoro-methane	Unknown volume.	Narcotic in high concentrations Tolerance, 1000 ppm in air.
Naphthalene	One car carrying 6,340 gallons (none spilled).	Toxic by inhalation. Tolerance, 10 ppm in air.
Calcium hypochlorite	8% solution applied to neutralize aqueous hydrazine	Toxic by ingestion, skin contact, and inhalation. Dangerous fire risk in contact with organic materials.

Impacts

Several members of the hazardous materials cleanup crew were exposed to *hydrazine* when they encountered previously unidentified "hot spots" at two different times during the cleanup. The exposed crew members were taken to the hospital, treated and then released.

A 20 mile stretch of Highway 101, between Ventura and Santa Barbara, was closed in both

directions for 6 days. All north and southbound traffic was detoured onto two-lane Highway 150 through Ojai and to Highway 33. In northern Santa Barbara County, traffic bound for Ventura and further south was rerouted on Highway 166. All rail service north and south was also canceled. In addition, more than 350 people were evacuated from the communities of Seacliff, La Conchita, and Mussel Shoals. The American Red Cross opened shelters both north and south of the incident for both evacuees and stranded travelers on Sunday night. In Ventura County, shelters remained open to evacuees until Friday, when residents were permitted to return to their homes.

III. CONCLUSIONS

Based on our own experiences in Santa Barbara County and the information we obtained from Ventura and Siskiyou/Shasta Counties, OES has identified the following issues.

1. Safe containers for shipment of Hazardous Material - Although the *metam sodium* spilled in the Dunsmuir incident was being transported in a single-walled tank car per Department of Transportation regulation, when the car derailed the tank car ruptured and released the water soluble chemical into the Sacramento River. Exposure to water caused a chemical reaction in which the *metam sodium* decomposed into a more hazardous chemical. DOT should investigate more stringent container requirements for highly reactive chemicals. In addition, DOT should also analyze the risks of transporting hazardous materials, such as *aqueous hydrazine* in safer, double-walled tank cars as a bulk shipment instead of smaller, less protective drums. While the risks involved with the bulk shipment in tank cars may be smaller, the consequences of an incident would be much larger. These risks should be compared to the relatively smaller consequences and higher risks associated with drum shipment of hazardous materials.

2. Timely local agency notification - Local agencies should be notified immediately of rail incidents by the railroad to ensure timely emergency response planning and coordination. Local agencies can and will be the primary response team until railroad response teams arrive on scene. Although the County of Santa Barbara did not have primary response authority on site for the VAFB derailment, the worst case scenario necessitated off site planning on our part (e.g., if a large scale ammonia release had occurred which moved off VAFB). As a result, OES provided liaison for planning and coordination purposes. In addition, EHS responded to the scene to monitor cleanup activities, APCD provided plume dispersion modelling, County and Lompoc fire departments provided technical information on hazardous materials and the Sheriff's Department notified nearby residents prior to critical operations.

3. Identification of Materials On Board - In order to ascertain the severity of a derailment and establish the proper response strategy, local emergency responders must to verify all

materials on board the train. This information is provided on the train's consist (see attachment 1) and should be transmitted to responders at the time of notification (via facsimile). Such information is essential so that the local jurisdiction can quickly convey emergency public information, plan for evacuations and respond more safely and effectively.

4. Emergency Planning and Coordination - Increased planning is needed between railroads and local jurisdictions. Integration of emergency response plans through joint planning and training efforts would assist with this process. The Office of Emergency Services will review incident response data from our counterparts in Ventura County and Northern California as it becomes available. Lessons learned from these incidents, as well as the VAFB derailment, will be incorporated into the County's Hazardous Materials Emergency Response Area Plan. Railroads should coordinate with emergency response planning efforts with local jurisdictions. For example, SP should provide training for interagency response personnel at least twice a year. In addition, SP should conduct emergency response exercises to maintain an adequate level of preparedness.

5. Routing - All three train derailments involved rail cars carrying hazardous materials. Each derailment involved the release or potential release of hazardous materials which had significant offsite impacts to the surrounding area. Routing of trains carrying hazardous materials should be more thoroughly reviewed by DOT and State authorities. Use of the coastal route should be restricted to local shipments on a regular schedule instead of an as needed basis. Otherwise, the main north-south rail line through San Joaquin Valley should be utilized for shipments between Los Angeles and San Francisco area destinations. A comparison should be conducted to determine the effect of this transportation proposal on interstate commerce.

6. Community Awareness - The railroads should establish an ongoing community awareness campaign regarding the transportation of hazardous materials by rail. State and federal legislation already mandates this for fixed facilities (AB 2185, 1985; SARA Title III, 1986). A case in point is the Seacliff and Dunsmuir derailments, where the public impact was extreme. The public needs to be educated on the types of materials being transported by rail, and what to do in the event of a derailment (e.g. education on sheltering-in-place for hazardous materials emergencies and special hotlines to call for information requests).

[HazMat\train2.sr]

ATTACHMENT 1

TRAIN CONSIST EXAMPLE

This document was obtained from Southern Pacific Transportation Co. and was part of the consist for the freight train involved in the March 19, 1991 Vandenberg Air Force Base derailment.

```
    TO/CONSIGNEE              FROM/SHIPPER
    EXXONCHEAMER              CHEVROCHEMIC
    BAYTOWN  TX               RICHMOND CA

006 ECUX374062 E T5E E          DAN
    **************************                    RESIDUE: LAST CONTAINED
    *                        *                    PETROLEUM NAPHTHA
    **************************                    COMBUSTIBLE LIQUID
    EMERGENCY CONTACT: 8004249300                 UN1255
                                                  PLACARDED: COMBUSTIBLE
                                                  SHIPPER CONTACT:
                                                    CHEMTREC
                                                  HAZMAT STCC= 4915259

    TO/CONSIGNEE              FROM/SHIPPER
    EXXONCHEMICA              CHEVROCHEMIC
    BAYTOWN  TX               RICHMOND CA

007 UTLX 77580 L T5D X PETPRD
008 UTLX 71255 L T5D X PETPRD
009 UTLX 71266 L T5D X PETPRD
010 WCRC  3224 E CP  E
011 CATX 91550 L T76 I ANHAMM DAN NG
    **************************          000001 CL ANHYDROUS AMMONIA
    *   DANGEROUS            *                  NONFLAMMABLE GAS
    **************************                  UN1005
    EMERGENCY CONTACT: 800-424-9300             RQ (ANHYDROUS AMMONIA)
                                                DOT-E7616
                                                PLACARDED: NONFLAMMABLE GAS
                                                SHIPPER CONTACT:
                                                  CHEMTREC
                                                HAZMAT STCC= 4904210

    TO/CONSIGNEE              FROM/SHIPPER
    UNOCALCHEMIC              UNOCALCHEMIC
    BRECHEM  CA               WSACRAMENCA

012 SNHX  3096 L T76 I ANHAMM DAN NG
    **************************          000001 CL ANHYDROUS AMMONIA
    *   DANGEROUS            *                  NONFLAMMABLE GAS
    **************************                  UN1005
    EMERGENCY CONTACT: 800-424-9300             RQ (ANHYDROUS AMMONIA)
                                                DOT-E7616
                                                PLACARDED: NONFLAMMABLE GAS
                                                SHIPPER CONTACT:
                                                  CHEMTREC
                                                HAZMAT STCC= 4904210

    TO/CONSIGNEE              FROM/SHIPPER
    UNOCALCHEMIC              UNOCALCHEMIC
    BRECHEM  CA               WSACRAMENCA

013 STAX 74201 L C4G X SODASH
014 SP  243403 L B64 X LUMBER
015 CSXT259632 L CJG X CLAY
016 SP  245629 L B64 X PAPER  FDO
017 SPMW  9310 E YD  E
018 SP  694641 L LB4 X SHINGL
019 SP  697156 L LB4 X SHINGL
020 SSW  25943 L L54 X SHINGL
021 SP  658437 L L66 X SHINGL
022 SP  693919 L L54 X SHINGL
023 SP  678623 L L54 X SHINGL
024 SPHP  4258 E ZTH E
025 SPEP 90350 E ZTE E
END
```

via facsimile
Attention: Laura Reynolds/Kate Riley

5396 Rincon Beach Park Drive
Ventura, CA 93001

August 14, 1991

Honorable Richard Katz
Member of the Assembly
9140 Van Nuys Blvd., Suite 109
Panorama City, CA 91402

Dear Assemblyman Katz,

Subject: Southern Pacific Train Wreck and Toxic Spill at Seacliff

The Seacliff Beach Colony Homeowners Association is comprised of the owners of the 49 houses which were evacuated as a result of the July 28th Southern Pacific train wreck and toxic spill.

The attached list summarizes the outstanding questions, issues and concerns which are of utmost importance to Association members. We hope that the perspectives of those most directly affected by this disaster will be of value to you in your analysis of the need for more stringent regulatory measures, monitoring and enforcement procedures.

We strongly support your commitment to improving the level of safety for all who live, work, or visit areas contiguous to railroad rights of way. Your leadership in pursuing the critical issues outlined herein would be gratefully appreciated. If your staff is available to discuss this matter, or can answer any of the enclosed questions, I can be reached weekdays at 213-461-5060.

Sincerely,

Carol Goldstein

Carol Goldstein
Chair, Environmental Committee
Seacliff Beach Colony Homeowners Association

Seacliff Beach Colony Homeowners' Association
Issues Regarding the Southern Pacific Train Derailment
August 14, 1991 page 1 of 4

1. WHAT CHEMICALS WERE INVOLVED?

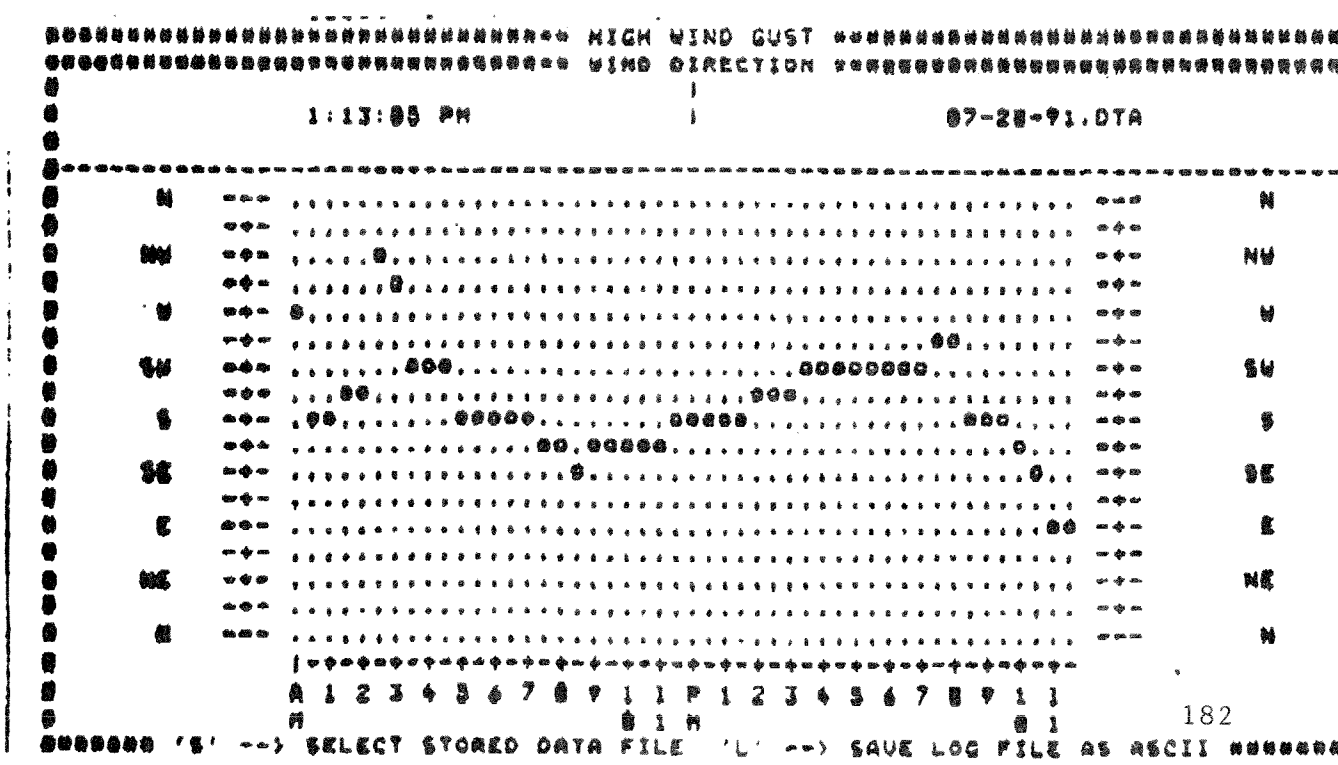
It is believed that aqueous hydrazine in a 50% solution was the only chemical that spilled. However, **the exact identity and quantity of chemicals spilled have not yet been absolutely confirmed.** What chemicals were/are involved and in what amounts?

