MEDIA MONITOR January 10, 1983

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Minneapolis Star/Tribune January 5,1983

# Wirth might get another crack at Milwaukee depot

By Jacqui Banaszynski
Staff Writer

Harry Wirth, the California businessman who wants to own and rebuild the Minneapolis waterfront, may have gained another extension of his long-past deadline to buy the Milwaukee Road depot.

"If Harry Wirth came up with the balance of the money (owed on the property), we'd be willing to deal with him," Larry Adelson said Tuesday. Adelson is an attorney for the trustee managing the financial affairs of the bankrupt railroad in Chicago.

Two weeks ago, when Wirth missed his ninth and "final" deadline to buy the 15.5-acre site, Adelson had said the railroad would no longer deal with Wirth, and that Wirth no longer had a legal claim to the land.

Adelson's statement yesterday may mean that Wirth's latest legal maneuver — filing for financial reorganization under Chapter 11 of the federal bankruptcy laws — has won him the extra time he wants to complete the deal.

That's because any action involving the depot property — including the sale of the property to someone besides Wirth — now must be approved by a bankruptcy court judge.

"Wirth's attorneys say the bankruptcy petition gives them an extra 60 days (to close the purchase of the depot)," Adelson said. "We disagree. But that will be for the courts to decide."

But Adelson acknowledged that may be a moot point, because railroad officials have no immediate plans for the depot property anyway.

Wirth said he needs the time to complete financial arrangements with a California bank that would allow him to buy the depot.

The bankruptcy petition was filed two weeks ago in St. Paul, just minutes before Wirth's final deadline to buy the depot property for $9.5 million cash.

Financial information submitted to the bankruptcy court late Monday offers a glimpse into the dealings of Wirth's depot development firm, Waterfront Companies, Inc., and shows how Wirth hopes to keep alive his dream of owning part of the Minneapolis waterfront.

(A business that petitions under Chapter 11 of the federal bankruptcy laws is protected from creditors and allowed to continue operating while it develops a plan for reorganizing its finances and paying its debts. The petition essentially freezes, until a court acts, all action involving property owned by the business.)

Waterfront's financial statement lists assets and debts in such a way that all elements of the depot deal, including land not yet bought and deposits already paid, are made part of the bankruptcy proceeding. That forces any transactions involving the property or the deposits into bankruptcy court.

In the statement, Waterfront Companies claims assets of slightly more than $21 million. That includes $21 million as the estimated market value of the depot property, a $30,000 loan fee made to a California bank, $13,000 worth of office equipment and supplies, and $100 petty cash.

Waterfront Companies has made deposits of $2.5 million for the depot property and is claiming an "equitable interest" in the land, according to Samuel Stern, a St. Louis attorney representing Wirth in the bankruptcy matter. By claiming the depot property as an asset belonging to Waterfront Companies, Wirth hopes to retain his purchase contract with the railroad and prevent the Milwaukee Road from selling the land to someone else, Stern said yesterday.

The firm's debts total $17.5 million owed to some three dozen creditors, according to the statement.

The largest creditor is the Milwaukee Road, which is owed $7.3 million as the balance of the purchase price of the depot property. Wirth already has paid the railroad $2.5 million in nonrefundable cash deposits, which also is listed as a "secured" debt, meaning it is held by the creditor in escrow but can't be taken out of escrow without court approval.

The other major creditor is Wirth himself. The statement shows that Wirth used his personal funds to make loans of $6.5 million to fund the operations of Waterfront Companies. It also shows that Wirth has not collected his salary, which is listed at $55,500.

Wirth, a San Francisco real-estate investor with property interests in northern Wisconsin and Upper Michigan, formed Waterfront Companies in Minneapolis a year ago to handle the depot project. At the time he said his personal worth was about $10 million, primarily in real estate. He is president of the firm and owns two-thirds of the company's stock.

The firm's other major stockholders are three California businessmen who have invested in the company or who have used their personal property as collateral to help Wirth obtain loans for Waterfront Companies.

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Wirth Story cont.

Other major creditors are:

- The Chicago & North Western Transportation Co., owed $375,000 on a parcel of property connected to the depot site that Wirth also is trying to buy.

- Chen Wang, a California businessman who was in partnership with Wirth when the depot project was first announced but has since had a falling out with Wirth. He is owed a $275,000 loan made in April 1981.

- The Minneapolis law firm of Popham, Haik, Schnobrich, owed $90,000 for continuing legal services. The firm, which has represented Wirth for more than a year, has not received any payment, according to the statement.

- Four other law firms, including three from Minneapolis and one from Chicago, are owed fees ranging from $1,300 to $7,300.

- Robert Ready, project manager for Waterfront Companies and Wirth's second in command, owed $25,800 in deferred salary. Ready left a longtime position with the Minneapolis Planning Department a year ago to work for Wirth.

- Malloch Wirth Architects, owed $25,000. Duncan Malloch is a Minneapolis architect and longtime associate of Wirth's who has done the bulk of designs for the proposed depot project.

- Anneliese Cassidy, a Bloomington woman who formerly worked as Wirth's secretary, is owed $1,740 in salary from last February. Cassidy's husband works for the Milwaukee Road in the depot building at Washington and 3rd Av. S. where Waterfront Companies has its headquarters.

- First Bank Minneapolis, owed $36,000 for various loans, including checking account overdrafts of about $1,500.

- James B. McComb & Associates, a Minneapolis economic consulting firm, owed $17,400 for consulting services.

The statement also lists various other creditors and debts, ranging from $8.80 owed to a local linen supply company, to $868 in unpaid telephone bills, to $9,700 owed to an Illinois economics research firm.

The only way Wirth can protect the $6.5 million he personally has invested in the depot is to buy and develop the site, Stern said. If the railroad refuses to sell to Wirth and keeps Wirth's $2.5 million in deposits, Wirth also will lose other money he has invested in the deal.

Wirth is continuing to arrange an $8 million loan from State Savings and Loan Association of Stockton, Calif., Stern said. That money was available two weeks ago, in time for Wirth's final purchase deadline, but was delayed because of a legal technicality involving a parcel of property being used as collateral, he said.

The recent drop in interest rates makes it easier for Wirth to arrange a loan to complete the depot purchase, Stern said. Meanwhile, Wirth is continuing to pay the railroad 14 percent interest on the $7.3 million still owed for the depot property.

When Wirth first announced plans to buy the depot a year ago, he said he was going to transform it into a $220 million complex of restaurants, shops and condominiums. He said he eventually would oversee a $1.2 billion renovation of more than 100 acres of downtown waterfront.

"We want to do this deal and Harry Wirth is convinced it can still be done," Stern said.

Harry Wirth

Journal of Commerce
January 4, 1983

# Rail Opens Service Centers

Journal of Commerce Staff

The Chessie System Railroads have opened five regional service centers designed to speed customer information on car location, schedules, reconsignments and diversions and protecting or expediting shipments.

The centers are located in Baltimore, Md., Pittsburgh, Pa., Cincinnati, Ohio, Chicago, and Detroit. A satellite office in Toronto, Ontario has been established for Canadian customers.

The new centers serve a function which previously was performed by individual sales offices. Staff at those offices now will have more time to pursue sales leads, a railroad spokesman said.

The centers are connected to a computer system which stores car information and updates the car location as it moves along the railroad.

"We are changing our historic method of dealing with our customers so we can meet their needs more quickly and efficiently," said John S. Lanahan, senior vice president-commercial.

The establishment of new offices is part of an overall revamping of the railroad's commercial department which has included dividing marketing efforts into eight product groups and improving coordination between Chessie System and the Seaboard System Railroad which also is a unit of the CSX Corp.

"With competition for freight handling more intensive than ever, we are gearing up to make sure our customers get the best and most economical service available," Mr. Lanahan said.

