

ORIGINAL

Decision No. 70559

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
NORTHWESTERN PACIFIC RAILROAD COMPANY
for authority to permanently discon-
tinue passenger Trains Nos. 3 and 4
between Willits and Eureka.

Application No. 47750
Filed July 16, 1965;
amended July 28, 1965

Investigation of the Commission's
own motion into the passenger service
of NORTHWESTERN PACIFIC RAILROAD COM-
PANY between the cities of Willits
and Eureka, California.

Case No. 8261
Filed September 3, 1965

HAZEL M. BARNES, et al.,

Complainants,

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY,
a corporation,

Defendant.

Case No. 8265
Filed September 10, 1965

- G. Edward Goodwin, Charles R. Bell and Randolph Karr,
for Northwestern Pacific Railroad Company, appli-
cant in Application No. 47750, respondent in Case
No. 8261, and defendant in Case No. 8265.
- Robert Y. Bell and David E. Pesonen, for Hazel M.
Barnes, et al., protestants in Application No.
47750, interested parties in Case No. 8261, and
complainants in Case No. 8265.
- Donald J. Falk, George A. Sears and Pillsbury,
Madison & Sutro, for Dean Witter and Lone Pine Ranch;
Earl C. Wahlund and G. R. Mitchell, for Brother-
hood of Locomotive Engineers; George W. Ballard
and James E. Howe, for Brotherhood of Railroad Train-
men, AFL-CIO; Norwood W. Hutchins, for Locomotive
Engineers Lodge 875; James L. Evans by himself and
by George W. Ballard, for Brotherhood of Locomo-
tive Firemen and Enginemen AFL-CIO; William J.
Losh, Jr., for Humboldt County Board of Supervisors
and Melvin J. Bareilles, Supervisor, 2nd District,
Humboldt County, protestants in Application No.
47750 and interested parties in Cases Nos. 8261 and
No. 8265.
- R. H. Woodhams, for Order of Railway Conductors &
Brakemen, protestant in Application No. 47750 and
interested party in Case No. 8261
- William Knecht and Ralph Hubbard, for California Farm
Bureau Federation and Mendocino County Farm Bureau,
interested parties in Application No. 47750 and
Cases Nos. 8261 and 8265.
- William C. Ericca, Lynn E. Hull, Eric A. Mohr and
William R. Peters, for the Commission staff.

O P I N I O N

Northwestern Pacific Railroad Company, hereinafter sometimes called the Railroad, filed its Application No. 47750 on July 16, 1965, and its amended application on July 28, 1965, requesting this Commission to authorize the permanent discontinuance of the triweekly operation of its passenger Trains Nos. 3 and 4 between Willits and Eureka and intermediate points. On August 10, 1965 petitioners Dean Witter and Lone Pine Ranch filed a petition for an order dismissing said application, for an order requiring the immediate restoration of triweekly passenger service, and for an order instituting an investigation into the reestablishment of daily passenger service. The Railroad's reply to said petition was filed on August 27, 1965.

The Commission's investigation, Case No. 8261, filed September 3, 1965, which stated that the Railroad's freight and passenger service between Willits and Eureka was interrupted by flood conditions occurring during the winter of 1964-65, and that the Railroad has resumed its freight service but not its passenger service, was instituted for the purpose of determining:

1. Whether the Railroad's failure to resume such passenger service is reasonable.
2. What kind of passenger service between said points would be reasonable under conditions presently existing and likely to continue in the near future.
3. Whether respondent should be ordered to resume reasonable passenger service between said points.
4. Whether any other order should issue in the exercise of the Commission's jurisdiction.

Hearing on Application No. 47750 and Case No. 8261 was held before Examiner Cline on a consolidated record, at Eureka, on September 17, 1965. At the close of the hearing the parties requested that the matters be continued to give the residents of the Eel River Canyon an opportunity to testify at Willits.

On September 10, 1965, Hazel M. Barnes and 24 other complainants filed a complaint against the Railroad, Case No. 8265, requesting the Commission to issue an order requiring the Railroad to restore triweekly passenger service at once. On September 29, 1965, the Railroad filed its answer requesting that the complaint be dismissed.

All three matters were consolidated at the further hearings which were held before Commissioner Mitchell and Examiner Cline in San Francisco on December 2 and 3, 1965, and in Willits on December 9 and 10, 1965. At the conclusion of the hearings the matter was taken under submission.

Prior to the latter part of December 1964, the Railroad operated passenger train designated Train No. 3 southward from Eureka to Willits on Sundays, Wednesdays and Fridays, and passenger train designated Train No. 4 northward from Willits to Eureka on Mondays, Thursdays and Saturdays. No passenger trains were operated in either direction on Tuesdays. The roadbed of the Railroad follows the Eel River very closely and many of the intermediate points served are in the Eel River Canyon.