-leaked, spilled or released from the train
-clouds and fumes released at the time of the wreck and during cleanup
-breakdown components of each chemical interacting with the air, ground surfaces, and other chemicals released
-clean up chemicals and their interactions

2. WERE PEOPLE EXPOSED TO TOXIC CLOUDS SET OFF BY THE WRECK?

We were told that the wind was blowing away from Seacliff and towards the mountains in a northerly direction, so that people at the site or in the vicinity to the southwest were not exposed. However, computerized data logged from the Digitar weather station at a Seacliff home (see below) shows that **the wind carrying the toxic cloud was blowing in a south/southwest direction directly over the Seacliff community and beach areas for several hours after the wreck occurred.**

Helicopters flying over the wreck and the beach areas caused significant turbulence and dispersal of the cloud in all directions. There is a stronger possibility than was originally assumed that people at the wreck site and adjacent areas were exposed to the toxic hydrazine vapors.



3. DID PEOPLE SUFFER PHYSICAL EFFECTS FROM TOXIC EXPOSURE?

There was no interview or survey of residents and others who were evacuated to determine if they had any symptoms of hazardous exposure. **Residents who were evacuated have experienced various respiratory ailments that indicate possible hazardous exposure to the toxic chemicals.**

Who is responsible for investigating such a public health concern; conducting a study of the residents' symptoms to determine cause and effect? Were special hazards posed to the elderly, infirm, children, infants, pregnant women, and women of childbearing age? What data needs to be collected to determine the near, mid and long term potential health hazards from exposure to leaking or spilled chemicals, fumes and clouds from the wreck, chemicals used in the cleanup and their interactive chemical reactions, or dust and dirt clouds spewing from street sweepers and other cleanup vehicles.

4. WHO WAS IN CHARGE?

It has been verified that no cleanup plan existed prior to the wreck, and there was a substantial delay in identifying the chemicals involved. We understand that there were numerous public agencies involved in discreet aspects of the emergency response and cleanup efforts. Agencies were frustrated in their admirable efforts to respond to this emergency situation. We commend those involved in the emergency response efforts and deeply appreciate their best attempts in dealing with such puzzling circumstances.

While recognizing the need for teamwork, **it was apparent that there was no single coordinating agency directing the entire effort.** This created a chaotic situation when residents attempted to find a consistent and reliable source of critical information and updates. It also prevented residents, once scattered, from locating each other or communicating through a central clearinghouse.

5. WERE THE OCEAN AND BEACHFRONT CONTAMINATED?

Witnesses reported observing the spilled chemicals leaking into the storm drain that empties under the freeway ramp directly into the ocean. Witnesses also observed workers hosing down the cleanup chemicals into the storm drain. Was the outflow tested for contamination as it drained into the ocean?

It was verbally indicated to us and reported in the press that it was advisable for beachcombers, swimmers and surfers to stay out of the ocean for ten days after the wreck. No reasons were given, no signage was posted, no monitoring program was in effect and no enforcement was taken. Therefore, people began using the beach and swimming within a week of the spill. What data was used to determine when the beach and ocean were safe for use?

Seacliff Beach Colony Homeowners' Association
Issues Regarding the Southern Pacific Train Derailment
August 14, 1991 page 3 of 4

6. WAS SOUTHERN PACIFIC'S CLEANUP PLAN IMPLEMENTED ACCORDING TO REGULATORY STANDARDS?

We were told that Southern Pacific was responsible for the cleanup, as the wreck occurred on their property. We question if all the methods used were in the best interests of the environment and the public health.

-Scattering of dust and debris into the atmosphere: Was it safe for street sweepers and other vehicles to scrape the street at the wreck site and to blow dust and particles of debris in the air without regard to wind direction and prior to confirming the identity of the chemicals involved?

-Training and certification of cleanup crew: We were told that some of the cleanup crew were hired for this project on an emergency basis. Does data confirm that all workers hired by the Southern Pacific contractor attended required hazardous materials training classes prior to their work?

-Permitting residents to return without testing homes for chemical contamination: Three days after the wreck, a dog was discovered dead in one of the Seacliff homes closest to the spill. At that time, residents were permitted to enter their homes although the cause of the animal's death was not ascertained. Should each house have been tested on that day for the presence of hydrazine prior to allowing residents to return?

7. DID THE TOXIC CLOUDS SEEP INTO HOMES?

Residents had questions regarding the potential contamination of building interiors. However, **there was no consistent set of answers from those involved in the cleanup effort.** One public agency advised residents to wipe down counters if they desired. Another agency recommended washing off garden grown vegetables before eating Others suggested a range of procedures-- clean carpets, wash down all walls, or hose off exterior surfaces. Was data available to determine the appropriate course of action?

8. WHAT IS THE MONITORING PLAN?

What were/are the methods used to continuously monitor for contamination of the ocean, air, building surfaces, soil, and groundwater. How long will the tests continue? **Should the area be tested periodically into the forseeable future?**

9. WILL THERE BE A PUBLICLY-CIRCULATED POST CLEANUP ENVIRONMENTAL ASSESSMENT?

We are told that there is no legal requirement for public agencies or Southern Pacific to inform us of future plans or distribute to us any data, analysis or findings. We strongly believe that such **documents should be distributed to the public for review and comment and that a formal process should be established informing residents as events occur and the cleanup and testing progress.** Residents of Seacliff should receive all data and findings regarding the cause of the wreck, the identity and nature of the chemicals involved, emergency response plans, cleanup efforts, residual effect, long range monitoring plans, and plans for preventive action.

10. WHAT WILL PREVENT THIS FROM HAPPENING AGAIN?

We are concerned with the immediate questions regarding personal safety. We are equally concerned about policies and procedures to ensure our safety in the future. **It is clear that the rules which govern trains carrying toxic and hazardous materials are in need of complete restructuring.**

We know that there were simple and comparatively inexpensive regulations that could have prevented this disaster. Someone riding in the caboose would have seen the sparks miles before the train derailed. If individual containers were specifically labelled, the cleanup approach could have begun earlier. If barrels holding the chemicals were sturdier or better insulated, they might not have ruptured on impact.

Considering the potential for more devastating consequences, there are reasons to be thankful. There were no human deaths, a miracle considering the heavy weekend use of the Rincon Parkway. Personal vehicles were not occupied when the train cars crushed them. A bicyclist on the Parkway was pedalling alongside the engine, rather than a few yards behind. Sparks along the Rincon did not grow into explosive fires, heading for the adjacent oil fields and trapping residents and beach users. Onlookers were able to put out the grass fires on the railroad right of way in Ventura and along the Parkway. Napthalene remained untouched in an adjacent container, rather than interacting with the hydrazine, causing a catastrophic disaster and many deaths.

In the near future, comprehensive regulatory measures must be enacted, monitored and enforced to ensure public safety.

MEMORANDUM

TO: The State Assembly Transportation Committee

DATE: August 14, 1991

FROM: Rex and Norine Fine, Seacliff residents

SUBJECT: Transportation of hazardous materials and Southern Pacific train derailments in Ventura (Seacliff) and Shasta Counties

We did not know of the hearing being held in the State Building, 107 So. Broadway on 8/15/91 until we read it in the Los Angeles Times on 8/13/91. The possibility of changing our work schedules to be downtown Los Angeles between 9:00-12:00 on 8/15/91 is unlikely.

It is our hope that the enclosed letter will reach the committee by courier Thursday morning. We would appreciate you taking a moment to read the letter in lieu of our public testimoney participation.

Please notify us of any future hearing dates. We are very concerned about the future of train transportation and transferring of toxic chemicals. Thank you for your time.

Sincerely,

Rex and Norine Fine
5510 Rincon Beach Park Drive
Seacliff Beach Colony
Ventura, CA 93001
Residence (805) 648-2872
Business(Day) (818) 881-9493

August 13, 1991

Mr. William F. Currier
Superintendent, Southern Pacific Transportation Company
1200 Corporate Center Drive
Monterey Park, California 91754

Dear Mr. Currier,

I am asking you to please take a moment to help reduce the risk of accidents and possibly save lives. This letter is prompted by the recent evacuation of my wife and I from our home in Seacliff Beach Colony (Ventura) due to a Southern Pacific derailment and subsequent toxic spill (hydrazine) at the accident site.

Presently many Seacliff residents are experiencing uncertainty, fear, anger, and lack of safety. There is also a great deal of anxiety regarding the short term and long term effects of the toxic chemical hydrazine. In an effort to bring some safety and harmony back into the lives of the Seacliff residents I am asking that you reduce the speed of the Southern Pacific trains to 15-20 m.p.h. when coming through the Seacliff area. I am sure that the residents of Faria and Solimar, just south of Seacliff, would appreciate the safer speed as well. Southern Pacific and Amtrak are presently coming through the Seacliff community at the reduced speed of 15-20 m.p.h. while the accident area is being repaired. Under the circumstances surrounding the train derailment, the request for reduced speed is not unreasonable.

I watched the accident happen and was on the scene quickly. It was <u>amazing</u> that no one on a bicycle, on foot, or in a car was hit by the collasping train. I had intended to write to Southern Pacific before because high speed trains coming through the area literally shake the ground and houses. Unfortunately I didn't. It was the high speed and the "scraping sound" that drew my attention to this train and how I have come to realize that a slower speed could have prevented this kind of accident. Mr. Currier I am asking for your support and help in resolving some of the events surrounding the Seacliff accident and helping prevent further accidents.

This past weekend many Seacliff residents commented on how much safer it felt with the train moving slower. This was a positive feeling felt by many after two weeks of disruptive feelings. If the request for reduced speed is unreasonable or too expensive I would like to know how this is concluded. If you have any solutions to help prevent further accidents at Seacliff and help the residents live safely I would appreciate your thoughts.