Minneapolis Star/Tribune December 30, 1982

# The end of Harry Wirth's depot dream?

Real estate investor Harry Wirth's ambitious dream to redevelop the Milwaukee Road depot site may finally have gone up in the smoke of missed deadlines. That's disappointing. His plan is exciting and his vision for the site contagious.

But there's a still greater disappointment: Wirth's failure just before Christmas to meet his final deadline for raising $9.5 million to buy the property doesn't mean that someone else can now try. Instead, in a literally last-minute effort to keep his purchase option alive, Wirth's company petitioned for reorganization under Chapter 11 of the federal bankruptcy law. He says he still intends to buy and redevelop the depot site and just wants to keep "everything in place" until he can come up with the money.

Officials of the Milwaukee Railroad, which is itself bankrupt, say Wirth's ploy won't make any difference, that his depot deal is off, and that Wirth's failure to meet payment deadlines means he has forfeited not only his development rights but also the $2.2 million in cash he already paid to the railroad.

It may take a courthouse full of lawyers and judges to determine who's right. But whether or not Wirth has bought himself more time for buying the depot site, he certainly has delayed any move to offer the property to a new developer.

And that's distressing news. The 15.5-acre depot site is a prime piece of downtown land, the best remaining opportunity to reconnect Minneapolis's central business district with the nearby Mississippi riverfront. It also lies within the Industry Square renewal area, where the Hubert H. Humphrey Metrodome was supposed to encourage extensive new development.

For reasons such as these, Minneapolis city officials have had high hopes of their own that the depot area would soon be the site of a major rebuilding project. Last year, before Wirth outbid several other interests for development rights, the Minneapolis Community Development Agency even considered buying the land itself.

The city backed off mainly because it preferred to give private developers first crack at the project. That was probably a good idea and may still be. But it leaves the city in an essentially passive, wait-and-see position on a redevelopment project in which the public has a major interest.

Some sympathy has to go to Wirth. Certainly he deserved every reasonable opportunity to pursue his depot redevelopment dream and recover his investment. But from the city's perspective, it would be better if he'd let another developer take it from here.

Wall Street Journal January 3, 1983

## Who's News

## *Union Pacific Corp. Names Five Officers To Serve Two Rail Units*

*By a* Wall Street Journal *Staff Reporter*

NEW YORK—Union Pacific Corp. named five officers who will serve both the Union Pacific Railroad and the recently acquired Missouri Pacific Railroad.

Missouri Pacific will be a unit of the parent Union Pacific Corp. Western Pacific Railroad, another recently merged line, will remain a subsidiary of Union Pacific Railroad.

John C. Kenefick, currently president of Union Pacific Railroad, becomes chairman and chief executive officer of Union Pacific and Missouri Pacific. Mr. Kenefick also is a director of the parent firm.

R.G. Flannery, who has been president and chief executive of Missouri Pacific, becomes president and chief operating officer of the two carriers.

Walter P. Barrett, vice president, traffic, of Union Pacific, becomes executive vice president, marketing and sales, for both lines. C. Barry Schaefer, vice president, law, for Union Pacific, was named executive vice president, law and finance, for the lines. And George A. Craig, who was senior vice president, marketing, for Missouri Pacific, takes on the same title for both carriers.

Union Pacific Corp. said the operating officers will maintain offices in both Omaha, where Union Pacific is based, and St. Louis, where Missouri Pacific was based.

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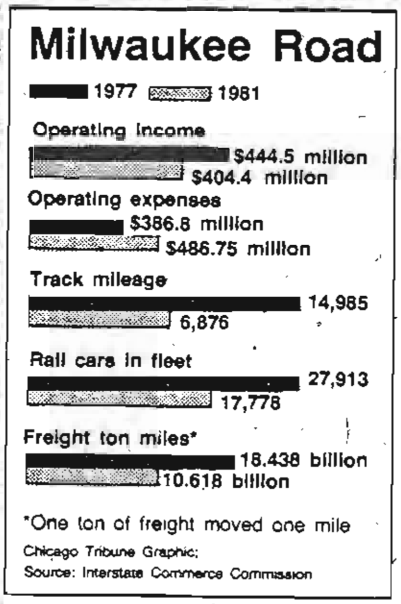


# Leaner Milwaukee to make the grade?

By David Young
Transportation writer

**THE BANKRUPT** Chicago, Milwaukee, St. Paul & Pacific Railroad last year completed the first major step toward its reorganization by shrinking to a third of its former size and began the second step by concluding talks that will lead to its acquisition by another carrier.

Former Illinois Gov. Richard Ogilvie, since becoming the Milwaukee Road's bankruptcy trustee in 1979, has never tried to conceal his opinion that the ultimate salvation of the Milwaukee was a merger with a stronger railroad.

The consolidation that reduced the size of the railroad by abandoning its unprofitable Western lines was intended in the long run to make the Milwaukee more attractive as acquisition bait and in the short term to keep it alive long enough for a fish to bite.

The fish that bit last year was Detroit-based Grand Trunk Corp., the holding company that owns the Grand Trunk Western Railroad and is itself a subsidiary of the Canadian National, a railroad owned by the government of Canada.

**THE DEAL** that the two firms concluded calls for the sale of the remaining 3,000 miles of the Milwaukee still being operated as a railroad to the Grand Trunk in return for its assuming $253 million in existing debt. The now-abandoned parts of the Milwaukee will be sold to repay creditors and satisfy other claimants under a revised reorganization plan Ogilvie hopes to file with U.S. Judge Thomas McMillen by Feb. 5.

The actual transfer will be done by means of issuing new common stock to the Grand Trunk.

The proposed sale probably will draw the usual opposition from other railroads, but the strongest challenge may be mounted by Chicago & North Western Transportation Co., the Milwaukee's principal competitor in most of the markets it serves.

"We're not worried about competing with the Grand Trunk Western," said an executive of another railroad, "but we are concerned about competing with the Canadian government."

**THE SEEMINGLY** inevitable legal dispute over the merger may center on the substantial federal subsidies given to the Milwaukee Road since it filed for bankruptcy in 1977, especially the repayment of $50 million in federally guaranteed loans made in 1980. Those guarantees were pushed through Congress by Western congressmen to prevent abandonment of the railroad's transcontinental line across Montana, Idaho and Washington.

The Milwaukee Road has $250 million in its coffers, primarily from the sale of Western railroad land, and is obliged under the Grand Trunk agreement to assume $40 million in debts, mostly in labor protection funds.

In early 1979, Stanley E.G. Hillman, then trustee of the foundering Milwaukee Road, proposed an embargo [cessation] of all traffic on nearly three-fourths of the railroad, including the transcontinental line, to save the entire carrier from financial collapse. He later filed a petition with the Interstate Commerce Commission to abandon the transcontinental line.

**AT THE TIME,** employees from the western part of the line were attempting to put together a plan to reorganize the Milwaukee and save their jobs. Montana Senators John Melcher and Max Baucus induced Congress to pass several provisions making available $50 million to keep the railroad running for an additional four months until the ICC could rule on the employee proposal.

The ICC ultimately ruled against the employees, McMillen imposed the embargo and the Milwaukee defaulted on repayment of the federally guaranteed loans. That meant the U.S. Transportation Department was forced to pay them off and became the holder of $50 million in trustee certificates.

Ogilvie's lawyers say the federal government by law must forgive the debt if the Milwaukee is acquired by the Grand Trunk Corp. The amendment tacked onto a 1980 railroad deregulation act passed by Congress said the repayment could be canceled if the railroad were reorganized or acquired by another carrier.

"Principal and interest to be forgiven could approximate $100 million by the time of closing," according to a document one of Ogilvie's lawyers filed in court May 25.