Practically no roads parallel the Eel River but many of the points served by the Railroad can be reached by automobile by roads leading from U. S. Highway 101 which is about 20 miles west of the Canyon. These access roads are gravel or earth roads and pass over a ridge reaching an altitude of 3,000 to 3,400 feet to get to the canyon. In many places the roads are narrow, very steep, winding

and frequently impassable in the wintertime. No alternate form of public transportation is available in the canyon.

Effective July 1, 1964, express service to the canyon points was discontinued and rail mail service was limited to Island Mountain and Bell Springs. Mail was trucked to South Fork for loading on southbound Train No. 3 three days a week and to Willits for loading on northbound Train No. 4 the other three days, thus providing mail service into the canyon six days a week. Other points accessible by road receive mail service by Pacific Motor Transport or U. S. Mail, Star Route carriers.

During the week of December 20, 1964, storms of great magnitude severely damaged or destroyed more than 100 miles of the Railroad's line between Willits and Eureka, thereby interrupting all freight and passenger train service. Freight service was resumed on June 15, 1965. Passenger service has not yet been restored.

Photographs and a pamphlet entitled "The Christmas Week Storm Disaster on the Southern Pacific and Northwestern Pacific" were introduced to show the extent of the storm damage suffered by the Railroad. Exhibit 20 shows that through November 26, 1965, booked and estimated expense of the Railroad to repair such damage amounted to \$12,181,500, and Exhibit 2 shows that Southern Pacific Company, the parent company of the Railroad, during the period to September 14, 1965, had incurred \$4,000,000 of booked and estimated expenses to repair storm damage on its own lines. The system recovered \$5,000,000 for such damage under a system all-risk \$600,000 deductible insurance policy on which Southern Pacific Company had paid \$672,907 and the Railroad had paid \$600 of the total \$684,157 insurance premium payment.

To illustrate the extent of the repair and maintenance work being conducted by the Railroad on its tracks in the canyon subsequent to the reinstatement of the nighttime freight service, the Vice President and General Manager of the Railroad described the work being performed on November 30, 1965. On that day an extra gang composed of a foreman and seven men were surfacing tracks between Mile Posts 161 and 162. A 25-ton American crane operated by a crew of two was doing ditching work between Farley and Dos Rios. A work train with 15 or more air-dump cars and a Jordan spreader were dumping and spreading ballast and hauling material away from a shovel in the Dos Rios area between Mile Posts 166 and 176. Two shovels and a D-8 dozer were at the Berger Creek slide, loading the work train and casting material across the track and into the river.

Bridge Gang No. 9 composed of five people was installing and repairing a drainage system at Mile Post 161. Extra Gang No. 8 made up of 10 people was surfacing track and working on fills between Mile Posts 171 and 173 with a tamper, a spot tamper, and a power jack. Two people were doing ditching between Mile Posts 171 and 173 with a 3 HR Kohring shovel on a rail-type car.

The Railroad had Extra Gang 204 consisting of one mechanic, seven laborers and the foreman surfacing track between Mile Posts 182 and 183 with six machines. Three people were digging out a slide, casting the slide material across the track, and shoving it into the river or into the bank with a three-quarter yard American ditcher on rail wheels and a D-6 dozer in the area between Mile Posts 183 and 184. Also in this same area Extra Gang 205 consisting of a foreman and seven men was opening up culverts and drainage and a powder man was blasting a rock.

Seven people in Extra Gang No. 9 were surfacing tracks with a tamping machine between Mile Posts 184 and 185. Seven men in Extra Gang No. 10 at Mile Post 197 were surfacing track with a tamping machine and removing slide material with a D-6 dozer.

A bridge gang was working on drainage on the bulkhead at Mile Post 201. Seven people in Extra Gang No. 11 were surfacing track and working on sinks with a small tamping unit between Mile Post 200 and Alderpoint.

In all 130 men were employed in such work at 30 different locations on November 30, 1965. At 19 of the 30 locations rail mounted equipment was situated. The work crews are employed five days a week but they also work on Saturdays and Sundays in case of emergency. The work train operated in the canyon six days a week.

Both the General Manager of the Railroad and the Commission staff witness testified that as far as safety is concerned the passenger trains could operate on their regular schedules. However, the Railroad witness estimated that every time a passenger train passed a maintenance or repair crew and its equipment, there would be from 15 minutes to two hours' delay in the work. He further testified that if the passenger trains were put back into operation it would result in the loss of approximately 100 man-hours per day and that the loss in working time of the heavy equipment would amount to 25 hours per week which would seriously impair the maintenance of the Railroad line. This witness also stated that during the winter months he couldn't guarantee that the fills, cuts and drainages could be kept in a working function if the passenger trains were operated.