Some suggestions on the subject of preventative railroad travel along the Pacific Coast Highway at Seacliff are as follows:

1. Significantly reduced speed to 15-20 m.p.h. when coming through Seacliff, Faria and Solimar.

2. If the speed will not be reduced then build a wall for safety, noise reduction and ground stabilization. The wall would also be protective for beach walkers, campers, vacationers, bicycle riders and vehicles along the much traveled Pacific Coast Highway.

3. Label distinctively the container and the particular railroad car that toxic material is inside. Also identify the chemical.

4. The conducter or specified person should have on his or her posession an inventory list of all toxic chemicals being transported. (In the Seacliff accident 36 hours had gone by and no one was exactly sure what the toxic chemical was.)

In closing let me say that the lives of all Seacliff residents have been significantly affected. When my wife and I were evacuated we were able to take our golden retriever "Spencer" with us. Our next door neighbors were not home at the time of the evacuation and were not allowed back into the area to get their two dogs. Subsequently when they were allowed to return to their home one of their dogs was dead and traces of hydrazine were found in their home. Hydrazine was found in their home seven days after the accident and now our friends and next door neighbors have decided to move out of their home permanently. I ask that you do your part to help prevent this sort of accident from happening in the future.

I thank you for your time and considerations.

Sincerely,

Rex Fine

Rex Fine
5510 Rincon Beach Park Drive
Seacliff Beach Colony
Ventura, CA 93001
Business (818) 881-9493
Home (805) 648-2872

cc: Patricia Eckert, President, State Public Utilities Commission
Jack O'Connell, Assemblyman (D) Carpenteria
Richard Katz, Assemblyman (D) Panorama City
Bob Campbell, National Transportation Safety Board
Mike Mohan, President, Southern Pacific Transportation Company
Penny Newmann, Citizens Clearing House for Hazardous Wastes
Joanna M. Miller, staff writer on the scene of the accident, L.A. Times
Carol Goldstein, Director, Seacliff Residents Train Accident Committee
Jerry Fine, Esq.

Testimony of Dr. Laura Lake, NCJW/LA Environment Committee
Before the California Assembly Transportation Committee Hearing
on Toxics Shipment Transportation Safety

Los Angeles, August 15, 1991

Good morning Assemblyman Katz. On behalf of the NCJW I wish to commend you for holding this important hearing, and bring to your attention key issues of concern to our Environment Committee. As you know, our organization played a major role in the Rocketdyne case, and we are once again involved in a vital alliance of environmental organizations committed to the safe handling and disposal of nuclear waste. We are here because of our concern for the transportation accidents attendant with the Ward Valley Low Level Radioactive Waste Facility. Included in such transportation grids is air shipments of radioactive material.

One of NCJW's national resolutions on nuclear power specifically concerns the safe transport of nuclear waste and the safe disposal. Almost all attention has focused to date on the disposal, and none on transportation safety. As the press statement of our alliance makes clear, we expect that these issues be addressed in advance of a license, not afterward.

According to an article by Nancy Leiserowitz in the Feb. 22, 1990 Lansing State Journal, "more than 2 million radioactive packages...are shipped in the United States each year. ...Trucks carrying nuclear waste have accidents at the standard rate of one accident for every 150,000 miles traveled.

"From 1971 to 1985 there were 1034 accidents or incidents involving low-level wastes. In 90 cases, radioactive materials were actually released." The worst case was on I-235 Wichita, Kansas bypass, in 1978, when 54 drums of uranium yellowcake spilled. Motorists and the Highway Patrol rushed to assist and walked through the material, unaware of its danger. The first person to respond, a state trooper, died of lung cancer seven years later.

Every community along a radioactive/toxic haul route faces a Bhopal situation. Few are prepared. We must examine the safety of transporting these materials rather than safe on-site storage as practiced in Canada.

Again, NCJW appreciates the opportunity to testify today, and urges this committee to pursue answers to these critical questions.

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NEWS RELEASE

* Citizens for Survival * CALPIRG * Chemical Waste Trac * Clean Water Action *
Committee to Bridge the Gap * Concerned Citizens * Earth Communications Office * Earth Island Institute *
Los Angeles Area Trucks * Greenpeace * Hollywood Women's Political Committee * National Association of
Radiation Survivors * National Council of Senior Women * People Against Radioactive Dumping * Physicians for
Social Responsibility * Sea Cliff Tribe * Southern California SANE FREEZE * Women For *

FOR RELEASE AUGUST 15, 1991

CONTACT: LAURA LAKE
(213) 470-4522

PRESS RELEASE

Imagine if you will that the last two California train spills had been radioactive cargoes rather than highly toxic chemicals. This committee has the task of asking what can go wrong with toxic and nuclear waste shipment--before it happens again.

Groups opposing the Ward Valley Nuclear Waste Dump will present testimony today regarding concerns for public safety due to the transport of highly radioactive waste by rail and by truck through California to the proposed Ward Valley Low Level Radioactive Waste Facility.

The alliance calls upon the Assembly Transportation Committee to launch a full investigation and public hearings on:

the safety and insurance record of the firms engaged in hauling radioactive waste,

the labeling requirements for this cargo,

the status of rail and road systems leading to the dump (see attached news article December 26, 1990, July 25, 1990 showing washed-out roads to the Ward Valley site),

the liability for California for non-California radioactive waste transported to the site, and

the preparedness of first responders, including the CHP, and volunteer firefighters, to respond to radioactive spills, and finally, the liability for cleanup of contaminated sites.

Until a full study is conducted, the alliance urges the Transportation Committee to support a moratorium on the siting of the Ward Valley Facility, and to order the Department of Health Services not to issue a license pending the transportation safety analysis of this committee.

These organizations are concerned that the transportation safety impacts of the Ward Valley site were ignored by the Department of Health Services in the Environmental Impact Report process.

[illegible] Governor
JERRY GRIEPENTROG
Director

STATE OF NEVADA

LAWRENCE P. M[illegible]
Administrato
JOSEPH Q. JARVI
Health Office

DEPARTMENT OF HUMAN RESOURCES
HEALTH DIVISION
Radiological Health Section
505 East King Street, Room 203
Carson City, Nevada 89710
(702) 885-5394

October 23, 1987

Bob Fulkerson
Executive Director
Citizen Alert
PO BOX 5391
Reno, Nv 89513

702 - 348-0804

Dear Mr. Fulkerson:

Your letter dated October 1, 1987, is acknowledged. The letter requests a summary of violations documented during state inspections of low-level radioactive waste shipments received at the Rocky Mountain Compact Regional facility near Beatty, Nv.

The following categories summarize the violation types documented between May 1, 1986 - December 31, 1986.

Documentation-Related	
Improper/Incomplete bill of lading	3
Improper placards or improper display of placards	19
Radiation Safety-Related	
No notification prior to entering state	1
Bracing not adequate to prevent all movement of shipment contents	14
Radiation levels exceeding permissible limits	1
Drive failure to follow exclusive use instructions	1
Containers with loose locking/closure device	5

L Butler
Meadles

STATE OF NEVADA
DEPARTMENT OF HUMAN RESOURCES
HEALTH DIVISION
RADIOLOGICAL HEALTH SECTION
505 East King Street, Room 202
Carson City, Nevada 89710
(702) 885-5394

RICHARD H. BRYAN
Governor

JERRY GRIEPENTROG
Director

April 3, 1987

Bob Fulkerson
Citizen Alert
P.O. Box 5391
Reno, Nevada 89513

Dear Mr. Fulkerson:

Your letter dated March 4, 1987 is acknowledged. The letter requested information concerning the Beatty low-level radioactive waste disposal site.

	Month	Shipments	Violations	Volume(cu. ft.)
1986	January	0	0	0
	February	0	0	0
	March	0	0	0
	April	3	0	1,327.5
	May	11	5	5,200.9
	June	7	2	2,952.3
	July	21	8	8,080.5
	August	21	10	8,566.5
	September	37	7	15,108.8
	October	31	10	16,884.8
	November	24	2	12,696.1
	December	49	11	23,403.9

A Butler

	Month	Shipments	Violations	Volume(cu. ft.)
1987	January	47	9	18,905.1
	February	35	0	13,216.0

Sincerely,

Stanley R. Marshall, Supervisor
Radiological Health Section
Bureau of Regulatory Health Services

SM:kf;fulkersn.txt/cd2

cc: Bill Schneider
Larry Matheis
Jerry Griepentrog

Assembly
California Legislature

ADDRESS
State Capitol
Sacramento, CA 95814
(916) 445-7278

ASSEMBLY COMMITTEE ON TRANSPORTATION

RICHARD KATZ
Chairman

July 29, 1991

R. F. Starzel
Vice Chairman
Southern Pacific Transportation Company
One Market Plaza
San Francisco, CA 94105

Dear Mr. Starzel:

Yesterday, a Southern Pacific train derailed on the main line between Los Angeles and Oakland, spilling hydrazine on the rails near Ventura. In the wake of the Dunsmuir tragedy earlier this month, this incident raises serious concerns about Southern Pacific's ability to safely transport hazardous materials on California's rails.

Should either of these accidents have occurred in the densely populated areas through which these trains traveled, the consequences would have been even more devastating.

For that reason, I am requesting that Southern Pacific immediately take the following voluntary steps:

1) Perform an immediate inspection of all equipment (including rail cars owned by other entities) and track used for the transportation of hazardous material.

2) Implement enhanced safe operating procedures at locations on any Southern Pacific line with a pattern or history of derailments. Such procedures could include instituting the use of helper locomotives at lower weight thresholds than is currently the case in areas such as the Dunsmuir derailment site.

I believe these actions are necessary in order to ensure the safety of California's citizens and to restore the confidence of the public in the safety of our rail system. I look forward to your immediate response to this request.

Sincerely,

RICHARD KATZ
Chair, Assembly Transportation Committee

Southern Pacific
Transportation Company

Southern Pacific Building • One Market Plaza • San Francisco, California 94105

R. F. STARZEL
VICE CHAIRMAN

SP - FAX Repeat # PAGES 13
TO: Kate Riley FAX 445-
LOC: Sacto # 916 6393
FROM: Bob Starzel PHONE
LOC: SFCA NO. 541-
CS-206 SF

August 9, 1991

Mr. Richard Katz
Chair, Assembly Transportation Committee
State Capitol
Sacramento, CA 95814

Dear Chairman Katz:

Please refer to your letter of July 29 expressing your concerns about the movement of hazardous materials on railroads in California, and specifically requesting that Southern Pacific take voluntary steps to enhance safety.

Your letter makes two specific requests, and I shall address them in turn.

First, inspection of all equipment and track used for the transportation of hazardous material: The rail industry is governed by the Code of Federal Regulations, Title 49, which sets forth the standards of operation, inspection, maintenance, and safety for both equipment and track. Adherence to these standards is monitored by Federal Railroad Administration inspectors who are constantly visiting our property. These regulations require regular foot-by-foot inspections of track by qualified inspectors (generally twice weekly on our main-line routes) and we follow these schedules scrupulously. In fact, our track maintenance, inspection, and safety standards, and speed of trains restrictions equal or are more stringent than those specified by the Federal Railroad Administration.

We also inspect rail cars on our property (including cars owned by others) before they are moved in a train, and repeat the inspection process as the train moves through each major terminal. In addition, crew members must inspect their own and other trains at each opportunity. All employees working on line are also required to observe each passing train.