**THAT POSSIBILITY** strikes officials of some other railroads as an indirect subsidy by the American taxpayers to the government of Canada.

The Milwaukee in 1982 suffered a 14.5 percent fall in traffic originated along its lines, but because of several agreements coordinating traffic between the Milwaukee and its proposed new owners, traffic received from other railroads is up 12 percent, according to Worthington L. Smith, Milwaukee president.

**THE CANADIAN** National is now turning over increased traffic to the Milwaukee at Duluth, and the Grand Trunk is doing the same in Chicago.

Coal traffic is down because of the relatively mild summer, which reduced air conditioning use, and the decline in the agricultural export market has caused a drop in Milwaukee grain shipments. Automotive and lumber traffic is down because of the recession, Smith said.

Continued

Des Moines Register January 7, 1983

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To survive, the bankrupt Milwaukee has continued to follow its reorganization plan, which calls for a reduction in expenses whenever revenues decline. The plan anticipated that the railroad would lose $30 million in 1982, and Ogilvie says it is on target. The plan also calls for the Milwaukee to be profitable by 1985.

To keep the railroad's cash flow under control and reduce costs to match the loss of revenues in the recession, Ogilvie last year induced the Regional Transportation Authority to take over the Milwaukee's commuter division, which was losing $600,000 a month.

HE ALSO GOT Milwaukee employees to absorb a 7 percent wage cut and agree to the elimination of two of the five crew jobs on freight trains. Despite the concessions, the railroad was forced to lay off workers at its shops in Milwaukee and headquarters in Chicago.

The Milwaukee, which began the year with 6,500 employees, ended it with about 5,000.

Hillman quickly came to the conclusion after being appointed trustee in early 1978 that the railroad's traffic was concentrated in the Midwest and that its transcontinental line was a money-losing proposition.

HE BEGAN THE series of actions continued by Ogilvie to pare the size of the Milwaukee.

The restructured Milwaukee already has shown sporadic signs of profitability.

# Tracking Iowa's pioneer trails

By RANDY EVANS
Register Staff Writer

AMES, IA. — Neophyte detectives from the Iowa Department of Transportation are tracking down the routes of pioneer buggies and stagecoaches in 40 Iowa counties, and what they find will help resolve a multimillion-dollar modern-day court case.

At issue is whether the Milwaukee Road or the state agency will have to pay for removing 100 rail crossings on lines that the railroad abandoned in recent years as it struggled to get out of bankruptcy. The Milwaukee, once the third-largest railroad in Iowa, disposed of 700 miles of track in the state after its bankruptcy-court filing in 1977.

Nearly all of the abandoned sections were laid in the 1860s, '70s, and '80s by small rail companies — with names like the Dubuque, Marion & Western Railroad, and the Sabula, Ackley & Dakota Railroad — that later were acquired by the Milwaukee.

Because of the Milwaukee's shaky financial condition, the company instructed salvage crews tearing up the unneeded lines to leave the rails and ties in place where the tracks crossed highways. But DOT officials contended the railroad had a legal responsibility to remove and pave over potentially dangerous crossings.

Lawyers for the DOT and the Milwaukee have been trying for more than a year to figure out who is responsible for removing the old crossings. Recently, however, U.S. District Judge Thomas McMillen of Chicago ruled that the question would have to be determined on a crossing-by-crossing basis.

The judge indicated that the responsibility would be the Milwaukee's if its iron horses had crossed established public roads when the lines were built. But the responsibility would be the state's, he said, if the roads were laid across the railroad's tracks.

"It's going to be a big job," said Raymond Callahan, an official in the DOT's rail division. "We're going to have to go to the county courthouses and dig around."

DOT employees will have to pore over century-old land records in the county recorders' offices, trying to determine when the railroad acquired the land where today's crossings are. They then will have to determine from the documents when public roads were first established there, Callahan explained.

"Some of those roads were part of the stagecoach system," he said. "Iowa's road system was very well-established by the time the railroad came through. You wouldn't identify them as roads by today's standards, but they were still roads — public ways.

"Which was there first, that's the question."

Journal of Commerce January 4, 1983



# BN Proposes Another Car Pooling Plan

By MICHAEL ROSENBAUM
Journal of Commerce Staff

CHICAGO — Shippers say they will listen — once again — to a plan to get them to shoulder more of the burden of idle railcar capacity. But they don't really plan to go along with the latest proposal by the Burlington Northern Railroad.

The Burlington Northern announced last month that it hopes to create a pool of jumbo covered hopper cars, including both railroad-owned and private equipment. Only a limited number of private cars would get into the pool, while the Burlington Northern would include all of its own cars in the grain fleet.

As expected, major shippers are less than thrilled about the idea. And they have been successful in blocking such programs in the past.

Early in 1981, the Santa Fe Railway announced that private shippers would no longer be able to load their own cars on that railroad under a plan aimed at trimming the company's glut of empty hoppers. The railroad offered to acquire some of the shippers' cars, but the shippers declined. Eventually, the Santa Fe backed off from the proposal.

The new Burlington Northern proposal is one of several advanced by the line in the past couple of years.

While the Santa Fe was trying to convince its major grain shippers to stop using their own cars on its line, the Burlington Northern was requiring that single car shipments be split 50-50 between railroad-owned and private cars. But the BN was placing no limits on use of private cars for unit trains.

Several months ago, the line proposed a car pool including 6,600 private cars — those that had carried seven loads or more in 1981. The railroad agreed to assume the lease or make a monthly payment based on current market value for those cars owned by the shippers. Cars outside the pool would be unable to load grain on the Burlington Northern.

Shipper resistance led to abandonment of that plan, but the Burlington Northern came back late in December with a new proposal that appeared almost identical to the one abandoned only a few months before.

"This is worse than the last one," complained Leonard Bye, vice president of transportation at Peavey Co.

The new plan calls for private shippers to make bids to enter the pool, stating the minimum payment they will require for use of their cars. Lowest bidders will get into the pool, receiving payments that might — or might not — cover the costs of the cars.

Mike Karl, the railroad's assistant vice president for grain marketing, said the railroad would commit to car owners for six months under the plan. The railroad owns 12,500 jumbo covered hoppers, of which some 4,000 are idle on any given day.

But that would change dramatically if the railroad's plan is implemented. All the Burlington Northern cars would be included in the pool, but only 6,000-8,000 of the 13,000 private cars in service on the line would get into the pool.

Utilization would plunge for private car owners and rise dramatically for the railroad under the plan. The utilization rate would rise for the pool as a whole, as well. About 21,500 jumbo hoppers are hauling grain on the Burlington Northern on any given day, but the pool would include only 19,500 or so.

Mr. Karl noted that the railroad could achieve better utilization by managing the entire fleet. Now, private cars return empty to the shipper's facility, he said. If those cars were in the pool, the railroad could provide for grain movement along part of the backhaul.

That boost in efficiency will translate into lower freight rates, according to Mr. Karl. But shippers complained that the freight rate reduction won't make up for the added expenses they would incur if they couldn't use their own cars.

Shippers are particularly critical of car rationing schemes because they were encouraged by the railroad industry to buy their own cars.

Chronic shortages of railroad-owned hoppers led to a massive increase in private fleets during the past decade.

Now that grain movements are hampered by recession and poor export demand, the private car owners are having a tough time filling their own equipment. Railroad-owned cars, which require a car-hire fee, are a second choice.

Technically, the Burlington Northern has no obligation to load privately owned cars. Such authority is granted by the railroad under what is known as an "OT-5" agreement. But the authority is conditional.

The railroad isn't obligated to take an OT-5 car if it has idle equipment available, Mr. Karl noted. This limitation on shipper rights is never invoked when grain movement is heavy and only seldom pursued when business is slow. Major shippers who are most likely to own or lease private cars, often can shift movements from one railroad to another if a particular line's demands become onerous.