The passenger trains themselves would be delayed an average of two hours each trip because of work being performed by

the maintenance crews and equipment during the rainy season. There would be a 30-minute delay in the passenger train schedule on Saturdays and Sundays because on certain portions of the track the trains are operating at reduced speeds.

For reasons of safety the Railroad witness strongly opposed the operation of mixed trains in the canyon or the operation of the passenger trains at night. None of the parties to the proceeding urged that either type of operation should be instituted.

The Railroad witness testified that the Budd car is in operating condition and the motors are run periodically. It could be returned to service immediately.

Witnesses representing the lumber shippers of the Railroad and the Secretary-Manager of the Greater Eureka Chamber of Commerce supported the Railroad in its position that it should not be required to reinstate its passenger train service during the rainy season because of the interference with the maintenance work necessary to keep the line open for the operation of the freight trains.

Exhibits 17, 18, 26 and 27 of the Railroad show the number of revenue passengers on and off Trains Nos. 3 and 4 between Eureka and Willits for the years 1963 and 1964. The year 1964 ended December 20, 1964, as that was the last date the passenger trains operated.

Exhibit 34 of the Commission staff sets forth similar information for the years 1959 through 1964. The following tabulations are prepared from these exhibits.

	<u>Total Revenue Passengers</u>	<u>Average Per Trip</u>	<u>Average Per Trip Excluding School Children</u>
<u>1959</u>			
Train No. 3	3,202	21	*
Train No. 4	2,256	15	*
Total	5,458	36	*
<u>1960</u>			
Train No. 3	2,613	17	*
Train No. 4	1,759	11	*
Total	4,372	28	*
<u>1961</u>			
Train No. 3	3,149	20	*
Train No. 4	1,984	13	*
Total	5,133	33	*
<u>1962</u>			
Train No. 3	2,880	19	*
Train No. 4	1,721	11	*
Total	4,601	30	*
<u>1963</u>			
Train No. 3	3,125	21	17
Train No. 4	2,437	16	16
Total	5,562	37	33
<u>1964</u>			
Train No. 3	3,641	24	17
Train No. 4	2,433	16	15
Total	6,074	40	32

* Not shown.

The Railroad's Exhibit 19 contains a balance sheet of the Railroad as of June 30, 1965. The principal categories of the balance sheet are as follows:

Assets

Current Assets	\$ 5,901,930
Special Funds	3,283
Investments	909,901
Properties	49,371,614
Other Assets & Deferred Charges	30,899
Total Assets	56,217,627

Liabilities and Shareholders Equities

Current Liabilities	\$ 2,173,850
Long-Term Debt	55,078,207
Reserves (Casualty and Other)	979,694
Other Liabilities & Deferred Credit	439,261
Shareholders' Equity	Dr. 2,453,985
Total Liabilities & Shareholders' Equity	56,217,027

According to Exhibit 19 the Interstate Commerce Commission has directed that General Ledger Account No. 731, entitled "road and equipment property" be reduced by \$19,241,968. When such adjustment and other factors referred to in Exhibit 19 are taken into account, it is stated that the latest balance sheet of the Railroad as of June 30, 1965, by the end of the year 1965, will show assets of \$37,123,231 and debts of \$56,365,199.28. Exhibit 19 further states that as of June 30, 1965, the sum of \$10,350,000 has been borrowed from the Southern Pacific Company to repair and rebuild the railroad destroyed by the 1964 Christmas flood and that more has been borrowed since that date.

Exhibit 19 shows the shareholders' equity to be as follows:

<u>Ac.No.</u>	<u>Shareholders' Equity</u>	
791	Capital Stock Issued	\$35,000,000
795	Paid in Surplus	4,236,937
798	Retained Income-Unappropriated	Dr. 41,690,922
	Total Shareholders' Equity	Dr. 2,453,985

The following tabulation of income balance transferred to retained income for the years 1960-64 and through the six months ended June 30, 1965 is taken from the Railroad's Exhibit 3:

<u>Period</u>	<u>Net Railway Operating Income</u>	<u>Income Balance Transferred to Retained Income</u>
1960	\$ 272,269	\$ 329,955
1961	972,968	1,200,309
1962	1,228,523	1,344,204
1963	607,843	766,022
1964	757,565	891,711
6 Months Ended 6-30-65	(576,967)	(484,711)

