

Appendix B

Comments Received on Draft Environmental Impact Statement

Appendix B

Comments Received on Draft Environmental Impact Statement

SEA received 138 comment letters on the Draft Environmental Impact Statement. Below is a table listing each comment letter in the order in which they were entered into SEA's Environmental Correspondence Tracking database. (This database is available on the Board's website at www.stb.dot.gov and contains the environmental correspondence pertaining to all recent cases before the Board. The letter numbers are generated for the database as a whole and are not case specific. Thus, the numbers in the table below are not necessarily sequential.)

The postmark deadline for submitting comments was January 10, 2005. However, SEA has included the comment letters that were postmarked after the deadline. An asterisk after the letter number denotes that the letter was postmarked after the January 10, 2005 deadline.

Copies of the actual comment letters received in reduced text format follow the table of contents. Copies of forms collected at the December 2, 2004 public meetings that do not contain substantive comments (i.e. simply indicate that a person wishes to submit oral or written comments) have not been included in this Appendix but have been included in the Public Docket for this proceeding and are available in SEA's Environmental Correspondence Tracking database on the Board's website.

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Environmental Correspondence Tracking Letter Number	Name of Sender	Date Received	Page Number
EI-1075	Wayne Lea, U.S. Army Corps of Engineers	11/22/04	B-1
EI-1076	Lynn and Helen Ann Boehme	11/26/04	B-1
EI-1077	Larry Butler, Natural Resources Conservation Service	11/29/04	B-1
EI-1095	Clovis Boehme	12/6/04	B-2
EI-1107	Craig Heiligman	11/10/04	B-2
EI-1108	Craig Heiligman	11/22/04	B-3
EI-1109	Craig Heiligman	12/3/04	B-3
EI-1110	Craig Heiligman	12/5/04	B-4
EI-1111	Jacqueline Conrad	12/6/04	B-4
EI-1112	Jacqueline Conrad	12/6/04	B-5
EI-1118	Jacqueline Conrad	12/9/04	B-5
EI-1225	Elizabeth Wood	12/2/04	B-6
EI-1226	George Rice	12/2/04	B-6
EI-1249	Tracy Caron	12/2/04	B-6
EI-1250	Joyce Landrum	12/2/04	B-7
EI-1251	Charlotte Adams	12/2/04	B-7
EI-1252	Archie Gerdes	12/2/04	B-7
EI-1253	Tom Ransdell, Southwest Gulf Railroad	12/2/04	B-7
EI-1254	Darrell Brownlow, Southwest Gulf Railroad	12/2/04	B-8
EI-1255	Jack Love	12/2/04	B-9
EI-1257	Timothy Hildebrand, East Medina County Special Utility District	12/2/04	B-9
EI-1258	Sheila Caron	12/2/04	B-9
EI-1259	Medina County Environmental Action Association	12/2/04	B-10
EI-1260	Henry Bonilla U.S. House of Representatives	12/8/04	B-10
EI-1261	Robert Fitzgerald Medina County Environmental Action Association	12/9/04	B-11
EI-1262	Robert Fitzgerald Medina County Environmental Action Association	12/10/04	B-12
EI-1263	Anne Guerra	12/14/04	B-13
EI-1264	Bill Mullican Texas Water Development Board	12/16/04	B-13