At the same time that the railroad has no obligation to load OT-5 cars, another regulation indicates that the carriers have no obligation to supply covered hoppers to shippers. Those cars still qualify as special equipment.

That leaves shippers caught in the middle. They need the cars to assure movement in times of equipment shortage, but have no real rights to use their own cars or to obtain them from the railroads.

Still, Mr. Karl indicated that the response from shippers will have a major impact on the final form of the pool, or if it is created at all. The final decision on the plan won't come until March 1, he said.

Competitive pressures will prevent implementation of the pool plan, according to one railroad expert who asked not to be mentioned by name. Other railroads will jump on the pool issue in an effort to draw customers away from the Burlington Northern.

"If you say you won't take private covered hoppers, one of your competitors will come along and say they will," the source explained. Those pressures played a significant role in killing the Santa Fe's plans to limit private car use, he added.

Journal of Commerce January 5, 1983



# Railroads View New Truck Regulations With Concern

By RIPLEY WATSON 3rd
Journal of Commerce Staff

American railroaders don't seem too sure how much increased truck taxes and fuel costs will affect them right now, but some officials think the new size and weight regulations will cause problems in the long run.

A survey of major Class I railroads showed that none thought the higher user fees and fuel taxes would be an immediate bonanza for their lines.

Instead, some marketing officials said congressional action to permit longer and wider trucks would have a negative impact on piggyback traffic, rail's only consistent growth area.

The problem identified by Richard Steiner, vice president of marketing for Conrail, and John Grygiel, assistant vice president-pricing at the Santa Fe, was that two of the longer trailers cannot fit on the existing flatcars used for piggyback.

Both officials said that piggyback's efficiency would be seriously affected by the inability of rail to accommodate two of the newly approved 48-foot trailers on its present equipment.

If and when truckers move to exploit the expanded capacity Congress has granted them, railroads would be forced to engage in expensive re-equipment of flatcar fleets, nearly all of which are built to accommodate no more than one 40- and one 45-foot trailer.

The truckers say that the higher taxes are a real burden on the industry at this time because of low profitability and high levels of competition.

Without a higher level of profitability, some observers feel that truck companies will have a tough time finding financing for the new equipment they need to take advantage of the new size and weight limits.

Another central issue, the effects of which some officials say cannot be assessed, is whether the higher user fees will equal the cost savings of larger loads.

Mr. Steiner noted that his department has calculated that the new regulations give trucks a 16 percent decrease in unit cost per square foot for non-bulky cargo. He said Conrail estimates only a 3 percent increase in costs due to the user fees.

He noted, however, that the advantages varied based on the type of cargo carried and that bulk commodities such as coal will not be affected as much by the new limits.

Another factor was cited by a spokesman for the Seaboard Rail System who said rail was a more efficient mode than truck since it can carry more ton-miles per gallon of fuel.

Mr. Grygiel said that he expected the cost of a trailer load of freight would increase $25 between Chicago and Los Angeles based on four miles per gallon used by a truck. He said he was not sure whether that small fractional increase would convince shippers to switch from trucks to railroads.

None of the carriers was able to put an overall dollar value on the impact of the new truck taxes.

There has been no indication yet that truckers will seek a rate increase. Observers have felt that the stiff competition for traffic will work against any immediate rate increase filings.

Most of the railroads contacted said it was too soon to assess the effects of the new law. Spokesmen said that they felt the marketplace would have to determine whether any traffic would be diverted from truck to rail or vice versa.

One rail marketing official, Harry Bruce of the Illinois Central Gulf Railroad, did say that he thought that the new rules were "a great opportunity for us to bore in a little tighter on the over-the-road carrier."

The senior vice president-marketing said ICG had no plans to make immediate changes in its marketing strategy, whicb is aimed at maximizing on-line shipments, keying rates to traffic flow patterns and using the hub concept in intermodal movements.

Mr. Bruce said ICG is trying to attract new appliance and paper products business. One prospect ICG is examining is re-entering the less-than-carload market with local pickup and delivery features. Trucks have had the vast majority of that type of business for many years as railroads concentrated on carloads which were easier to handle.

Mr. Bruce did note that the higher truck weight limits also might benefit railroads because heavier loads could be carried on truck segments of piggyback movements.

Mr. Grygiel said he felt "it will take us some time to determine what effect it (the new laws) will have with our daily battle with trucks."

Some of the carriers contacted referred requests for comment to the Association of American Railroads, known as AAR.

A spokeswoman for the association said the group was gratified to see legislation which makes heavy trucks pay user charges which compensate for the damage done to the highways.

Railroads have contended for years that heavy truck user fees are too low and that trucks cause more damage to roads than they pay in taxes. Trucking officials contend that the fees they were paying before were appropriate and that the new fees are much too high.

However, she said, it was premature to set any dollar figures on changes in traffic as a result of the legislation.

A spokesman for CSX Railroads said "it's too early to take a reading," noting that the legislation was just approved.

At Burlington Northern, officials haven't assessed the relative impact of increased truckers' costs and added capacity.

Norfolk Southern is analyzing the new rules in the context of routes, markets and service impact, a spokesman said, but he reported that the line plans no significant changes in its overall marketing strategy.

Effects of the new legislation are expected to vary between railroads, since some lines such as Norfolk Southern and Chessie System, have large amounts of bulk traffic, which is less susceptible to truck competition and has traditionally moved by rail.

One factor which has entered into the competitive equation, Mr. Grygiel noted, is the nature of the economy. He said it's hard to distinguish whether the intense competition

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which exists now would carry over if the economy improves and becomes more normal.

He said Santa Fe was ready to respond to competition as it appears, but he did not say the line would change its price structure first.

Mr. Steiner, when asked the same question, said "we intend to remain competitive."

Conrail has been an aggressive price cutter in an effort to capture new traffic.

He said that he expected market prices to be impacted more by competition than by carrier costs.

An example of the changes Mr. Steiner foresees was in produce traffic which now can weigh 73,000 pounds when it goes through some strategically located border states on a truck but has no such limit on a piggyback flatcar. The new laws eliminate that advantage by permitting trucks to weigh up to 80,000 pounds in all states. The difference may keep some shipments on trucks from origin to destination.

He compared the situation to 1974 when truck weights and sizes were liberalized when the Arab oil embargo caused great price hikes in fuel.

Mr. Steiner said the effect then was to increase trucking profitability.

Journal of Commerce January 5, 1983

# Canadian Rail Makes Branch Line Improvements

Journal of Commerce Special

State-owned Canadian National Railways has spent C$10.5 million on improvements to its 510-mile branch line which serves the Hudson Bay port of Churchill, Manitoba.

Funding for the project which has resulted in laying of 100- or 115-pound rail from The Pas to Churchill was provided by the federal government as part of its branch line rehabilitation program.

During the previous four years, the government spent C$20.8 million on the line, which has been plagued with sinkholes which undermine the ballast.

The Port of Churchill is used primarily for grain shipments made during a three-month navigation system.

Before the rehabilitation, the line was laid with 65-pound rail. The southern portion of the line now has 100-pound rail, while the balance of the line has the heavier 115-pound steel.

Other improvements made to the line include replacing ballast, renewing ties and improving drainage.

Efforts are being made to stabilize the tracks in permafrost areas where the sinkholes pose the greatest problems, a railroad spokesman said.

There still are no plans to try to use the 100-ton covered hopper cars on the line to Churchill. The larger hopper cars have all but replaced the boxcar for grain movements in the Canadian and American grain belt.

Boxcars with 50 or 60 ton capacity are used to move grain on the line.

Grain shipments through Churchill have been as high as 26.2 million bushels, a level reached in 1977. The facilities at Churchill include a 500,000 bushel elevator built soon after the line was opened in 1931.