(Denotes Loss)

The Railroad's actual revenues and expenses of passenger Trains Nos. 3 and 4 for the year 1964 and estimated revenues and expenses of passenger Trains Nos. 3 and 4 for 12 months' operation at 1965 cost level are taken from the Railroad's Exhibits 21 and 22 as follows:

<u>Revenues</u>	<u>Year 1964</u>	<u>12 Months' Operation at 1965 Cost Level</u>
1. Passenger	\$13,500	\$13,700
2. Mail	500	700
3. Express	100	-
4. Total	<u>14,100</u>	<u>14,400</u>
 <u>Expenses</u>		
5. Wages-Express Messenger	3,300	-
6. Wages-Trainmen and Enginemen	29,400	30,600
7. Repairs-Motorcar	6,900	7,000
8. Servicing	3,500	3,500
9. Casualties	-	6,700
10. Station Employees	400	400
11. Increased Wages and Benefits for Lines 7-8	-	300
12. Health and Welfare for Lines 6-8	1,100	1,100
13. Payroll Taxes for Lines 6-8	2,700	2,800
14. Train Fuel	1,700	1,600
15. Rents-Motorcar	9,600	9,600
16. Subtotal Expenses for Lines 5-15	<u>58,600</u>	<u>63,600</u>
17. Net Loss Before Other Expenses	44,500	49,200
18. Maintenance of Way and Structures ..	1,300	1,300
19. Station Supplies and Expenses	300	700
20. All Other Transportation	1,200	2,100
21. All Other Maintenance of Equipment ..	700	1,200
22. General	1,500	1,600
23. Increased Wages and Benefits for Lines 18-22	-	200
24. Health and Welfare for Lines 18-22 ..	100	200
25. Payroll Taxes for Lines 18-22	300	500
26. Subtotal Expenses for Lines 18-25	<u>5,400</u>	<u>7,800</u>
27. Total Net Loss	49,900	57,000

The results of operation on an out-of-pocket cost basis of Trains Nos. 3 and 4 for the year 1964 are shown in the staff's Exhibit 34 as follows:

<u>Revenue</u>	
Passenger	\$13,500
Mail	500
Express	100
Total Revenues	<u>14,100</u>

Out-Of-Pocket Costs

Maintenance of Way and Structure ...	\$ 1,200
Maintenance of Equipment	6,300
Train Fuel	1,600
Train Wages	29,400
Other Transportation Costs	9,200
Depreciation	5,200
Total Above Costs	52,900
Labor Additives	4,800
Unadjusted Out-Of-Pocket Costs	57,700

Interservice Adjustments

Freight Service Performed for Benefit of Passenger Service:	
Haul of Company Materials	100
Passenger Service Performed for Benefit of Freight Service:	
Transportation of Pass-Passengers	3,600
Adjusted Out-Of-Pocket Costs	54,200

Operating Results

Net Income Before Taxes	(40,100)
Income Taxes	(20,400)
Net Income After Taxes	(19,700)

(Red Figure)

Cross-examination of the staff witness on Exhibit 34

developed the information that the entire \$3,600 included for transportation of pass-passengers was allocated for the benefit of freight service. A small portion of this amount appropriately could have been allocated for the benefit of passenger service as was done with haul of company materials. The reduction in income taxes was computed at 50.85 percent even though the income taxes actually paid by the Railroad in 1964 according to the annual report amounted to 36 percent of its income. The additional income tax which would have to be paid as a result of the discontinuance of the Railroad's passenger trains would actually be computed at the 50.85 percent rate rather than at the 36 percent average income tax rate, and so

it was appropriate for the staff witness to use the 50.85 percent tax rate in Exhibit 34.

The Railroad's witness pointed out that the staff out-of-pocket cost estimates include no interest on the investment in the Budd car and no allowance for the variable portion of other maintenance of equipment expense (other than actual repairs of the car) and general expense.

The staff Exhibit 35 tabulates the Railroad's passenger revenue per round trip for Trains Nos. 3 and 4 for the years 1962, 1963 and 1964 as follows:

<u>Year</u>	<u>Passenger Revenue</u>	<u>Round Trips</u>	<u>Passenger Revenue Per Round Trip</u>
1964	\$13,477	152	\$88.66
1963	11,874	149	79.70
1962	7,229	155	46.64

The Railroad's witness made similar computations for the years 1962 and 1964 but included mail and express as well as passenger revenue as follows:

<u>Year</u>	<u>Passenger Revenue</u>	<u>Mail Revenue</u>	<u>Express Revenue</u>	<u>Total Revenue</u>	<u>Round Trips</u>	<u>Total Revenue Per Round Trip</u>
1964	\$13,500	\$ 500	\$100	\$14,100	152	\$92.70
1962	7,229	3,673	275	11,177	155	72.11