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Environmental Correspondence Tracking Letter Number	Name of Sender	Date Received	Page Number
EI-1265	Dianne Pipes	12/15/04	B-13
EI-1266	Henry Bonilla U.S. House of Representatives	12/16/04	B-14
EI-1267	Larry Coyle	12/17/04	B-15
EI-1268	Wayne Balzen	12/16/04	B-15
EI-1270	Chris Mitchell	12/26/04	B-15
EI-1274	Douglas Riff	1/3/05	B-16
EI-1281	Robert Clark	1/6/05	B-17
EI-1282	Barbara Clark	1/6/05	B-18
EI-1283	Barbara Clark	1/6/05	B-18
EI-1284	Robert Clark	1/6/05	B-18
EI-1286	Wayne Balzen	1/7/05	B-18
EI-1287 (EI-1288, EI-1294 - duplicates)	Lynn Kitchen Medina County Environmental Action Association	1/8/05	B-19
EI-1289 (duplicates EI-1323 and EI-1324)	Max Walden & Carol Casillas	1/9/05	B-19
EI-1292	Ray H. Wardwell	1/6/05	B-20
EI-1293	C. Ray Schoch	1/10/05	B-21
EI-1295	Douglas Riff	1/10/05	B-21
EI-1296	David Coburn Steptoe & Johnson (SGR)	1/10/05	B-22
EI-1297	Carole S. Romano Castroville Conservation Society	1/10/05	B-23
EI-1298	Thomas R. Hester, Ph.D.	1/10/05	B-24
EI-1299	Ted Portenier	1/11/05	B-25
EI-1310 (duplicate EI-1331)	Al & Jerrie Bishop	1/10/05	B-26
EI-1313	Bonnie Braganza U.S. Environmental Protection Agency, Region 6	1/18/05	B-26
EI-1314	Robert Potts Edwards Aquifer Authority	1/18/05	B-27
EI-1315	Humberto Holguin	1/18/05	B-28
EI-1316	Verlyn & Russell Mangold	1/18/05	B-28
EI-1317	Ruth Shapiro	1/18/05	B-28
EI-1318	Susan Martin	1/18/05	B-29

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Environmental Correspondence Tracking Letter Number	Name of Sender	Date Received	Page Number
EI-1319 (duplicate EI-1350)	Annalisa Peace Greater Edwards Aquifer Alliance	1/18/05	B-29
EI-1320	Curtis Saathoff	1/18/05	B-29
EI-1322	Ray Wardwell	1/18/05	B-30
EI-1325	Nora Winkler	1/18/05	B-30
EI-1326	George Holguin	1/18/05	B-31
EI-1327	T. Lynn Landrum	1/18/05	B-31
EI-1328	Rusty and Verlyn Mangold	1/18/05	B-31
EI-1329 * (postmarked 1/11/05)	Leslie and Elaine Semmelmann	1/18/05	B-32
EI-1330	Alyne Fitzgerald Medina County Environmental Action Association	1/11/05	B-33
EI-1332 * (faxed on 1/11/05)	Rich Fournier	1/11/05	B-33
EI-1333	Sandra Young	1/10/05	B-34
EI-1334	Chuck McLendon Texas Department of Transportation	1/12/05	B-34
EI-1335	Terry & Sylvia Greer	1/11/05	B-34
EI-1336	Robin Portenier	1/11/05	B-35
EI-1337	Scott Conrad & Jacque Conrad	1/11/05	B-36
EI-1338	Joe and Erna Balzen	1/11/05	B-36
EI-1339	Grace Reed	1/11/05	B-37
EI-1340	Carl Kelby	1/11/05	B-37
EI-1341	Melvin and Judy Dittmar	1/11/05	B-38
EI-1342	Paul & Joyce Boubel	1/11/05	B-39
EI-1343	Thomas Walpole & Mary Walpole	1/11/05	B-39
EI-1344	Morris Baxter	1/11/05	B-40
EI-1345	Katherine Baxter	1/11/05	B-40
EI-1346	Aural Allen	1/11/05	B-41
EI-1347	Clark Wurzbach	1/11/05	B-41
EI-1348	Lynn Haby	1/11/05	B-42
EI-1349	Necey Schulte	1/11/05	B-42
EI-1351	Leonard G, and Marian Wernette	1/11/05	B-42
EI-1352	James Barden, Medina County Judge	1/12/05	B-43