The line also has been used for semi-weekly passenger service and tours run by Via Rail Canada. The train operated from Winnipeg, Manitoba to Churchill is known as the "Polar Bear."

Officials at Via Rail bill the tour which includes a walk across the ice to visit a fort near Churchill as an alternative for travelers who prefer not to visit winter sun spots such as Florida.

Officials at Churchill reported the New Year's Day temperature warmed to -10 degrees Fahrenheit.

December 30, 1982

1882 Centennial 1982

THE MILWAUKEE JOURNAL

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# Earl shuns tokenism at top

Refusing to play it safe, Gov.-Elect Earl has made some pretty controversial appointments in shaping his new administration. Although he has taken some risks he might eventually regret, we like the relatively bold message he has sent to Wisconsin.

We do somewhat share the unease of critics who say Democrat Earl drew too heavily from among political backers in filling key jobs. Yet, should highly competent people be disqualified simply because they supported Earl? If Lee Dreyfus had followed that principle four years ago, Wisconsin would have been denied the considerable talents of Lowell Jackson in a cabinet job — talents that Earl wisely has recognized in giving Jackson his old job as transportation secretary.

On balance, we can only quibble with the makeup of Earl's new team. The solid administrative experience and/or expertise of such people as Michael Ley, the new secretary of revenue, and Howard Bellman, secretary of industry, labor and human relations — to cite but two examples — indicates that Earl has done more than just reward campaign workers. In fact, neither Ley nor Bellman was involved in the campaign, nor were several other cabinet-level appointees.

Others were, of course, including Doris Hanson, secretary of administration, and Linda Reivitz, secretary of health and social services. But both also have reputations as competent administrators.

In no way meaning to slight the talented Reivitz, we are disappointed that her predecessor of five years, Donald Percy, was not rehired for the job. Besides possessing outstanding administrative abilities, Percy has a truly creative mind, a rare asset in government.

In the ten appointments that Earl apparently regards as cabinet level, only five fit the traditional white-male mold. And even within that group, Earl was unconventional, appointing not only Republican Jackson but also naming the elected lieutenant governor, James Flynn, to head the Department of Business Development, an unprecedented arrangement. Whether Flynn will prove to be a sufficient link to the state's business community remains to be seen, but early reactions from business have been mainly positive.

In bringing blacks and other minorities into his administration, Earl did not just adhere to the safe course of drawing from the minority "establishment." Probably the most visible example was the appointment of Milwaukee black activist Howard Fuller as secretary of employment relations. Although Fuller is a world-class boat-rocker, he has solid academic credentials and administrative experience at Marquette University and elsewhere.

Perhaps the most controversial appointment, besides Fuller's, was that of Ron McCrea as communications director. Earl had expected criticism because McCrea had been a leading figure in a journalist strike against Madison daily newspapers. Instead, Earl drew fire chiefly because McCrea had once been a gay-rights activist.

As a package, Earl's appointments send a heartening message to the people of Wisconsin: What matters is ability and job performance — not race, gender, sexual orientation or conventional background. Liberal politicians pay a lot of lip service to that principle. Earl has put it into practice.

Ultimately, it is Earl who will be judged by the performance of his appointees. On the whole, he has sought pragmatic, effective problem-solvers, not merely people who share his ideals or political philosophy. And, as we view the state of the state right now, a blend of Earl's ideals and pragmatic efficiency is just what's needed.

Green B ay Press/Gazette
December 24, 1982



# Attorney, Dreyfus at odds over trucking-fee case

MADISON (AP) — A Transportation Department attorney's frustrated wish to pursue a trucking-fee case was censured this week by Gov. Lee S. Dreyfus, who said the matter should be laid to rest.

"Is this office being manipulated by the bureaucracy?" he asked, complaining that lawyers are too eager to keep cases alive in court regardless of the cost to taxpayers.

But department attorney James S. Thiel says taxpayers are going to lose millions of dollars annually in lost truck-registration fees if Wisconsin does not win a reversal of a recent Circuit Court ruling.

Judge Richard W. Bardwell ruled in favor of Schneider Transport Co. of Green Bay, which insisted it can legally avoid some Wisconsin fees by registering its fleet in Illinois.

Wisconsin and Illinois are members of the Interstate Registration Plan, under which truck-fee revenue is apportioned among the participating 24 states partly on the basis of actual travel in the states.

Some Wisconsin officials say Illinois is more appealing to truckers because it artifically undercharges them for registration.

Thiel said Illinois itself is losing $13 million annually. He said he is troubled that Illinois Secretary of State Jim Edgar avoided discussing it during his election campaign.

Schneider, Wisconsin's biggest cartage company, with a Chicago-area headquarters registration, has avoided paying $1 million a year to Wisconsin since 1978, Thiel said.

Wisconsin Farm Lines of Wisconsin Dells telephoned the department to ask how to switch registration to Illinois, he said.

Janesville Auto Transport Co., which hauls cars from General Motors' Janesville factory, has registered 70 of its 200 trucks in Illinois already, Thiel said.

Firms in Sturgeon Bay, Waterford, North Prairie and Antigo have similar plans, and if all truck companies shift, Wisconsin could lose an additional $3 million annually, he said.

The decision not to appeal Bardwell's ruling was made by Owen Ayres, secretary of the Transportation Department.

Lowell B. Jackson, whom Gov.-elect Anthony S. Earl has nominated as Ayres' successor, said he agrees with Thiel that Wisconsin truck companies do not "have a legitimate piece of business in Illinois" by setting up headquarters in name only.

Jackson said he may ask the Legislature to withdraw Wisconsin from the interstate plan if the problem is not resolved.

The Schneider case, he said, "was never heard on its merits" but Ayres' decision not to appeal must be allowed to stand.

Wall Street Journal
December 31, 1982

# Boston & Maine Plan For Reorganization Is Approved by Court

*By a* WALL STREET JOURNAL *Staff Reporter*

BOSTON—Boston & Maine Corp.'s bankruptcy reorganization plan, under which Guilford Transportation Industries Inc. will take over the railroad for $24.3 million, was approved by a federal court, said Benjamin H. Lacy, a trustee.

Mr. Lacy said the proposal still must be approved by the railroad's creditors. The plan had been approved by the Interstate Commerce Commission. Guilford had said it plans to buy Boston & Maine in hopes of forming a New England rail network. Guilford, based in Durham, Conn., is owned by Timothy Mellon, a descendant of the Mellon family of Pittsburgh.

The $24.3 million will be used to pay creditors, who have $85 million in claims, said Mr. Lacy. The railroad has been operating under Section 77 of the old bankruptcy law since 1970, he said.

Federal District Court Judge Frank J. Murray also approved the issuance of 2,600 Boston & Maine nonvoting shares of preferred stock to the federal government to be used to cancel $26 million of trustee-certificate financing by the Transportation Department in 1978, said Mr. Lacy.

Journal of Commerce
December 31, 1982

# *BN Transport Expands Service*

Journal of Commerce Staff

BN Transport has expanded its trucking service to provide service to additional points in Iowa and Missouri.

Among the cities where BN Transport operations are under way are Springfield, Mo., Cedar Rapids, Iowa and Dubuque, Iowa.

Service also is being provided to other cities in northeastern Iowa and to cities in the Rogers, Ark. area.

The firm also announced that it has purchased 15 new trailers which will be used at Midwestern terminals.

St/Paul
Pioneer Press
Dispatch
December 27,82

# Soo Line argues for continued regulation of sunflower shipping

By Lee Egerstrom
Agribusiness Writer

## Commodities

Free commodity markets and government regulation seem to be incompatible, but the Soo Line Railroad Co. of Minneapolis is arguing that regulated freight rates serve an important market function.