A number of residents and property owners in the Eel River Canyon testified regarding the importance of the reinstatement of the operation of the Railroad's passenger trains to themselves and their neighbors and guests. During the winter months such transportation is frequently the only means of ingress and egress to and from the canyon. Many of the persons in the canyon do not have cars or are physically unable to drive. In case of emergency the trains have been used to take injured persons out of the canyon to doctors and hospitals. The Railroad has provided other means of

transportation such as truck, freight train or helicopter for its own employees, employees of contractors and their families, in case of emergency when they have needed medical attention.

Many hunters, fishermen, campers, canoeists, school children, railroad excursionists and tourists have made use of the passenger trains to enter, leave or pass through the canyon for recreational purposes. In the opinion of some of the public witnesses, better and more extensive promotional efforts and advertising by the Railroad would greatly increase the patronage on its passenger trains by such users.

The excursion director of the Pacific Coast Chapter of the Railway and Locomotive Historical Society testified regarding the use of the Railroad's passenger trains for excursions conducted by his society. The following is a tabulation prepared from Exhibit 13 of the number of excursion passengers and revenue resulting to the Railroad from such excursions for the years 1961 through 1964.

<u>Year</u>	<u>Number of Passengers</u>	<u>Passenger Revenue</u>
1961	130	\$ 825.70
1962	294	1,901.80
1963	562	3,463.90
1964	712	7,728.90

Although the individual and round trip fares on Trains Nos. 3 and 4 are less than \$10 per person per trip and have never been subject to commission payments to travel agents, the discontinuance of the payment of commissions on all passenger fares by the parent company Southern Pacific, on January 1, 1965, also eliminates the possibility of such fares on Trains Nos. 3 and 4 being included in larger total passenger train fares on which commissions would have been paid under the former rules.

The public witnesses also testified that the mail service into the canyon had deteriorated considerably with the discontinuance of the operation of the Railroad's passenger trains.

After consideration the Commission finds that:

1. Although the Railroad has operated its passenger train service between Willits and Eureka at a loss, said loss is relatively small compared to the net income from its overall operations which (except for the losses incurred subsequent to December 20, 1964 because of the severe storm damage) have been profitable since 1960.

2. Many residents of and property owners in the Eel River Canyon rely upon the services of Trains Nos. 3 and 4, particularly in the wintertime when certain of the roads within the canyon are impassable.

3. Hunters, fishermen, campers, canoeists, school children, railroad excursionists and tourists have used and will continue to use Trains Nos. 3 and 4 when service is reinstated.

4. During the period from 1961 to 1964 the Railway and Locomotive Historical Society through its own efforts increased its patronage of Trains Nos. 3 and 4 from 130 to 712 passengers and increased the Railroad revenue from such usage from \$825.70 to \$7,728.90 annually.

5. The passenger traffic and the total passenger revenue for these trains has increased substantially from 1962 to 1964.

6. With the exception of publishing timetables the Railroad itself has done practically nothing to promote patronage on Trains Nos. 3 and 4.

7. The Railroad's present timetables provide for a minimum of passenger train service on its line.

8. The railroad line between Willits and Eureka over which Trains Nos. 3 and 4 operate, has been repaired sufficiently to allow the "immediate" resumption of passenger train service:

9. Public convenience and necessity require the immediate restoration of passenger train service by the Railroad in accordance with its presently filed timetables and tariffs.

The Commission concludes:

1. The Railroad's requests that Cases Nos. 8261 and 8265 herein be dismissed on constitutional grounds should be denied and they are hereby denied.

2. The motion of the parties other than Railroad for an interim decision herein should be denied and it is hereby denied.

3. The petition to investigate the need for daily passenger train service should be denied and it is hereby denied.

4. Application No. 47750 should be denied.

5. In Cases Nos. 8261 and 8265, the Railroad should be ordered immediately to restore its passenger train service in accordance with its presently filed timetables and tariffs.

O R D E R

IT IS ORDERED that:

1. Application No. 47750 is denied.
2. The Northwestern Pacific Railroad Company reinstitute its passenger train service in accordance with its presently filed timetables and tariffs immediately upon the effective date of this order.

3. Case No. 8261 is discontinued.

The effective date of this order shall be ten days after the date hereof.

Dated at San Francisco, California, this 12th day of APRIL, 1966.

Frederick B. Holcomb
President

W. E. Mitchell

George H. Brown

Augustus

William W. Burris
Commissioners