

**Midwest Association of Rail Shippers
Oak Brook Hills, Marriott Resort
January 15, 2009
RAILROAD IMPACT ON LOCAL COMMUNITIES**

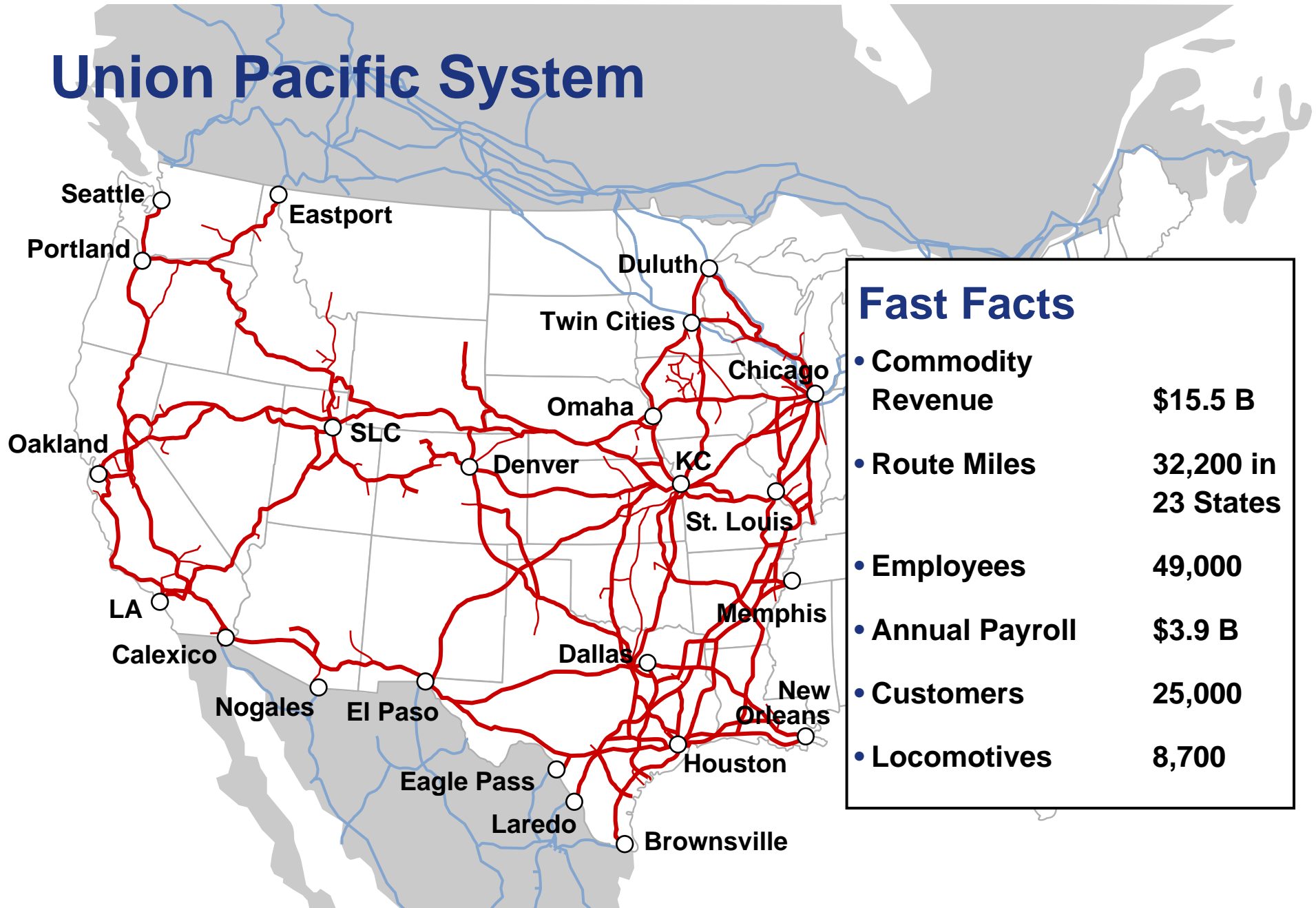


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Union Pacific System