The Soo has joined with the Milwaukee Road, the North Dakota Public Service Commission and the U.S. Agriculture Department in opposing the Interstate Commerce Commission (ICC) proposal to deregulate sunflower seed shipments.

Common carriers, such as railroads, are now required to file tariff notices with the ICC spelling out freight rates for hauling regulated commodities. The ICC proposes to exempt all agricultural commodities from tariff regulation except grains and soybeans.

That means deregulating sunflowers, an important crop for the small Soo Line that operates between the Upper Penninsula of Michigan and eastern Montana. Its agricultural haul depends largely on 250 country elevators west of the Twin Cities.

Minnesota and the Dakotas produced 99 percent of America's oilseed sunflower crop in 1981, with North Dakota growing nearly 70 percent of that 4.1 billion bushel harvest.

Production this year will be less, according to preliminary USDA harvest estimates, but the three states still dominate the oilseed crop.

Sunflower trading is conducted primarily in Minneapolis and Duluth. A sunflower futures contract is still technically alive at the Minneapolis Grain Exchange, but contracts haven't traded there since March 4.

Without a futures contract, which reflects what buyers are willing to pay for a commodity in future months, sunflower farmers must make marketing and planting decisions based on current Duluth and Minneapolis cash market prices and their own seat-of-the-pants analysis of global oilseed supplies and future demand.

The Minneapolis Grain Exchange has tried to lighten that load for sunflower growers by including the commodity among farm products traded in its three-month-old "cash call" market. This market includes elements of both a cash, or 'spot, market and futures trading, since it is a cash transaction to buy or sell commodities to arrive at a port or terminal at a later date.

The constant in this trading, and with futures trading, has been transportation costs, since buyers and sellers know the publically posted freight rates for hauling the commodity.

Transportation costs are the single biggest factor in determining what commodity traders call the "basis," which is the difference between what a buyer will pay at Chicago, Kansas City and Minneapolis commodity markets or export ports, and what the farmer receives for his commodity at an elevator.

Bill Martino, grain manager for the Soo's pricing and marketing division, insists that regulation and the posting of freight rates with the ICC and serves an important market function. "That's why they (ICC) aren't proposing deregulation for the gigantic grain crops," he said.

So sunflower growers, who are at a disadvantage now compared to other farmers in monitoring their oilseed market for price movements and trends, may well find costs for a key mode of transportation changing daily.

Soo Line has more than the farmers' best interest at heart, and it makes no attempt to conceal its primary concern.

"The purpose of deregulating a commodity is to give railroads more flexibility in capturing traffic which has historically moved by other modes of transportation," said Ray H. Smith, Soo traffic vice president.

"However, Soo and other railroads now handle a major and growing share of the sunflower seed market, traffic which has dramatically increased over the past three years, and deregulation would achieve no useful purpose," he said.

The ICC is wrong in assuming that railroads are given limited access to transporting sunflowers, he added.

Between January 1980 and November of this year, the Soo moved nearly 20,000 carloads of seeds, second in volume only to wheat, and rail market share in movements from country elevators to Duluth and Superior — the primary market for the seeds — increased from 32 percent to 67 percent.

While the Soo apparently needs no help in hauling sunflowers, Smith does worry about the potential impact deregulation might have on the Minneapolis and Duluth markets.

"Deregulation, we believe, would add instability to the marketplace, particularly for producers who must be accorded some sense of long-term stability in the rates they pay to move their crops and to assure equity in marketing," he said.

Washington, D.C. Post
December 28, 1982

# Va. Bill Drafted for Slurry Pipeline

From News Services

Draft legislation was disclosed in Richmond yesterday that would make possible the construction of coal slurry pipelines in Virginia.

Representatives of two groups favoring the pipeline—Virginians for Competitive Coal Transportation and the Virginia Coal Slurry Associates—said that when the bill is introduced in the 1983 General Assembly, it will contain provisions to prevent passing the cost of the pipeline on to consumers.

A coal slurry pipeline would transport a mixture of crushed coal and water from the Southwest Virginia coalfields to the port of Hampton Roads with possible stops along the way at coal-fired electric utility plants.

The plan is opposed by the state's two major rail coal-haulers—CSX Corp. and Norfolk Southern—who say it would force more layoffs.

Wall Street Journal December 30, 1982

# A Rail Walkout In Northeast Is a Possibility

By RICHARD KOENIG and BILL PAUL
*Staff Reporters of* THE WALL STREET JOURNAL

More than a year ago, Congress ordered the government-owned Consolidated Rail Corp. to get out of the commuter-rail business by Jan. 1, 1983.

Conrail can't wait. But as the deadline approaches, it's still far from certain that the takeover by three Northeast transit authorities will come off without messy interruptions. Many of the 213,000 commuters caught in the middle are finding more suspense than they had bargained for in the experiment in local autonomy.

Labor negotiations are going down to the wire between 15 railroad unions representing 10,000 workers and the transit authorities. Late yesterday, the National Mediation Board vowed to intervene and assert its jurisdiction in the dispute under the Railway Labor Act, but not until 12:01 a.m. Jan. 1, a minute after Conrail is supposed to have extricated itself and the transit authorities are to have taken control. The threat of a strike, though diminished even before the board's announcement, isn't the only problem. Administrative snags due to the changeover also could interrupt service.

## Magic Minute

The board says that while it tries to resolve the labor disputes, "the parties are required to maintain the status quo," which means the trains are supposed to keep running. But the board concedes that it doesn't have any power to make the unions and transit authorities take steps before that magic minute to make sure train crews are ready to roll.

"We can accomplish anything if we have our minds set on doing it," says Nelson Evans, local chairman of the Brotherhood of Railroad Carmen in Philadelphia. But Lewis Kaden, an attorney negotiating on behalf of transit management in New York, isn't predicting a party when he says, "I probably will be with my friends from the labor unions on New Year's Eve."

New Jersey Transit Corp. is confident that its trains will run while negotiations continue, perhaps for several weeks. In New Jersey, as in the other districts, an emergency board appointed by President Reagan accepted management's proposed wage scales. Thus if workers strike, they can't collect unemployment insurance—a strong deterrent to a strike, NJ Transit says. Last week, nine of the 15 unions said they won't strike until at least Jan. 4. That conciliatory tone, NJ Transit says, is evident in negotiations.

At the Metropolitan Transportation Authority in New York, a strike would primarily affect commuters from Connecticut and New York's Westchester County. But recently there has been progress, including tentative agreements with the Brotherhood of Locomotive Engineers and the United Transportation Union, which represents trainmen and conductors.

## Tangled Circumstances

Perhaps the most tangled circumstances are to be found in the Philadelphia area. The Southeastern Pennsylvania Transportation Authority said last week that despite union promises to work without contracts, administrative hitches due to the turnover could stop service for as long as two weeks.

A state judge has since ordered SEPTA to keep at least some trains running, even if the transition is "a little disorderly." The judge issued his order quickly so that SEPTA would have time for an appeal, but yesterday, a SEPTA spokesman said, "our intention is to comply."

SEPTA had already begun to take some commuter cars out of service and bind them with security tape. So far, it has reached agreement with two unions.

If service is disrupted, commuters in some areas may benefit from preparations that have been under way for at least a couple of weeks. NJ Transit expects to put an additional 500 buses on the streets next Monday. The Delaware Valley Regional Planning Commission has distributed "computer matching forms" that have put 1,000 commuters considering car pools in touch with one another. Philadelphia is adding traffic-ticket writers and repainting median lines to improve traffic flow.

Others will try trolleys and buses that connect with subway lines at the city limit, and a few will drive 15 miles or more in the opposite direction to catch Amtrak trains. Some people apparently won't even try to commute. The Bellevue Stratford and other Philadelphia hotels report a noticeable number of weeknight room reservations by suburban residents.