Second, you also ask about institution of new operating procedures whenever clusters of accidents are found. We are concerned when accident clusters are found, and the Engineering, Operating, and Mechanical groups within the Company cooperatively tackle the problem to find the right answer. Sometimes revised

operating procedures will reduce accidents; other times track changes, or mechanical responses, will be needed. We do stand ready to implement operating procedure changes that will help.

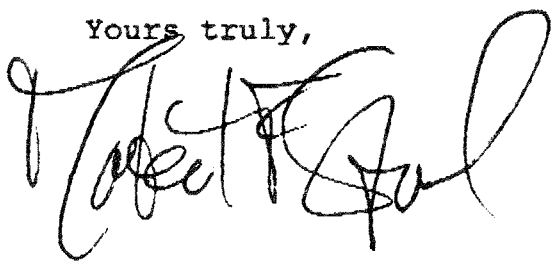
In addition to these corrective measures which respond to accidents or accident patterns, it should be noted that Southern Pacific is regarded in the industry as a leader in promoting measures which will help prevent accidents.

Southern Pacific, for many years, has been an active leader in the Inter-industry Task Force on the safe transportation of hazardous materials by rail. This Task Force is sponsored by the Association of American Railroads (AAR), the Chemical Manufacturers Association (CMA) and the Railway Progress Institute (RPI). This Task Force has been instrumental in instituting safe work practices for the Chemical and Railroad industry, and as example, attached is a copy of AAR Circular No. OT-55A, which recommends operating practices for the transportation of hazardous materials. Southern Pacific has not only adopted these operating practices but, in addition, has established even more stringent practices, namely: Any train on Southern Pacific containing a single car placarded Explosive A, poison gas, radioactive, or a tank car containing a product classified as flammable gas or any of 21 other specific commodities (including 15 environmentally sensitive commodities) is given the recommended handling.

Additionally, we have been very active within the Task Force to encourage the use of a stronger vehicle (steel pressure specification car with a working pressure of 500 PSI, head shields, no bottom outlets, etc.) for the transportation of selected environmentally sensitive commodities.

I assure you we are making every effort to maintain and increase margins of safety so we can quickly restore, through results, yours and the public's full confidence in our rail system. The railroads are a much safer conduit for hazardous materials commerce than the highways, and we want to make our system even safer.

Yours truly,



H. H. Bradley
Vice President

ASSOCIATION
OF AMERICAN
RAILROADS

December 11, 1990

CIRCULAR No. OT-55-A

RECOMMENDED RAILROAD OPERATING PRACTICES

FOR TRANSPORTATION OF HAZARDOUS MATERIALS

TO THE MEMBERS:

Based on recommendations of the Inter-Industry Task Force on the safe transportation of hazardous materials by rail, the O-T General Committee and the AAR Board of Directors approved for immediate publication the following recommended operating practices for the transportation of hazardous materials.

Road Operating Practices

I. Industrywide Implementation of "Key Trains"

A. Definition: Any train with five tank car loads of poison inhalation hazard (packing group I, as defined in HM-181) or 20 car loads or intermodal portable tank loads of a combination of PIH (PGI), flammable gas, Class A explosives, and environmentally sensitive chemicals shall be called a "Key Train". Attached as Appendix A is a list of PIH (PGI) and environmentally sensitive chemicals with 49 STCCs.

B. Restrictions:

1. Maximum speed -- "Key Train" - 50 MPH.

2. Unless siding or auxiliary track meets FRA Class 2 standards, a Key Train will hold main track at meeting or passing points, when practicable.

3. After 12/31/93 no cars with friction bearings will be permitted in any "Key Train". The AAR will initiate the process of amending the Interchange Rules to require that all cars with friction bearings be eliminated from interchange service by 12/31/93 rather than the current date of 12/31/94.

4. When a moving "Key Train" is stopped by any emergency brake application, or by some unknown cause, the train must be inspected for derailed or defective cars. If the train is stopped at a place where it cannot be safely inspected (e.g. bridge), the train may be moved if conditions permit to the nearest place where it can be safely inspected.

5. If a defect in a "Key Train" journal is reported by a wayside detector, but a visual inspection fails to confirm evidence of a defect, the train will not exceed 30 MPH until it has passed over the next wayside detector. If the same car again sets off the next detector, it must be set out from the train.

II. Industrywide Designation of "Key Routes"

A. Definition: Any track with a combination of 10,000 car loads or intermodal portable tank loads of hazardous materials, or a combination of 4,000 car loadings of PIH (PGI), flammable gas, Class A explosives, and environmentally sensitive chemicals, over a period of one year.

B. Requirements:

1. Wayside defective bearing detectors shall be placed a maximum of 40 miles apart on "Key Routes", or equivalent level of protection may be installed based on improvement in technology.

2. Main Track on "Key Routes" must be inspected by rail defect detection and track geometry inspection cars or any equivalent level of inspection no less than two times each year; and sidings must be similarly inspected no less than one time each year.

3. Any track used for meeting and passing "Key Trains" must be Class 2 or better. If a meet or pass must occur on less than Class 2 track due to an emergency, one of the trains must be stopped before the other train passes.

III. Yard Operating Practices

A. Maximum reasonable efforts will be made to achieve coupling of loaded placarded tank cars at speeds not to exceed 4 MPH.

B. Loaded placarded tank cars of PIH (PGI) or flammable gas which are cut off in motion for coupling must be handled in not more than 2-car cuts; and cars cut off in motion to be coupled directly to a loaded placarded tank car of PIH (PGI) or flammable gas must also be handled in not more than 2-car car cuts.

IV. STORAGE

Proposed Separation Distance (In Feet)

Loaded Tank Cars and Storage Tanks from Mainline Class II Track or Better

Activity	Combustible Liquid, Corrosive Material and ORM's	PIH (PGI), Flammable Liquid, Flammable Gas, Non-Flammable Gas and All Other Hazard Classes
Loading or unloading if conditions permit	50	100
not less than	25	50
Storage of loaded tank cars	25	50
Storage in tanks If conditions permit	50	100
not less than	25	50

With regard to existing facilities, maximum reasonable effort should be made to conform to this standard taking into consideration cost, physical and legal constraints.

The proposals apply to storage on railroad property and on chemical company property located close to railroad mainline.

V. TRAINING OF TRANSPORTATION EMPLOYEES

Implementation of Railroad Industry Training Objectives for Railroad Operating Employees

The following objectives should be met in every railroad's program for training operating employees (non-emergency responders) who handle hazardous materials in transportation:

A. Employees (including supervisors) who handle shipments of hazardous materials in rail transportation should learn to perform the following tasks as they apply to their assigned duties:

1. Comply with the requirements for hazardous materials shipping data in rail transportation of hazardous materials;

2. Recognize markings and placards that indicate the presence of hazardous materials;

3. When required by regulation, inspect the external conditions of placarded hazardous materials shipments to assure that they are properly prepared for transportation;

4. Switch placarded hazardous material shipments in compliance with applicable rules and regulations; and

5. Place placarded hazardous material shipments in a train in compliance with applicable rules and regulations.

B. Employees (including supervisors) who handle shipments of hazardous materials in rail transportation should learn to perform the following tasks in hazardous materials incidents:

1. Make the appropriate identifications and notifications and provide the appropriate information as required by railroad operating rules and instructions for handling hazardous materials;

2. Take appropriate action to protect self and others on the scene; and

3. Provide assistance to the local emergency response agencies in the form of identification of the hazardous materials and their location(s) on the train.

C. The training objectives set out in paragraphs A and B (above) should apply to and meet the specific requirements of particular crafts, for example: train crews, inspectors, and clerks who prepare consist information.

D. The objectives set out in paragraphs A and B (above) cover a basic training program for employees (including supervisors). Frequency of training in this category should be consistent with the timing of existing railroad re-examination programs.

E. Training of employees (including supervisors) who handle shipments of hazardous materials on a "Key Route" (as defined in Part II above) should be conducted on an annual basis. This training should meet the objectives set out in paragraphs A and B (above), but should also cover additional subject matter, including special hazardous material operating requirements for the route, yard emergency plans and practices in those plans, and basic chemical characteristics. Each of these employees should demonstrate proficiency by passing a written examination or by other means such as a successful work practices audit.

F. All training should be recorded. It will suffice if the individual carries a card indicating that he meets certain requirements or if his personnel record indicates the date and level of training received.

December 10, 1990

PIH (PGI) Liquids as proposed in HM-181

Acetone cyanohydrin	4921401
Acrolein, inhibited	4906410
Acrylonitrile	4906420
Ally alcohol	4907425
Allyl chloroformate	4907607
Allylamine[1]	4907404
Arsenic trichloride	4923209
Bromine or bromine solutions	4936110
Bromine pentafluoride	4918505
Bromine trifluoride	4918507
Bromoacetone	4920101
n-Butyl isocyanate	4907415
tert-Butyl isocyanate[1]	4907485
n-Butylchloroformate[2]	
sec-Butylchloroformate[2]	
Chloroacetic acid, liquid	4931444
Chloroacetone, mono, stabilized	4925250/4921558
Chloroacetonitrile[1]	4921009
Chloroacetophenone (CN) liquid	4925220
Chloropicrin*	4921414/4921415
Chloropicrin mixtures, N.O.S.*	4920105/4921416/4921015/ 4920505/4921514
Chloropivaloylchloride[2]	
Crotonaldehyde, stabilized	4909137
Cyanogen bromide (solid)	4923229
Cyclohexyl isocyanate[1]	4921010
3, 5 Dichloro-2, 4, 6 trifluoropyridine[2]	
Diketene, inhibited[1]	4915333
Dimethyhydrazine, symmetrical[2]	
Dimethyhydrazine, unsymmetrical	4906210
Dimethyl thiophosphoryl chloride[2]	
Dimethyldichlorosilane	4907610
Dimethylphosphorochloridothioate	4933319
Diphenylchloroarsine (solid) [1*]	4925240/4921570
Ethyl chloroformate	4907617
Ethyl chlorothioformate	4933327
Ethyl isocyanate[1]	4907434
Ethyl phosphonothioic dichloride, anhydrous	4933355
Ethyldichloroarsine[1]	4921404
Ethylene chlorohydrin	4921420
Ethylene dibromide	4921497
Ethyleneimine, inhibited	4906220
Hexachlorocyclopentadiene	4933015
Hydrocyanic acid aqueous solution (HCN 5-20%)[1]	4920136
Hydrogen cyanide, anhydrous*	4920125/4920127/4920130
Iron pentacarbonyl[1]	4921033
Isopropylchloroformate[1]	4907628
Methoxymethyl isocyanate[2]	
Methyl chloroformate	4907429
Methyl isocyanate and solutions	4907448
Methyl isothiocyanate[2]	

SP - FAX Repeat # PAGES 4-3
TO: Kate Riley FAX # (916) 63[illegible]
LOC: Sacto
FROM: Bob Starzec PHONE NO 5[illegible]
LOC: [illegible]
CS-206

December 10, 1990

PIH (PGI) Liquids as proposed in HM-181

Methyl orthosilicate[1]	4907452
Methyl phosphonic dichloride	4936020
Methyl phosphonousdichloride, pyrophoric liquid	4906067
Methyl bromide and ethylene dibromide - mixture, liquid	4921438
Methylchloromethyl ether	4907430
Methyldichlorosilane*	4907625
Methylene isocyanate[2]	
Methylhydrazine	4906230
Methyltrichlorosilane	4907630
Nitric acid (over 70%)[3]	
Nitric acid, red fuming	4918529
tert-Octylmercaptan[2]	
Pentaborane	4906060
Perchloromethylmercaptan	4921473
Phenyl isocyanate[2]	
Phenyl mercaptan	4921413
Phenylcarbylamine chloride[1]	4921587
Phenyldichloroarsine	4921474
Phenyltrichlorosilane	4934275
Phosphorus oxychloride	4932352
Phosphorus trichloride	4932359
Poisonous liquid, N.O.S. [1]	4920910
Poisonous liquids, flammable, N.O.S. [1]	4920170
Poisonous liquids, corrosive, N.O.S.[2]	
n-Propyl chloroformate[1]	4907656
Sulfur chloride (mono)	4932380
Sulfur trioxide, inhibited or uninhibited	4930050/4930051
Tetranitromethane	4918180
Thionyl chloride	4930060
Thiophosgene	4923298
Titanium tetrachloride	4932385
Trimethylchorosilane	4907680
Xylyl bromide	4925260

[1] Materials that are not in 49 CFR 172.101 Table by name but have been assigned a 49 STCC under an appropriate N.O.S. proper shipping name.