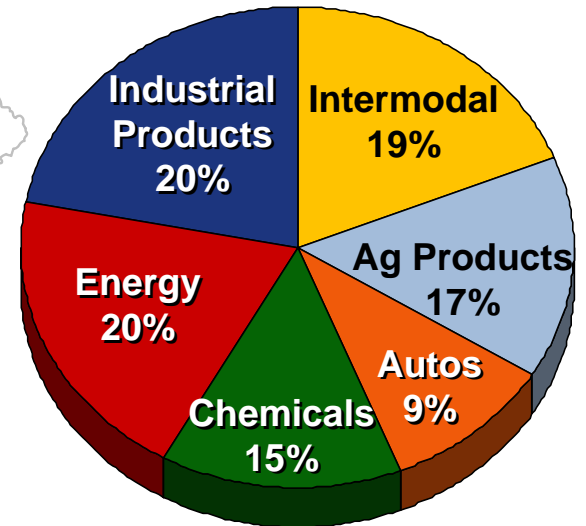
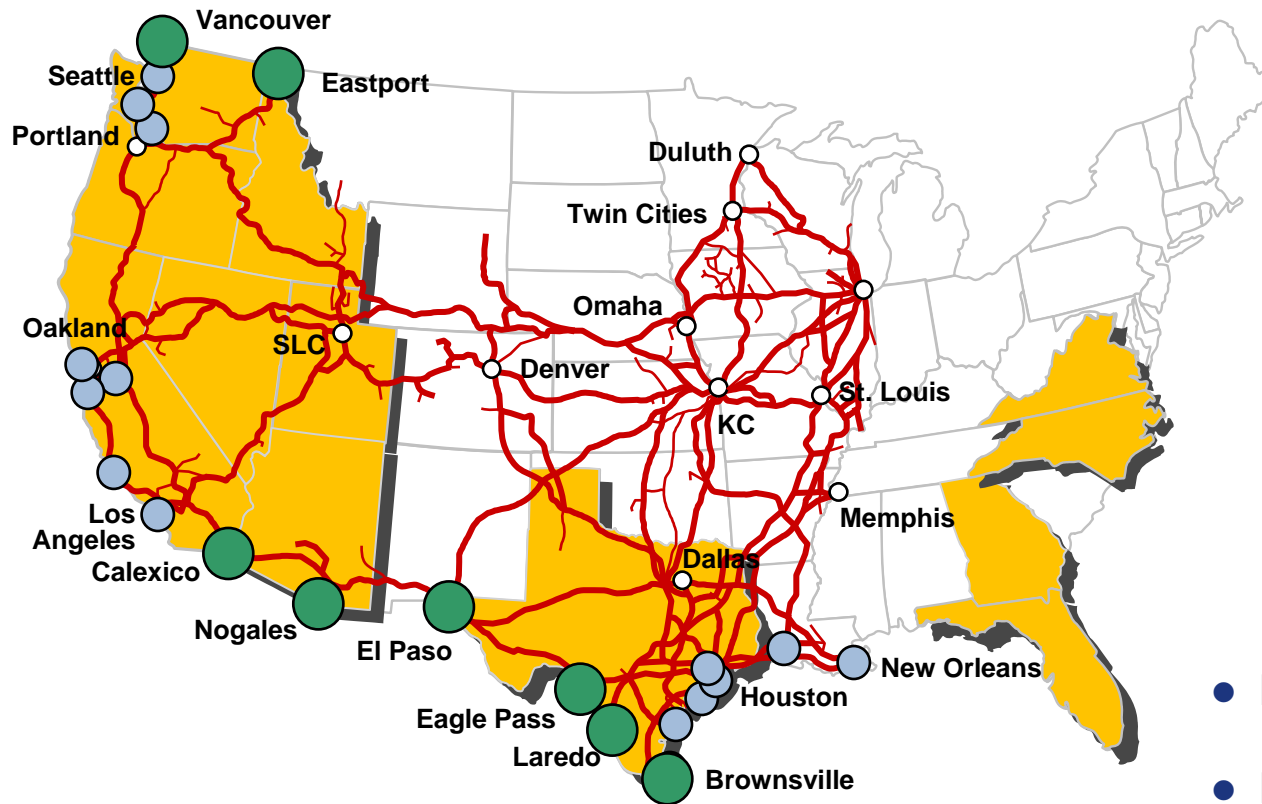






Fast Facts

• Commodity Revenue	\$15.5 B
• Route Miles	32,200 in 23 States
• Employees	49,000
• Annual Payroll	\$3.9 B
• Customers	25,000
• Locomotives	8,700