Union members say management is undoing the understandings reached through years of collective bargaining. In New Jersey, some engineers who are paid more than $40,000 a year by Conrail are being asked to accept pay closer to the $23,000 a year that bus drivers make. Philadelphia area transit officials also want to bring salaries down to the level of those earned by the employees who operate buses, trolleys and subway cars. In both areas, transit officials say they have to strike a tough bargain or face insolvency.

Harold Kohn, an attorney representing commuters and a former SEPTA board member, faults SEPTA's efforts to suspend service as "a way to put the unions in short pants" by showing the will to stage a lockout.

But SEPTA says deadline pressures are playing mischief with administrative details and making safety an issue. Transfer of employees' health records to SEPTA from Conrail has been held up by questions of confidentiality.

As a result, SEPTA says, it has been delayed in checking operators' qualifications before assigning them to train crews and routes. It must, for instance, deal with the Conrail employees who have never worked in the Philadelphia area but have the right to bid for the SEPTA positions. Says SEPTA attorney Jerome Richter: "It's like taking the Phillies and having them play for the Eagles. It's a different ball game."

Traffic World
December 27, 1982

## Court Backs ICC on Rules Relieving States of Duty To Protect Rail Employes

A federal court has sustained Interstate Commerce Commission rules relieving state and local governments that acquire abandoned rail lines from the obligation of protecting employes from layoffs in the event of termination of operations.

The U.S. Court of Appeals for the District of Columbia Circuit said in a recent opinion that the ICC properly used its powers under 49 USC 10505 to order a partial exemption from regulation and grant states modified certificates to operate over the abandoned lines. It also ruled that statutory labor protective provisions do not apply to entities acquiring the abandoned lines.

At issue are rules issued in Finance 28990, *Common Carrier Status of States, State Agencies, and Instrumentalities, and Political Subdivisions* (T.W., Oct. 5, 1981, p. 70). The Illinois United Transportation Union had asked the court to overturn the ICC rules on grounds the agency cannot provide exemptions from the labor protective provisions.

But the court pointed out that the Commission created a special class of carriers with modified service obligations reflecting the "novel and unusual elements" of the rail service. The court said requiring the states to abide by labor protection provisons could deter them from acquiring abandoned rail lines.

". . . State governments are willing to undertake programs to retain local rail service," said Circuit Judge Edward A. Tamm, writing for the court. "Given the vagaries of funding such programs, the Commission quite properly found that the likelihood of states undertaking significant rail programs would be diminished if labor protection provisions were not modified to impose them only on the original carrier abandoning the line.

"Moreover, by continuing service along lines deemed uneconomic by private carriers, the state programs provide prospective employment opportunities to railway labor that would otherwise not exist."

The court acted in 81-2009, *Patrick W. Simmons v. Interstate Commerce Commission and United States.*

Wall Street Journal
December 31, 1982

## *Vow to Enter Northeast Rail Pact Disputes Is Withdrawn by U.S. Mediation Board*

A WALL STREET JOURNAL *News Roundup*

The National Mediation Board withdrew its day-old vow to intervene in contract disputes between railroad unions and Northeast transportation authorities.

The board's action left those parties to find their own way to keep commuter trains running when Consolidated Rail Corp. pulls out of the commuter business tomorrow.

On Wednesday, the board had asserted its jurisdiction, scheduled meetings with federal mediators and told unions and transit officials that they were "required to maintain the status quo" under terms of the Railway Labor Act. But yesterday the board reversed itself, saying its earlier assertion was "premature" and clouded by "substantial questions of law and fact."

Meanwhile, some transit authorities reported progress in working with the 15 railroad unions to keep the trains running for the 213,000 Northeast commuters who use them.

The mediation board's turnaround was apparently prompted in part by a meeting yesterday among representatives of the mediation board, the Justice Department and the U.S. Department of Transportation. A spokesman for the Transportation Department later called the board's decision "a favorable development."

Some transportation officials had complained that the mediation board's intevention complicated the labor talks. "When you're 48 hours away from a deadline, you don't relieve that pressure" to negotiate, said Richard Ravitch, chairman of the Metropolitan Transportation Authority in New York.

Tomorrow's deadline was set by Congress when it instructed government-owned Conrail in the Northeast Rail Service Act of 1981 to give up commuter-rail service in favor of the railroad's freight operations.

### 'Status Quo'

The mediation board's now-canceled action also raised the question of what "status quo" meant with regard to the pay scales and work rules currently under negotiation. "I will not run the railroads under the old Conrail contracts, no way," Mr. Ravitch said.

"There is not going to be any kind of a strike" in New Jersey, said James Weinstein, a spokesman for New Jersey Transit Corp. By late yesterday afternoon, he said, the agency had tentative or final agreements with four unions representing 30% of the commuter-rail work force in the New Jersey district. New Jersey Transit also reached understandings that all other unions will work without contracts if necessary tomorrow, he said.

### MTA Request

The MTA's Mr. Ravitch said the unions hadn't yet responded to his agency's request that they work without contracts. But he said yesterday he expected his agency to initial more contract agreements "in the next 24 hours." Agreements with two unions had been reached by the time of Mr. Ravitch's remarks.

Union officials couldn't be reached for comment.

In the Philadelphia area, officials of unions without contracts had already indicated they will show up for work tomorrow. But because of delays in hiring and assigning workers to specific routes, officials at the Southeastern Pennsylvania Transportation Authority have said they expect service to be cut back.

Journal of Commerce January 7, 1983 Two articles

# Questions Still Arise On Fuel Tax

Journal of Commerce Staff

WASHINGTON — President Reagan signed legislation increasing fuel taxes by a nickel a gallon into law here Thursday, amid growing indications that a controversy still exists over how and when other provisions of the law increasing truck size, weight and width limits will go into effect.

Money from the tax increase will generate about $5.5 billion a year to repair roads, bridges and mass transit projects.

"Common sense tells us that it will cost a lot less to keep the system we have in good repair than to let it disintegrate and have to start over from scratch," President Reagan said when signing the bill.

Persons on hand included outgoing Transportation Secretary Drew Lewis, who played a key role in getting the increase through Congress, and Elizabeth Hanford Dole, who has been named to succeed Mr. Lewis as secretary of transportation.

But uncertainties exist over when provisions of the law permitting 80,000-pound trucks, 65-foot double trailers and 102-inch-wide vehicles tooperate nationwide will go into effect.

Illinois, Missouri and Arkansas — the three states that ban the 80,000-pound vehicles — say they will not permit the trucks to operate within their states until enabling legislation passes the state legislatures.

If these three states are successful it is logical to assume that states banning the use of twin trailers and 48-foot tractor units also will move to block them from operating over their highways.

This should precipitate a suit over the primacy of federal law vis a vis state law.

Independent trucker representatives also are threatening a shutdown to protest the higher taxes.

It is unclear how effective such a move will be since in the past shutdowns have been successful only if diesel fuel was in short supply.

# *ICC Adopts Rules On Truck Rights*

Journal of Commerce Staff

WASHINGTON — Rules making it far harder for railroads and affiliated businesses to obtain unrestricted rights to operate as trucking companies have been adopted by the Interstate Commerce Commission.

But the agency's decision probably will land up in court as another example of how the commission is taking actions far beyond the scope of the Motor Carrier Act of 1980.

At issue is a ruling that the agency will no longer impose special restrictions to railroad owned and affiliated trucking companies seeking ICC operating authority.

Examples of such restrictions include requirements that the supplement rail service cannot serve points located on a railroad line and that all freight handled has a prior or subsequent movement by rail.

But changes in the trucking industry's structures and in laws governing entry controls' over the industry, the agency said, render the "special circumstances" test moot.

Removing the text also makes it more likely that each mode will have its inherent advantages preserved, the agency said.

Lawyers for several interested parties declined to comment on the agency's rule until they had a chance to read the decision.