[2] Materials that are not in 49 CFR 172.101 Table by name and which do not have an assigned 49 STCC code. Since no one has requested a 49 STCC number, it is unlikely that the material is moved by tank car.

[3] There is no proper shipping name for Nitric Acid (over 70%). Nitric Acid (over 40%) is the D.O.T. proper shipping name.

December 10, 1990

PIH (PGI) Gases as proposed in HM-181

Arsine	4920135
Bromine chloride[1]	4920715
Carbonyl fluoride[1]	4920559
Chlorine	4904120
Chlorine pentafluoride[1]	4920720
Chlorine trifluoride	4918210
Chloropicrin and methylbromide mixtures*	4921507
Chloropicrin and methylchloride mixtures	4920105
Compressed or liquified gases, flammable, toxic, N.O.S., LC50 less than or equal to 1,000 ppm[2]	
Compressed or liquified gases, toxic, N.O.S., LC50 less than or equal to 200 ppm[2]	
Cyanogen Chloride	4920506
Cyanogen, liquified	4920115
Diborane	4905420
Diborane mixtures	4905425
Fluorine, compressed	4904030
Germane	4920120
Hexaethyl tetraphosphate & compressed gas mix.	4920515
Hexafluoroacetone[1]	4921697
Hydrogen selenide, anhydrous	4920122
Hydrogen sulfide, liquefied	4905410
Insecticide gases, toxic, N.O.S.[2]	
Methyl bromide*	4921440/4921650
Methyl chlorosilane[2]	
Methyl mercaptan	4905520
Nitric oxide	4920330
Nitric oxide and nitrogen tetroxide mixtures[1]	4920370
Nitrogen dioxide	4920340
Nitrogen trioxide[1]	4920374
Organic Phosphate or compounds mixed with compressed gas	4920530
Oxygen difluoride[1]	4920235
Parathion and compressed gas mixtures	4920535
Phosgene	4920540
Phosphine	4920160
Phosphorus pentafluoride[1]	4920533
Selenium hexafluoride[1]	4920915
Stibine[1]	4920167
Sulfur tetrafluoride[1]	4920555
Tungsten hexafluoride	4932387

[1] Materials that are not in 49 CFR 172.101 Table by name but have been assigned a 49 STCC under an appropriate N.O.S. proper shipping name.

[2] Materials that are not in 49 CFR 172.101 Table by name and which do not have an assigned 49 STCC code. Since no one has requested a 49 STCC number, it is unlikely that the material is moved by tank car.

December 10, 1990

Environmentally Sensitive Chemicals

Allyl Chloride*	4907412
Carbon Tetrachloride*	4940320
Chlorobenzene*	4909153
Chloroform*	4940310/4940311
Dichlorobenzene*	4941127
Dichloropropane*	4909269
Dichloropropane/Dichloropropene mixture*	4907640
Dichloropropene*	4909255
Ethyl Chloride*	4908162
Ethylene Dibromide* (already listed as PIH)	
Ethylene Dibromide and Methyl Bromide Mixtures* (already listed as PIH)	
Ethylene Dichloride*	4909166
Epichlorohydrin*	4907420
Methyl Chloroform*	4941176
Methylene Chloride*	4941132
Perchloroethylene*	4940355
Perchloroethylene/Trichloroethylene mixture*	4940373
Trichloroethylene*	4941171

Southern Pacific Transportation Company

Southern Pacific Building • One Market Plaza • San Francisco, California 94105

R. F. STAGGS
VICE CHAIRMAN

August 13, 1991

FAX # PAGES 5
TO Katey Riley
LOC. Sacto FAX # (916) 445-6392
FROM: Bob Starzel
LOC: SF PHONE NO. 415
GS-206 541-1478

Mr. Richard Katz
Chairman
Assembly Committee on Transportation
Assembly California Legislature
State Capitol
Sacramento, CA 95814

Dear Mr. Chairman:

Please refer to your letter of July 23, 1991 concerning the July 14 Southern Pacific Transportation Company ("SPT") derailment near Dunsmuir. Following up on my July 29, 1991 response to you, SPT has developed the following further information in response to your requests:

1. In response to the second request in your letter, the rail, tie, and surfacing maintenance performed on the line within a mile in each direction of the derailment for the past three years is set forth in Attachment A. The information is broken down by date, location, and the amount of work performed. Please note that heavy tie and surfacing maintenance on Southern Pacific is scheduled on a 4-year cycle. The last heavy tie and surfacing maintenance occurred on the line in 1987 and was scheduled again for later this year.

2. In response to your third request, we are reviewing the privacy considerations involved in disclosing the safety record of the engineer and conductor involved and will further respond to you concerning this request shortly.

3. In response to the seventh request in your letter, the total number of placarded rail cars, trailers and containers transported over the line by year from 1986 through the first six months of 1991 are set forth in Attachment B.

If SPT can be of further assistance, please let me know.

Very truly yours,

RFS/LPW/tg

ATTACHMENT A

DETAIL OF RAIL MAINTENANCE 1987 TO DATE
"C" LINE MP 326.98 - 328.98
07/31/91

WORK DATE	FROM MILEPOST	TO MILEPOST	LEFT/ RIGHT RAIL	RAIL LAID FEET	RAIL WEIGHT
08/17/90	326.92	327.00	R	467	136
08/20/90	326.92	327.00	L	467	136
04/21/87	327.00	327.10	R	480	136
04/22/87	327.00	327.10	L	480	136
08/15/90	327.10	327.20	L	525	136
08/16/90	327.10	327.20	R	519	136
04/16/87	327.30	327.40	R	520	136
04/16/87	327.30	327.40	R	20	136
04/20/87	327.30	327.42	L	520	136
08/14/90	327.42	327.50	L	250	136
08/14/90	327.42	327.50	R	250	136
08/13/90	327.52	327.60	L	438	136
08/14/90	327.52	327.60	L	438	136
08/08/90	327.81	328.17	L	1000	136
08/09/90	327.81	328.17	L	600	136
08/10/90	327.81	328.17	R	1000	136
08/13/90	327.81	328.17	R	600	136
04/12/89	327.95	327.85	R	20	136
04/13/87	327.86	328.18	L	1770	136
04/14/87	327.86	328.18	R	1770	136
12/18/89	328.10	328.40	R	686	136
01/04/90	328.20	328.32	L	706	136
01/04/90	328.32	328.40	R	355	136
08/22/89	328.33	328.41	L	339	136
08/23/89	328.33	328.41	R	339	136
06/03/88	328.40	328.48	R	378	136
08/21/89	328.50	328.64	R	668	136
08/22/89	328.50	328.64	L	663	136
01/03/90	328.50	328.64	R	166	136
01/03/90	328.50	328.64	L	815	136
08/03/90	328.83	329.03	R	500	136
08/06/90	328.83	329.03	R	504	136
08/07/90	328.83	329.03	L	1004	136

DETAIL OF TIE MAINTENANCE 1987 TO DATE
"C" LINE MP 326.98 - 328.98
07/31/91

WORK DATE	FROM MILEPOST	TO MILEPOST	# OF TIES
10/09/87	325.50	327.40	600
12/27/89	327.20	327.15	37
12/28/89	327.20	327.15	59
12/29/89	327.20	327.15	32
10/04/90	327.50	327.50	36
02/26/87	327.70	327.70	6
10/07/87	327.70	328.00	504
09/25/90	327.80	327.80	12
10/03/90	327.80	327.80	48
09/24/90	327.90	327.90	11
09/21/90	327.90	327.90	7
10/02/90	327.95	327.95	47
10/01/90	327.98	327.98	28
10/06/87	328.01	328.20	322
07/29/87	328.02	328.02	8
01/29/89	328.05	328.05	15
07/29/87	328.08	328.08	2
08/06/90	328.20	328.20	12
10/05/87	328.50	329.20	321
07/12/89	328.60	328.60	6
06/14/91	328.75	328.75	15

DETAIL OF SURFACING MAINTENANCE 1987 TO DATE
"C" LINE MP 326.98 - 328.98
07/31/91

WORK DATE	FROM MILEPOST	TO MILEPOST	SURFACE FEET
10/22/87	325.00	327.00	10584
05/22/87	326.90	327.10	1056
10/19/87	327.00	327.40	2112
10/21/87	327.00	327.11	580
01/09/90	327.15	327.30	600
05/21/87	327.25	327.45	1056
10/12/90	327.30	326.90	2112
10/11/90	327.64	327.82	1160
07/20/91	327.70	327.90	1056
06/30/87	327.70	327.80	1131
10/09/90	327.80	327.54	1368
05/21/87	327.85	328.10	1320
06/01/88	327.85	328.05	1056
07/19/91	327.90	328.10	1056
10/04/90	328.00	328.20	1056
10/08/90	328.00	327.80	1056
04/25/87	328.00	328.20	1056
10/15/87	328.00	328.10	444
06/04/91	328.10	328.50	2120
07/26/91	328.10	328.20	528
10/14/87	328.10	328.40	1640
10/02/89	328.36	328.43	390
10/13/87	328.40	328.60	1140
10/01/90	328.60	328.43	390
09/29/89	328.74	328.69	1050
06/05/91	328.80	328.70	528
10/03/89	328.85	328.20	1848
10/16/90	329.50	328.85	1056

ATTACHMENT B

PLACARDED LOADS OVER SHASTA ROUTE

Year	Carloads	Intermodal Containers	Intermodal Trailers
1986	5118	100	361
1987	4883	233	175
1988	4854	104	397
1989	5141	135	530
1990	5727	262	3446
1991	2486	142	2113

Southern Pacific Transportation Company

Southern Pacific Building • One Market Plaza • San Francisco, California 94105

K. A. MOORE
VICE PRESIDENT-OPERATIONS

From: K.A. Moore, Vice President-Operations
R.H. Berry, Chief Mechanical Officer

To: General Managers
Assistant Chief Mechanical Officers
All Locomotive Plant Managers

Date: March 23, 1990

RE: Policy Memo -- FRA Enforcement Activities

Southern Pacific Transportation Company has adopted the attached policy document to address the stepped-up Federal Railway Administration inspection activity and defect discovery rate during the past year.