The Strength of a Unique Franchise

2007 Commodity Revenue \$15.5 Billion



- Diverse Business Mix 
- Fastest Growing States 
- Port Access 
- Border Crossings 

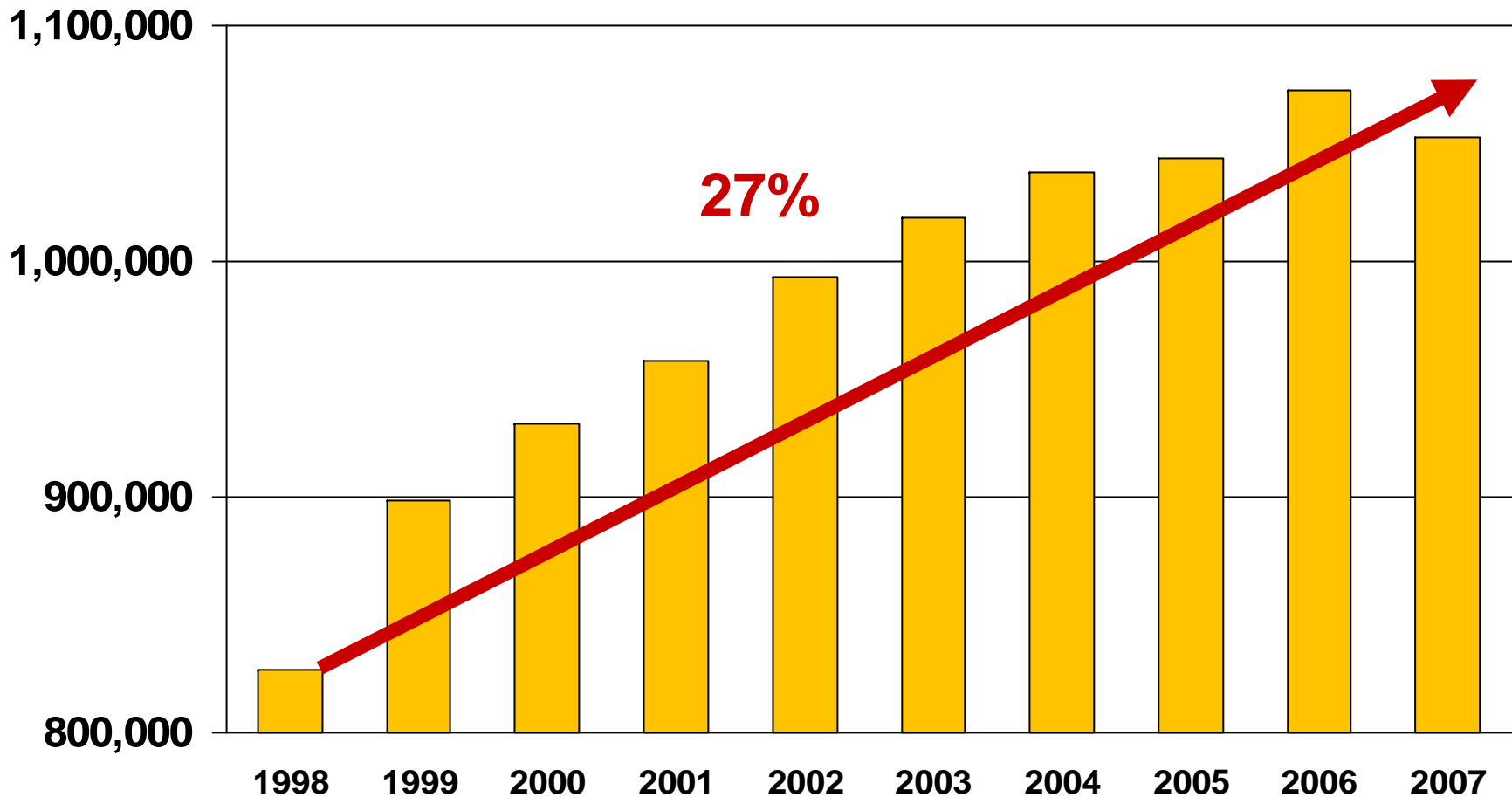
FREIGHT RAIL BUSINESS IS IN TRANSITION

- **Substantial Freight Traffic Growth**
 - To handle growth, rail capacity must expand
 - Recent study: \$150 billion needed over next three decades for freight rail expansion
 - Substantial rail freight traffic growth can conflict with community objectives