But two predicted a court challenge was likely.

Journal of Commerce
December 29, 1982

# Rails Report Huge Purchase Of US Grain by Mexico

By STANLEY MANTROP
Journal of Commerce Staff

HOUSTON — Under a loan granted by the United States, Conasupo, Mexico's state grain and food purchasing agency, is reported by railroad officials to have purchased almost 1 million metric tons of U.S. grain.

The railroad sources said that under the agreement with Conasupo, movement of the grain will begin sometime next month and will be handled by rail and ship from U.S. Gulf and Pacific Coast ports.

No specific ports have been mentioned, but sources said the movement will be a bonanza for most of the ports, which have been hard hit this year by sharp declines in export grain sales. The grain movement is reported to be the largest since 1981.

Conasupo has not yet indicated what portion of the grain will move by water and what portion will be handled by rail. The ports will gain the larger share, probably in excess of 65 percent. The balance probably will move entirely by rail from the Midwest.

Rail sources said there will be no shortage of equipment to handle the grain because of its proximity to the gateway ports on the U.S.-Mexico border.

The large grain order is the first of any size to be granted by the Mexican government since the inauguration of the country's new president, Miguel de la Madrid, and is said to be only the forerunner of several others to follow during 1983.

# ICC Eases Restrictions On Railroads Owning Trucking Companies

Washington Post
January 7, 1983

By Douglas B. Feaver
Washington Post Staff Writer

The Interstate Commerce Commission struck down a major doctrine blocking railroad ownership of trucking firms yesterday, opening the door wider for transportation companies to use the highways as well as the rails.

In a unanimous decision, the commissioners eliminated the requirement that railroads demonstrate the existence of "special circumstances" before a railroad-owned subsidary can receive unrestricted ICC licensing.

There are some railroad-owned trucking firms, but their authority is limited and many railroads regard meeting the doctrine of special circumstances as difficult and not worth the effort.

The Association of American Railroads immediately hailed the decision as a blow for freedom.

But Edward Kiley, senior vice president of the American Trucking Associations, said he believes the ICC is misreading the law and that the absence of the special-circumstances doctrine will permit railroads to "use their financial leverage" to "freeze out competitors."

"I'm sure we will appeal," Kiley said.

The ruling is another in a series of legislative and deregulatory steps that are easing the way for creation of so-called intermodal transportation companies, which could move goods by truck, rail or barge without having to check first with Washington.

The special-circumstances doctrine required a railroad to demonstrate a "compelling public need for service not being offered by independent motor carriers," according to the ICC.

The aim of the doctrine, which goes back to 1935, was to prevent rail domination of trucking markets. At that time, trucking was regarded as an infant industry in need of protection.

In reaching its decision, the commission pointed to a dramatic shift in cargo from rail to truck in recent

## *ICC Relaxes Restrictions On Trucking Ownership*

ICC, From C8

decades and to the deregulatory emphasis from Congress in both trucking and railroading.

"Clearly, motor carriers compete successfully with rail carriers, and the commission's regulation . . . must reflect this fact," the ICC said.

The commission cited a recent Fifth Circuit opinion in noting that the doctrine of special circumstances was not immutable, "but one that must change with the changing realities of the economy and the industries regulated by the commission. Those realities have changed, and we are changing our policy to reflect this."

Railroad-owned trucking companies currently operating under restriction will receive expedited consideration of their applications to have the restrictions removed, the ICC said.

While the barriers between truck and rail have been dropping, the Panama Canal Act specifically prohibits railroads from owning barge lines, "and we want to own barge lines, too," said Frank Wilner, director of issue development for the AAR, which is working on that one.

The Washington Times DEC 28 1982

# God bless Helms, Humphrey et al

Most newspapers and television news shows tried to make villains out of Sen. Jesse Helms and his small band of filibusterers last week. You'd have thought the ultimately unsuccessful effort to talk the gasoline-tax bill to death was an outrage against democracy and an insult to the Senate.

The opposite is true, and once voters know what's in the bill Congress passed, they'll also know that Helms & Co. were the only ones to emerge with integrity.

In the first place, the measure is not a jobs bill. Virtually all economists say it will cost almost as many jobs as it will create. Many predict it will result in a net *loss* in jobs in an economy already reeling from an unemployment rate of nearly 11 percent. Even congressional supporters privately concede this.

Yet they steamrolled it through Congress, all the while heaping calumny on the heads of the brave few who tried to stop them. Congress often subjects bills to months and even years of debate between introduction and passage. This is expecially true of proposals that entail such massive taxing and spending as the $5.5 billion in this measure.

But the gasoline-tax hike got only one days' hearing in both the House and Senate committees, receiving approval from each the next day. Only three weeks elapsed between introduction and floor consideration. Throughout, from President Reagan to the leadership of both houses, none but Helms and such fellow Republican filibusterers as Senators Gordon J. Humphrey of New Hampshire, Don Nickles of Oklahoma and John P. East of North Carolina distinguished himself.

Once vowing it would take a palace coup to get him to back the bill, Reagan switched but took to calling it a "highways" bill. Senate Majority Leader Howard Baker tried to justify his backing it by calling it a "highways-jobs" bill. Most euphemistic of all was Tip O'Neill, who referred to it as a "jobs" bill.

It's in fact some of these things and more: a taxing-and-spending package that, on inspection, turns out to be a pack of lies. It claims to raise $5.5 billion in tax revenues over four years. Because it raises the federal tax on gasoline and diesel fuel to 9 cents from 4 cents a gallon, the revenues will depend on actual sales, which no one can predict accurately.

It's supposed to raise user fees on heavy trucks, now at $210, to $1,600 in January of 1984 and to $1,900 by 1987. If this happens, you'll be caught coming and going. That is, you'll be paying a nickel more in gasoline taxes and the boost in truck fees that will show up in the consumer price of every procduct transported by trucks. Maybe. Since this part of the bill doesn't take effect for 18 months, the trucking industry has that long to get Congress to change its mind.

But the truckers already got a trade-off in the bill. It allows for heavier, wider and longer trucks nationwide; and if the states rebel for safety and highway wear-and-tear reasons, the federal government may withhold highway funds. So much for the Reagan pledge to reduce the size and intrusiveness of the central government.

Furthermore, the bill robs Peter to pay Paul by immediately repealing the federal excise tax that now adds between $1.50 to $2.50 to the cost of a car tire. You'll pay many times that amount in high gas taxes and truck-transported product prices.

While you're paying them, you'll be trying to negotiate your way around trucks up to 80 feet long and 8½ feet wide. And not just on interstates but also on some two-lane highways and streets that feed interstates.

There are other gifts in the bill. One is worth $1 million for Rep. Robert A. Roe, D-N.J., to hand out to businesses in his district that claim harm from a nearby federal highway construction project.

An even bigger boondoggle goes to that champion of the unemployed, House Speaker O'Neill. He refused to bless the bill until a provision was inserted. It authorizes an unusual $3 million study of "national public works needs." To be done by none other than a firm in O'Neill's district.

Finally, the bill will hand over 20 percent of your increased gasoline taxes to mass transit systems in D.C., Baltimore, Minneapolis and Miami. Why? So they can hold down fare increases. Motorists everywhere, in other words, will be forced to pay part of the fare for public transportation users in these four cities.

Federal tax dollars already indirectly subsidize urban mass transit fares. There is no reason in logic or sound public policy for this. Employed people who can well afford to pay higher subway fares are the primary users of public transit. If subsidies are in order, they should go to the poor. But local politicians buy votes — and peace with transit unions — through such fare subsidies to all transit riders. Another example of the disgraceful abuse of federal taxing and spending powers that the real heroes of last week fought so bravely and lonesomely against. They lost and the dissemblers won — and so defeated us all.