This policy will also further the railroad's commitment to a safe and reliable locomotive fleet, reduce fines, and stem the costly service interruptions that FRA discovered violations have created.

Nothing short of the highest level of commitment by each and every Southern Pacific employee involved will give us the focus and attention to detail that is necessary to successfully implement this policy.

Please read the objectives and assignments carefully. Questions concerning the specific requirements of this policy should be addressed to R.H. Berry.

K. A. Moore

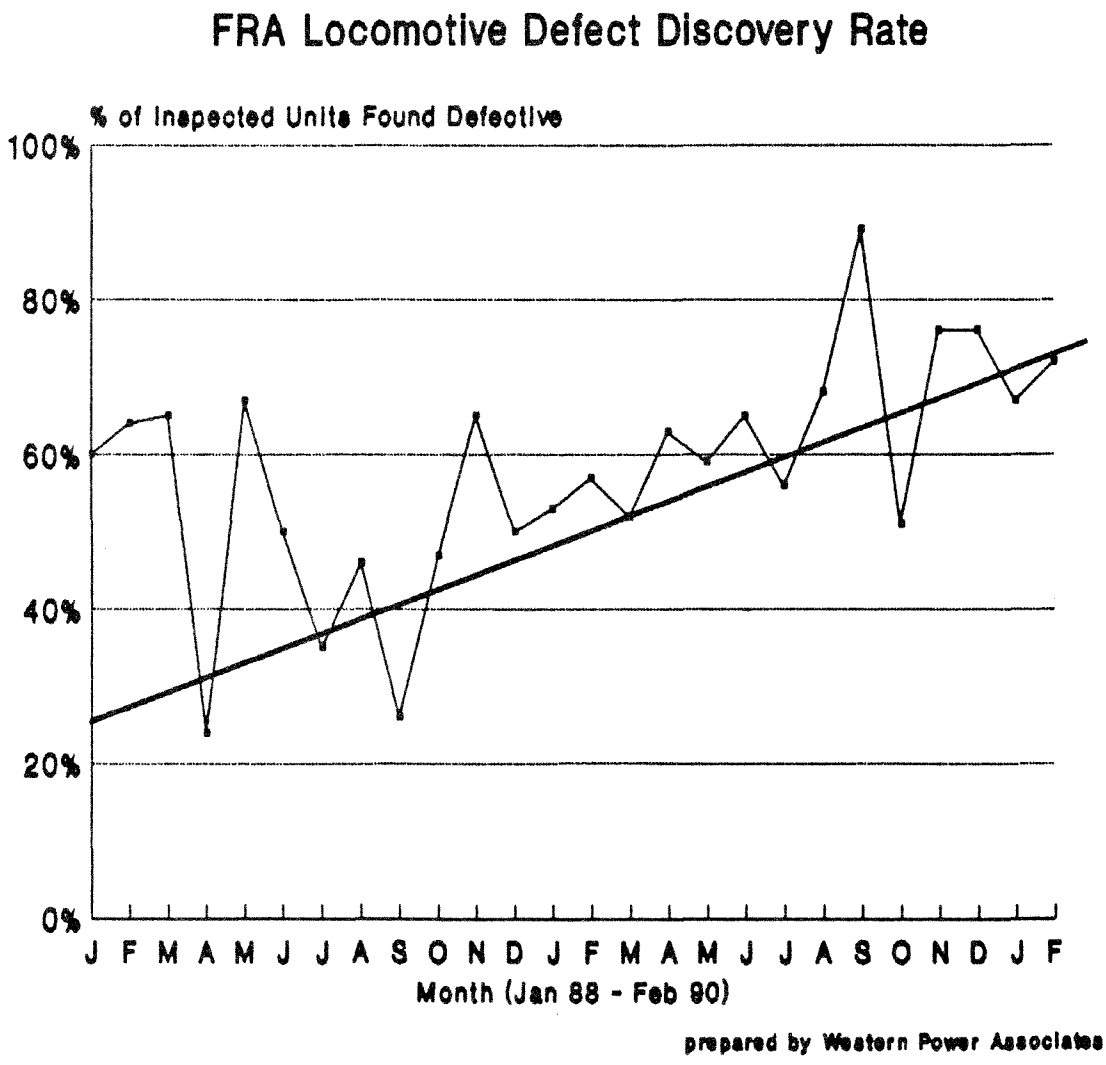
R. H. Berry

BACKGROUND ISSUES:

- Significantly increased Congressional oversight activity.
- Changes in the Federal Railway Administration's legislative authority and administrative procedures brought about by the 1988 Rail Safety Improvement Act have dramatically affected SPTCo.
- Inspection activity is up; there is a higher proportion of violations to inspections; there are higher fines per violation. The impacts of this increased FRA activity are unacceptable.
- In February 1989, the FRA effectively closed down our Tucson facility for over 48 hours. The resultant service disruptions jeopardized over $225,000,000 in SPTCo. revenues and even more importantly, threatened a loss of goodwill by thousands of our customers.
- By effectively responding to these mounting FRA challenges, SPTCo. will also support its overall goal of operating a safe and reliable locomotive fleet.

GOALS OF THIS PROGRAM:

1. To promote a safe and reliable locomotive fleet
2. By July 1, 1990, reduce by 50% the defect ratio (found through random sampling) and by January 1, 1991 achieve an additional 25% reduction.
3. To avoid diverting resources (both shop time and money) from preventative maintenance to handling FRA induced service disruptions.


FRA Locomotive Defect Discovery Rate
% of Inspected Units Found Defective
100%
80%
60%
40%
20%
0%
J F M A M J J A S O N D J F M A M J J A S O N D J F
Month (Jan 88 - Feb 90)
prepared by Western Power Associates

The FRA Shutdown of SP's Tucson Yard Put $225,000,000 of Annual Revenue at Risk!

- 7 stack and UPS trains significantly delayed
- Thousands of valued customers representing annual revenue of $225,000,000 to SP were impacted with delayed shipments.
- The shutdown tied up 38 locomotives for approximately 400 hours of additional maintenance and repairs. It cost the railroad tens of thousands of dollars.

How Many More Shutdowns Can Southern Pacific Afford ?

NONE!!!

OVERVIEW

FRA COMPLIANCE PLAN

This plan requires a high level of commitment on the part of all involved parties to aggressively pursue continual improvement in the quality and safety-related conditions of the SP/SSW locomotive fleet. Plan Implementation is a multi-faceted strategy to improve: the quality of locomotives released from major plants and service facilities through employee involvement and self-monitoring, and the routine servicing of locomotives (including those from outlying areas) at these facilities on a periodic basis, at an increased frequency.

Critical to the success of this plan is to clearly identify those facilities capable of performing high quality service levels (SLS, SLT, SLF and cleaning) as opposed to those qualified to perform run-through type, mainline servicing (SLN). In this regard, most SPT facilities have been evaluated and certified as capable of performing levels of service/overhaul from SLN through M30. (See Facility Matrix -- Page 6.)

FACILITIES CERTIFIED TO SERVICE ALL CLASSES OF POWER:

> Eugene, Roseville (service track), West Colton, LA Taylor, El Paso, Houston (Hardy Street), Pine Bluff (service track), Alton & Southern, Denver and Salt Lake City.

FACILITIES CERTIFIED TO SERVICE LOCAL AND SWITCH LOCOMOTIVES ONLY:

> Oakland, San Antonio, Kansas City, Tucson, Avondale, Lafayette, East St. Louis, Grand Junction and Pueblo. (Some additional remote locations may, from time to time, be certified to service switch engines.)

Each of these locations is equipped to satisfactorily dispatch all classes of locomotives, of the category described above, in compliance with existing safety regulations and policies or take appropriate action to handle as a "non-complying" locomotive.

FACILITIES CERTIFIED FOR SERVING ALL LOCOMOTIVES

Service Level	SLS	SLT	SLF	MO3	MO6	M12	M50	M30
Eugene	x	x	x	x	x	x		
Roseville	x	x	x	x	x	x	x	
LA Taylor	x	x	x	x	x	x	x	
W. Colton	x	x	x	x	x			
El Paso	x	x	x	x	x	x		
Hardy Street	x	x	x	x	x	x	x	
Pine Bluff	x	x	x	x	x	x	x	x
Denver	x	x	x	x	x	x	x	x
Salt Lake City	x	x	x	x	x			
Sacramento	x	x	x	x	x	x	x	x
A&S	x	x	x	x	x	x		

FACILITIES CERTIFIED FOR LOCAL AND SWITCH SERVICING

Service Level	SLS	SLT	SLF	MO3	MO6	M12	M50	M30
Oakland	x	x	x	x				
Bakersfield	x							
San Antonio	x							
Kansas City	x	x	x					
Tucson [1]	x	x	x					
Pueblo	x	x	x					
Avondale	x	x	x					
Lafayette	x	x	x					
East St. Louis	x							
Grand Junction	x	x	x					

[1] GP35's working out of Tucson will receive SLS at Tucson Service Track.

SLS = Sand & Fuel to capacity
SLT = Service & Inspection over a pit
SLF = SLS & SLT + Filter changes.

KEY CONCEPTS:

- Plant Managers and Division Mechanical Officers are responsible to attest that locomotives released from their respective facilities comply with existing regulations and policies.

- Plant Managers and Division Mechanical Officers, will coordinate the rotation of units with Regional Transportation Center Officers as follows: Don Marson in the Western Region, Assistant Chief Dispatchers in the Central Region, and Tom Williams in the Eastern Region.

- Locomotives will be routed to the appropriate facility for SLS, SLT, SLF or maintenance at least every:

  -- 7 days for road freight locomotives
  -- 15 days for local or switch locomotives. [1]

OVERALL APPROACH:

To make a significant improvement in FRA compliance of our locomotive fleet by: 1) quantifying the degree of our problem; 2) measuring improvement; and 3) communicating the results back to our employees. To better accomplish this, management team involvement at the locomotive facilities will be significantly increased. Officers will randomly check the quality of repaired locomotives using standard formats. Supervisors will be required to inspect outbound consists, and lastly, in-house audit teams will periodically visit locomotive facilities to verify the quality of the product.

Obviously, a critical element is employee involvement, and that improved involvement is a function of better two-way communication. A significant effort has begun to communicate to SPTCo. employees the severity of our problem and the need for more consistent attention to detail.

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[1]. A separate study currently under way will address locations currently used for locomotive fueling with the intent of reducing the number of locations fueling locomotives. Mainline fueling locations such as Tucson, Dalhart, Liberal, Kirby, Herington, Hoisington, Klamath Falls, Sparks, will do SLN only, which does not satisfy the 7 or 15 day periodic servicing requirement.

MAIN OBJECTIVE:

The main objective of this plan is to complete more high quality repairs and to measure the results of efforts at the major locomotive repair and service facilities. With increased discipline in routing locomotives on a timely basis to repair facilities which have adequate machinery, materials and trained personnel, our ability to produce safer locomotives with improved FRA compliance is certain.