Union Pacific

Gross Ton-Miles in Millions



RAILROADS HAVE A SENSITIVE RELATIONSHIP WITH THE COMMUNITIES WHERE WE OPERATE

- **NIMBY syndrome has increased over the last 20 years: More sensitive to sound, smell and time**
- **No understanding of the interstate nature of railroads and their impact on the national and local economy**
- **Due to the effect on interstate commerce, railroads have federal preemption over many local laws, which communities dislike**



WHAT IS PREEMPTION

- **Federal law precludes application of state or local law**
- **Can result from federal statutes or from case law**
- **Can apply to statutory, regulatory or common law**



MAJOR SOURCES OF RAILROAD PREEMPTION

- **Interstate Commerce Act**
 - “ICCTA Preemption (49 U.S.C. §10501)
 - Preemption of Consolidations, Mergers (49 U.S.C. §11321)
 - “Field” or “conflict” preemption under other provisions of Act (e.g., abandonments)
- **Federal Safety and Security Legislation**
 - Federal Railroad Safety Act (49 U.S.C. §20106)
 - Hazardous Materials Transportation Act (49 U.S.C. §5125)
 - “Field” preemption under pre-FRSA rail safety laws (e.g., Locomotive Inspection Act)

ICCTA PREEMPTION EXAMPLES

- **Preemption Covers**
 - Positive laws and regulations
 - Common law duties and remedies which have effect of imposing regulatory standards
- **Examples of Laws/Regulations Preempted**
 - Direct or indirect regulation of railroad rates, charges or services
 - Pre-permitting requirements for railroad facilities and services
 - Condemnation of rail facilities (where rail operation impacted)
 - Blocked crossing regulation
 - Nuisance suits
 - Zoning restrictions

ICCTA PREEMPTION EXAMPLES (Continued)

- **Examples of laws/regulations not preempted**
 - **Generally applicable environmental or public safety laws not requiring permitting (building codes, waste disposal, etc.)**
 - **Non-transportation activities and facilities (example: grain elevator on railroad property)**
 - **State/local regulation specifically authorized by other federal statutes (example: Federal Railroad Safety Act)**
 - **Requirements the railroad has voluntarily agreed to**

FRSA PREEMPTION EXAMPLES

- **Train speed**
- **Train whistling**
- **Grade crossing warning system (generally where federal funds used)**
- **Hazardous materials routing**
- **Locomotives and cars**
- **Remote control operations**
- **Noise regulation**
- **Blocked crossing**

WHERE COMMUNITIES HAVE THE OPPORTUNITY TO BE HEARD

- **Cases where railroads have to obtain federal authorities, especially the STB**
- **Communities have been using the environmental impact issues to kill transactions or obtain much more mitigation than appears necessary**
- **Mergers**
 - **Conrail/CSX/NS: Cleveland**
 - **UP/SP: Reno**
 - **BNSF: Southern California**
 - **CN/EJ&E: grade separations**
- **Other transactions**
 - **Line expansions: DM&E/Mayo Clinic**
- **State authority over highway/rail crossings**
 - **UP/second main line/Arizona**

HOW ARE RAILROADS RESPONDING TO COMMUNITIES?

- **Recognize all politics are local**
- **Increasing focus on community relations: Being Proactive**
- **UP example: have increased Community and Corporate Relations coverage.**
 - **One AVP position in Omaha was expanded to three Vice President positions: Omaha, NE, Spring, TX, Roseville, CA**
 - **Director Public Affairs increased to cover two states only**
 - **Instituted a policy and partnership position**

USING PHILANTHROPIC PROGRAM TO STRENGTHEN COMMUNITY RELATIONS 2008

- **UP example in Chicago: 945 employees/\$60.4 million payroll**
- **Principals' Partnership/Signature Program**
 - **Chicago High Schools - \$576,000**
- **Other Chicago Philanthropic - \$110,000**
- **Chicago Right-of-Way Appearance Costs (2007) - \$400,000**

COMMUNICATION WITH STATE AND LOCAL PLANNING AGENCIES

- **State DOT's**
- **MPO's/Chicago = CMAP**
- **Local entities where possible**
- **Increased demands for new or increased passenger rail**

QUESTIONS?