



Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, DECEMBER 22, 1970

The Department of Justice filed a civil antitrust suit today charging that Burlington Northern Inc. has violated the Sherman Act by the use of restrictive traffic provisions in more than 8,000 spur track agreements and leases of real property to shippers.

Attorney General John N. Mitchell said the complaint and a proposed consent judgment, which may become final after 30 days, were filed together in the United States District Court in St. Paul, Minnesota.

Burlington Northern is the largest rail carrier in the United States in terms of miles of road and the fourth largest rail carrier in terms of operating revenues.

It operates in seventeen states in the Northwestern section of the United States and in two provinces of Canada.

Burlington Northern is the corporate successor of the recent merger of Great Northern Railway Company, Northern Pacific Railway Company, Pacific Coast Railroad Company, Chicago Burlington & Quincy Railroad Company, and Spokane, Portland and Seattle Railway Company.

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The complaint charged that two of Burlington Northern's predecessor companies, Great Northern and Northern Pacific, used provisions, sometimes referred to as "traffic clauses," in spur track agreements with shippers. These provisions require the shipper to use Burlington Northern exclusively for the shipment of freight which the shipper controls, so long as Burlington Northern's rates, and in some instances rates and service, are no less favorable than those of other railroads or other means of transportation.

Spur tracks are short segments of track over which rail cars are moved between a shipper's premises and a railroad's main lines.

The complaint also charged that Great Northern used these traffic provisions in certain agreements for the lease or sale of property which it owned, including portions of its right of way, to shippers and receivers of freight.

The suit said these provisions have had the effect of depriving shippers of free choice of carriers and mode of transportation for shipment of their freight, and have foreclosed competing railroads and other carriers of freight from transporting substantial amounts of freight to and from shippers located on or near the lines of Burlington Northern and its predecessor companies.

The Supreme Court in 1958 ruled that the use of similar traffic provisions by Northern Pacific Railroad in leases of certain land which it owned was a violation of the Sherman Act.

Assistant Attorney General Richard W. McLaren, head of the Antitrust Division, said the consent judgment prohibits Burlington Northern from directly or indirectly entering into, renewing, enforcing or claiming any rights under any spur track agreement and lease or sale agreement which contains these restrictive traffic provisions.

Burlington Northern is required to notify all shippers with such agreements that these provisions are being cancelled and deleted from the agreements, and will not be enforced.