INITIATIVES

FRA COMPLIANCE

I. BACKGROUND/COMMUNICATION

A. Meeting with General Managers -- February 23, 1990

(1) Review of aggressive FRA Activity

(2) Conceptualize Plan

B. Meeting with Plant Managers - February 26, 1990

C. Meetings with Division Mechanical Officers - March and April 1990

(1) FRA Activity

(2) Impact of 1988 Rail Safety Improvement Act

(a) Implication of Daily Inspection
(b) Increased fine level
(c) Personal liability

II. IN-PLANT INITIATIVES

A. Improve In-Plant Quality/Reliability

(1) Plants must provide high quality locomotives

(a) Supervisors inspect each consist prior to departure
(b) Officers will spot check consists each tour of duty

(2) Provide training on specific defects

(a) Develop checklists of most common FRA defects

(3) Major repairs to be done while unit is in shop -- minor on service track

(4) Emphasis on FRA clean transcontinental power

(5) Consider relocating locomotive supplies if other locations are available and satisfactory

(6) Develop wheel match data document when locomotive comes off drop pit or peeler

(7) Hostler inspection at locations where hostlers put outbound consists on train

(a) General cab condition
(b) Speedometer
(c) Heater
(d) Lights
(e) Radio
(f) Auto-brake valve
(g) Dynamic brake
(h) Sanders

(8) Feedback by engineer directly to plant manager via special letter

(9) Use employee involvement techniques to promote quality improvement

(10) Use internal measure of quality

(a) Mean days between failures
(b) Number of FRA defects during audits

(11) Increase quantity and quality of heavy overhaul

(12) High potential test units with "nothing found" reports and second time failures for ground relay

(13) Perform FRA daily inspections where possible at locations where mechanical craft forces are available

III. OUTLYING POINTS

A. Control of Power

(1) Run-through power back to SP for 92-day inspections

(2) Trade out local power for service and fuel.

(a) Plant Managers will work with Regional Transportation Center to accomplish within respective regions

B. Training

(1) Develop and distribute engineer training film

(2) Distribute information to Regional Transportation Centers on mechanical requirements

(3) Increase shop craft and supervisor technical training by EMD/GE

(4) Training of training officers

(a) Refresher training on FRA regulations
(b) Improve employee attitude toward FRA inspections

(5) Increase Officer interaction with all FRA Regional Directors

(6) Create and publish in-house manual: "What Every Inspector Should Know"

(7) Complete DC hi-pot safety training

C. Daily Inspection Locations

(1) Perform daily inspection with mechanical forces when possible

(2) Enginemen to inspect where mechanical forces are not available. Specify outbound inspection on specific routes

(3) When FRA defects are identified, unit to be repaired or traded out

(4) Produce specially prepared units for dedicated outside locations

(a) Weekly follow-up inspections by Division Mechanical Officers

D. Fuel and Sand Locations

(1) Sand to capacity policy

(2) System fuel study to consider sanding locations

(a) System fuel study to specify and limit number of locations for fueling

(3) Redefine 'SLN' as 'fuel but not complete service'. Only locations listed on page 6 can report 'SLS' on appropriate class of locomotives. All other fueling is reported as 'SLN'. Turns without fuel are not to be reported as 'SLN'.

IV. QUALITY ASSURANCE PLAN

(1) Road freight locomotives released from Eugene, Roseville Service Track, LA Taylor, West Colton, El Paso, Houston Hardy Street, Pine Bluff (service track), Alton & Southern, Denver and Salt Lake City will be in condition to reliably operate for a period of not less than seven (7) days with only 'SLN' fueling required.

This will be accomplished by executing action items including, but not limited to, the following:

(a) Measure progress by Mean Time Between Failure and by random sampling inspection of a selected list of items (Appendix A).

(b) Outbound inspection to be performed by Mechanical Department officers. Sampling to be a minimum of 10% of daily production at each location. A summary report will be made monthly to the CMO.

(c) Train officers and inspectors as to appropriate locomotive safety regulations and policies.

(1) Create instruction videos
(2) Complete and publish manual - "What Every Inspector Should Know"
(3) Complete DC hi-pot training

(d) 100% supervisor walk-through of outbound consists

(e) Implement a modified wheel match data document for use at peelers and drop pits (Appendix B).

(f) Eliminate FARR expansion joints and re-torque exhaust base bolts on M24's.

(g) Provide needed high pressure washers for cleaning

(h) Initiate the use of DC hi-pot for repeat offenders and for "nothing found" cases

(i) Institute use of locomotive engineer feedback letter (Appendix C)

(j) Institute employee involvement in developing quality improvement programs

(k) Utilize resources where possible in heavy overhaul program. This includes truck and turbo programs. (See Appendix D - Five Year Plan). Reinforce that quality must be built in from the start; it cannot be added on later.

(l) Improve material supply. A primary function in the improvement of locomotive performance lies in replacement of components. Obviously, parts can only be replaced if made available.

(2) Local and switch locomotives released from Eugene, Roseville Service Track, LA Taylor, West Colton, El Paso, Houston Hardy Street, Pine Bluff, Denver, Salt Lake City, Oakland, Bakersfield, Tucson, San Antonio, Kansas City, Avondale, Lafayette, East St. Louis, Grand Junction, and Pueblo will be in such condition to reliably operate for a period of not less than 15 days with only 'SLN' fueling required. (Some additional remote locations may, from time to time, be certified to service switch engines.)

This will be accomplished by executing action times including, but not limited to, the following:

(a) Measure progress by random sampling inspection of a selected list of items (Appendix A). Inspections to be performed by Mechanical Department officers. Sampling to be a minimum of 10% of the daily production by an officer at each location. A monthly summary report will be made to CMO.

(b) Train officer and inspectors as to safety regulation and policies appropriate to locomotives:

  (1) Create and distribute video for inspectors

  (2) Complete and publish in-house manual: "What Every Inspector Should Know"

(c) Supervisor walk-through of locals and switch engines

(d) Provide needed high pressure washers for cleaning

(e) Send all local and switch power to a certified road-freight service location for MO6 and higher maintenance

(f) Institute use of locomotive engineer feedback letter (Appendix C)

(g) Institute employee involvement in developing quality improvement programs

V. LEGISLATIVE EFFORT

(A) Develop high profile with AAR to minimize cost of FRA compliance. Regulations should be more specifically concerned with safe train operation

(B) Develop Railroad and AAR support for a proposal to FRA to extend daily inspection of through freight operations.

(C) Develop a "locomotive safety inspection" similar to Appendix D of the Freight Car Safety Standards.

VI. OUTSTANDING ACTION ITEMS

A. Complete operating plan changes - A. L. Marzano

B. Complete fuel location plan - G. L. Pollitt

C. Reestablish where and by whom dailies will be performed - General Managers and K. R. Schaeffer, After Items A & B Above

D. Finish Hi-pot Training - G. L. Putman, 4/1/90

E. Distribute Engineer training video - J. B. Harstad, 4/1/90

F. Distribute inspector and supervisor training manual "What Every Inspector Should Know" - J. B. Harstad, 4/1/90

G. Formalize Plan for KAM (Moore) - K. R. Schaeffer, 4/1/90

H. Distribute updated inspector video - J. B. Harstad, 5/1/90

I. Complete supervisor and inspector refresher classes - G. L. Putman, 6/1/90

APPENDICES

MECHANICAL SP SSW DEPARTMENT

C.S. 2326-A
REV. 7-80

APPENDIX A-1

LOCOMOTIVE INSPECTION / DISCREPANCY REPORT

THIS FORM SERVES TWO PURPOSES:

I. This form supplements, but is not to be used in lieu of, FRA Form No. 2-A, C.S.-2326. Each locomotive unit shall be inspected in accordance with Rule 203 of the laws, rules, and instructions for inspection and testing of locomotives other than steam.

II. This form is to be used to log discrepancies or defects found on locomotives and to list the corrective actions taken. This form is to be used for all defects and actions taken not covered by a scheduled maintenance procedure.

Upon completion, the form must be separated and original sent to Production Planning & Control, Office of CMO, San Francisco.

ENSURE THAT BOTH THE ORIGINAL AND COPY ARE LEGIBLE

EAC: _____

LOCATION _____ DATE _____ TIME _____ LOCOMOTIVE UNIT INITIAL AND NUMBER _____

UNIT ARRIVED: WORKING _____ DEAD _____ FAILURE CODE _____ ASSOCIATED SCHEDULED MAINTENANCE (IF ANY) _____

	DESCRIPTION OF DISCREPANCY - REPAIRS NEEDED	CORRECTIVE ACTION TAKEN			MADE BY
	SERVICE TRACK	YES	NO		
1	Daily inspection card 229.21				
2	Blue card (Periodic inspection)				
3	Controller				
4	Motor C/O (all in or DIC				
5	Sanders (all working)				
6	Oil on walkway				
7	Wheel defects (Visual)				
8	MR Securement (Visual)				
9	Safety Appliances (Clearances)				
10	Coupler Lock Lift (Clevis Clearance)				
11	Decals (hi Volt, Fuel Cutoff, eng brake valve)				
12	Fly Wheel, aux gen covers, TM covers				
13	Gear cases				
14	Separation of torpedos and fusees				
15	Trash in sump				
16	Fuel tank bolts (Visual)				
17	MU cables misplaced (0 end free)				
18	Walkways chains (cont Barriers)				
19	Pilot clearance 3-6"				
20	Brake rigging, shoes, & travel				
21	MR drains (in automatic position)				
22	Visual evidence of exhaust leaks				
23	Lights - Cab, walkway & Eng Room				
24	Clean fuel tanks				

Form is to be filled out below if supplementing FRA Form No. 2-A, C.S.-2326.

MAIN RESERVOIR PRESSURE _____ LBS. BRAKE PIPE PRESSURE _____ LBS.

CONDITION OF BRAKES AND BRAKE RIGGING _____

Signature of Employee Making Inspection _____ Occupation _____

The above work has been performed, except as noted, and the report is approved.

Signature _____ Occupation _____

CONTROL COPY - SEND TO CMO, SAN FRANCISCO

MECHANICAL SP SSW DEPARTMENT

REV. 7-80

APPENDIX A-2

LOCOMOTIVE INSPECTION / DISCREPANCY REPORT

S FORM SERVES TWO PURPOSES:

L. This form supplements, but is not to be used in lieu of, FRA Form No. 2-A, C.S.-2326. Each locomotive unit shall be inspected in accordance with Rule 203 of the laws, rules, and instructions for inspection and testing of locomotives other than steam.

L. This form is to be used to log discrepancies or defects found on locomotives and to list the corrective actions taken. This form is to be used for all defects and actions taken not covered by a scheduled maintenance procedure.

n completion, the form must be separated and original sent to Production Planning & Control, Office of CMO, San Francisco.

SURE THAT BOTH THE ORIGINAL AND COPY ARE LEGIBLE

: _____

CATION _____ DATE _____ TIME _____ LOCOMOTIVE UNIT INITIAL AND NUMBER _____

T ARRIVED: WORKING _____ DEAD _____ FAILURE CODE _____ ASSOCIATED SCHEDULED MAINTENANCE (IF ANY) _____

	DESCRIPTION OF DISCREPANCY - REPAIRS NEEDED	CORRECTIVE ACTION TAKEN			MADE BY
	SHOP RELEASES	YES	NO		
1.	Oil Leaks & Sump cleaning				
2.	Steps (Kick Plates)(Contrasting Colors)				
3.	Floors, Windows, Cabs, Seats				
4.	Safety Hangers				
5.	Check Exhaust Chambers for leaks				
	and/or loose bolts				
6.	Reseal doors				

orm is to be filled out below if supplementing FRA Form No. 2-A, C.S.-2326.

AIN RESERVOIR PRESSURE _____ LBS. BRAKE PIPE PRESSURE _____ LBS.

CNDITION OF BRAKES AND BRAKE RIGGING _____

gnature of Employee Making Inspection _____ Occupation _____

e above work has been performed, except as noted, and the report is approved.

_____ Occupation _____

[illegible] SAN FRANCISCO

WHEEL CONDITION REPORT
DIESEL LOCOMOTIVE

Rev. 3-88

APPENDIX B-1

INSPECTOR: _____

THIS FORM TO STAY WITH LOCOMOTIVE RECORDS

SUPERVISOR: _____

LOCOMOTIVE		DATE INSPECTED			LOCATION
INITIAL	NUMBER	MONTH	DAY	YEAR	

FLANGE AND RIM MEASURMENTS

WHEEL No.	RIM THICKNESS		FLANGE THICKNESS			FLANGE HEIGHT		ACTION Reqd.	CORRECTED By
	In.	Fraction	In.	Fraction	Finger gage	In.	Fraction		
L1									
L2									
L3									
L4									
L5									
L6									
R1									
R2									
R3									
R4									
R5									
R6									

WHEEL RADIUS MEASUREMENTS

WHEEL No.	LEFT RADIUS		RIGHT RADIUS		AVERAGE (Right + Left) / 2	EXISTING Shim	ACTION Reqd.	CORRECTED By
	In.	Fraction	In.	Fraction				
1								
2								
3								
4								
5								
6								

SP CONDEMNING RIM THICKNESS = 1" FREIGHT & SWITCHER
SP CONDEMNING FLANGE THICKNESS = 15/16" FREIGHT & SWITCHER
SP CONDEMNING FLANGE HEIGHT = 1 1/2" FREIGHT & SWITCHER
MAXIMUM ALLOWABLE MISMATCH WITHIN LOCOMOTIVE = 5/8" RADIUS (4 & 6 axle units)
MAXIMUM ALLOWABLE MISMATCH WITHIN 3 AXLE TRUCK = 3/8" except; IF PROPERLY SHIMMED MAXIMUM = 5/8" WITH SHIMS

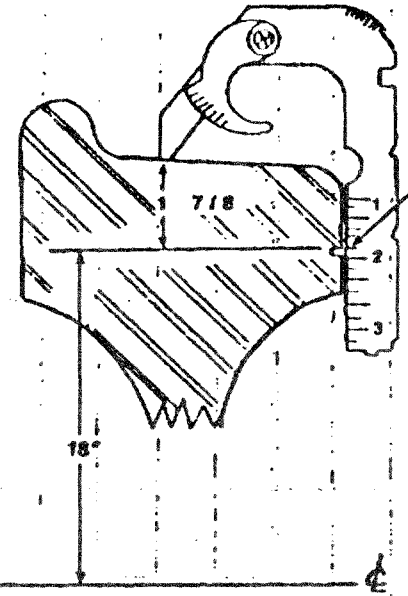
REFER TO DMP 403 FOR WEAR LIMITS WHEN LOCOMOTIVE IS ON DROP PIT OR PEELER

ACTION CODES: C = Change wheel; P = Peel wheel; A = Add shim; R = Remove shim; O = No action required

METHODS OF APPLYING AAR STEEL WHEEL GAGE

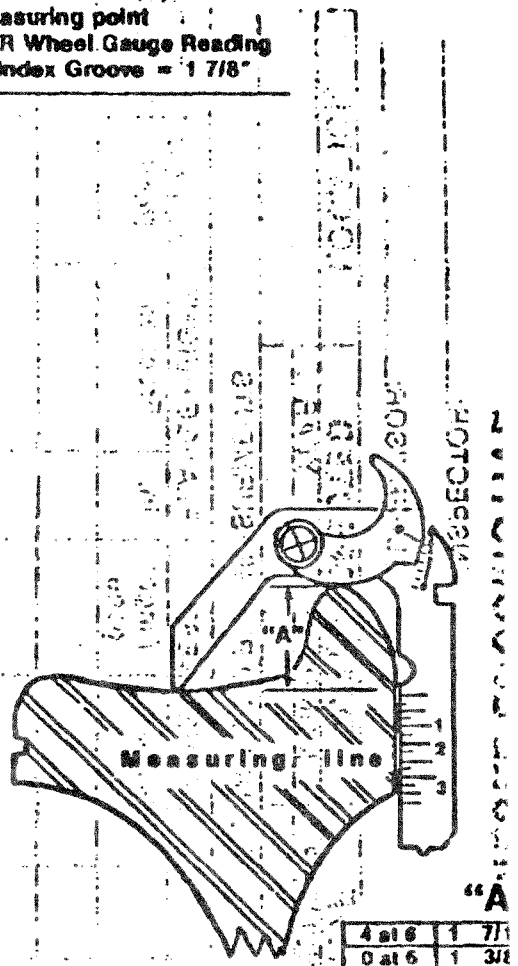
CONVERSION TABLE

1/16	= 1/16"	26/16	= 1 5/8"
2/16	= 1/8"	27/16	= 1 11/16"
3/16	= 3/16"	28/16	= 1 3/4"
4/16	= 1/4"	29/16	= 1 13/16"
5/16	= 5/16"	30/16	= 1 7/8"
6/16	= 3/8"	31/16	= 1 15/16"
7/16	= 7/16"	32/16	= 2"
8/16	= 1/2"	33/16	= 2 1/16"
9/16	= 9/16"	34/16	= 2 1/8"
10/16	= 5/8"	35/16	= 2 3/16"
11/16	= 11/16"	36/16	= 2 1/4"
12/16	= 3/4"	37/16	= 2 5/16"
13/16	= 13/16"	38/16	= 2 3/8"
14/16	= 7/8"	39/16	= 2 7/16"
15/16	= 15/16"	40/16	= 2 1/2"
16/16	= 1"	41/16	= 2 9/16"
17/16	= 1 1/16"	42/16	= 2 5/8"
18/16	= 1 1/8"	43/16	= 2 11/16"
19/16	= 1 3/16"	44/16	= 2 3/4"
20/16	= 1 1/4"	45/16	= 2 13/16"
21/16	= 1 5/16"	46/16	= 2 7/8"
22/16	= 1 3/8"	47/16	= 2 15/16"
23/16	= 1 7/16"	48/16	= 3"
24/16	= 1 1/2"	49/16	= 3 1/16"
25/16	= 1 9/16"	50/16	= 3 1/8"



Measuring point
AAR Wheel Gauge Reading
to Index Groove = 1 7/8"

WHEEL RADIUS MEASUREMENT



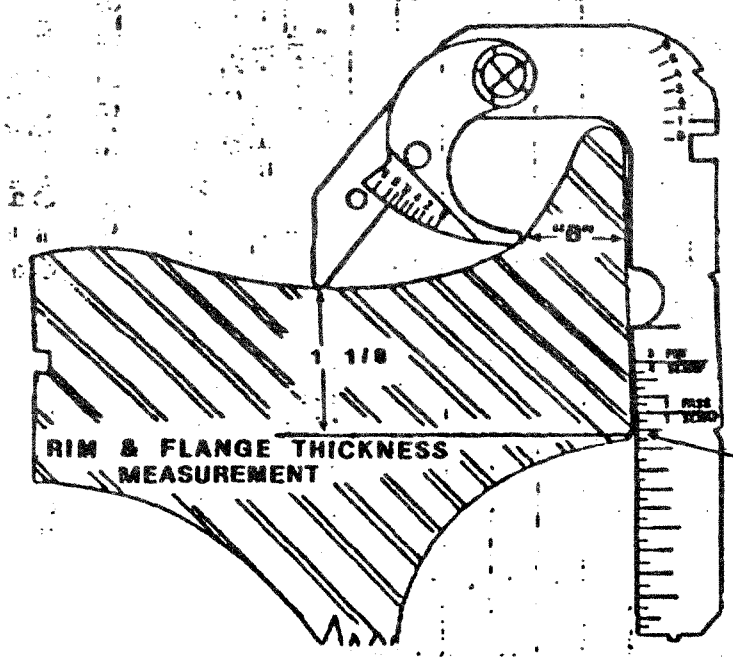
"A"

4 at 6	1 7/1
0 at 6	1 3/8
0 at 5	1 5/1
0 at 4	1 1/4
0 at 3	1 3/1
0 at 2	1 1/8
0 at 1	1 1/
0 at 0	1

FLANGE HEIGHT MEASUREMENT

"B"

0 at 0	1 1/4"
0 at 2	1 3/16"
0 at 3	1 1/8"
0 at 4	1 3/32"
0 at 5	1 1/16"
0 at 6	1"
0 at 7	31/32"
0 at 8	15/16"
0 at 9	7/8"



RIM & FLANGE THICKNESS MEASUREMENT

NOTE: USE 15/16" Wheel defect gage to condemn wheel for thin flange

Measuring point
AAR wheel gage tread
Thickness reading = 1 1/8"

APPENDIX C

Survey

The Locomotive Cab Environment

TO: OPERATING DEPARTMENT EMPLOYEES

FROM: MECHANICAL DEPARTMENT EMPLOYEES

As operating department employees are the users of the product provided by the mechanical department, we at the ramp and service track would like to know what is most important to you as our customers. We know that the locomotives must meet certain F.R.A. guidelines and we know that if we provide you with trash containers you will return a clean cab to us. But beyond trash bags and the F.R.A., how do you feel a locomotive should be equipped or prepared to make your tour of duty more pleasant? If we were to prepare a FINAL CHECK LIST, what do you feel should be on that check list?

Make your comments below, fold this pre-addressed form and place in company mail receptacle. Signing your name and occupation is optional, but encouraged.

Thank you.

NAME OCCUPATION LOCATION DATE

APPENDIX D-1

SUMMARY OF DIFFERENCES BETWEEN THE 4 YEAR LOCOMOTIVE RECOVERY PLAN OF AUGUST 19, 1988 and THE 5 YEAR STRATEGIC PLAN OF JULY 21, 1989

Our new 5 Year Strategic Locomotive Plan for both locomotives and cars is driven by:

- Fleet requirements based on gross ton mile forecasts.
- 90% locomotives availability goal by end of 1993.
- Reduced expenses through improved performance (material & labor).

Major improvement programs were analyzed over a 10 year period to assure continued performance of our fleet past the 5 year plan.

The following is list of differences between the two (2) plans:

	5 YEAR STRATEGIC PLAN	4 YEAR IMPROVEMENT PLAN
• Locomotive Availability	90% - 1993	86.8% - 1992
• Fleet Profile	Projected	Not Addressed
• Improvement Programs	89, 90, 91, 92, 93	89, 90, 91, 92
New	50 50 50 50 50	50 40 00 00
GRIP	24 24 24 24 24	24 24 24 24
* M30	208 200 160 145 138	209 200 190 229
* M50	190 194 229 240 242	236 233 140 141

* The 5 Year Plan uses an alternating cycle of heavy maintenance based on miles for high horsepower freight locomotives and includes an M50 Program for switch engines.

  New - M50 - M30 - M50 - GRIP - M50 - M30 - M50 - Retire

  M50/30 content has been revised to improve reliability and drive down excessive non-scheduled repair expenses.

Our expanded 5 Year Strategic Plan has been formulated to achieve a locomotive fleet availability of 90% to meet system requirements and obtain significant savings through an improved heavy maintenance program.