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Environmental Correspondence Tracking Letter Number	Name of Sender	Date Received	Page Number
EI-1353	Alyne Fitzgerald Medina County Environmental Action Association	1/11/05	B-43
EI-1354	Pat Brawner Medina County Floodplain Administrator	1/11/05	B-44
EI-1355	Robert Fitzgerald Medina County Environmental Action Association	1/11/05	B-44
EI-1356	Donald Schoch	1/12/05	B-45
EI-1357	Archie Gerdes	1/14/05	B-45
EI-1358	Glenn & Mary Jo Schweers	1/12/05	B-46
EI-1359	Jimmy Walch	1/11/05	B-47
EI-1360	Robert Reed	1/11/05	B-48
EI-1361	Robert Fitzgerald Medina County Environmental Action Association	1/11/05	B-48
EI-1362 (duplicate of EI-1355 with enlarged version of map attachment)	Robert Fitzgerald Medina County Environmental Action Association	1/11/05	B-50
EI-1367 (faxed on 1/19/05)	Robert Fitzgerald	1/19/05	B-51
EI-1368	Elizabeth Wood	1/21/05	B-51
EI-1369	Gaddis Court Reporting (Transcript of Public Meeting I)	1/21/05	B-52
EI-1370	Gaddis Court Reporting (Transcript of Public Meeting II)	1/21/05	B-77
EI-1374 (EI-1379 – CD version)	David Barton The Gardner Law Firm (MCEAA)	1/11/05	B-99
EI-1375	Congressman Henry Bonilla	1/11/05	B-127
EI-1376	Robert Fitzgerald Medina County Environmental Action Association	1/11/05	B-127
EI-1378	Russell Hooten Texas Parks & Wildlife	1/24/05	B-189
See EI-1379	See EI-1374		B-190
EI-1382 * (faxed on 1/28/05)	Robert Fitzgerald Medina County Environmental Action Association	1/28/05	B-191
EI-1383	Robert Fitzgerald Medina County Environmental Action Association	1/11/05	B-191
EI-1387 * (e-filed 2/2/05)	David Barton The Gardner Law Firm (MCEAA)	2/2/05	B-192

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Environmental Correspondence Tracking Letter Number	Name of Sender	Date Received	Page Number
EI-1398 (duplicate of EI-1335 with minor change)	Terry & Sylvia Greer	1/18/05	B-192
EI-1413 * (postmarked 2/1/05) (contains identical information as EI-1387)	Robert Fitzgerald Medina County Environmental Action Association	2/22/05	B-193
EI-1414	Susan Ferguson Texas Commission on Environmental Quality	2/22/05	B-193
EI-1420 * (postmarked on 3/2/05) amending comments submitted in EI-1378	Russell Hooten Texas Parks & Wildlife Department	3/8/05	B-194
EI-1421 * (postmarked 2/28/05) reiterating comments submitted in EI-1270 before taking office	Chris Mitchell Commissioner, Medina County, Precinct 1	3/7/05	B-194
EI-1424 * (faxed on 2/14/05) comment inadvertently excluded from mailing on 1/10/05	Lester Landrum	2/14/05	B-194
EI-1425 * (faxed on 2/14/05) comment inadvertently excluded from mailing on 1/10/05	Joyce Landrum	2/14/05	B-195
EI-1431 * (response to EI-1374, Gardner Law Firm comments)	David Coburn, Steptoe & Johnson (SGR)	3/22/05	B-195
EI-1440 * (response to EI-1431)	Robert Fitzgerald Medina County Environmental Action Association	3/31/05	B-198
EI-1480 * (partial response to EI-1431)	David Barton The Gardner Law Firm (MCEAA)	5/26/05	B-199

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Environmental Correspondence Tracking Letter Number	Name of Sender	Date Received	Page Number
EI-1491 *	Robert Fitzgerald Medina County Environmental Action Association	6/8/05	B-203
EI-1698 * (responding to information submittals sent to SEA by SGR)	David Barton The Gardner Law Firm (MCEAA)	10/5/05	B-204
EI-1725 * (appears to be the same as one of the letters in EI-1698)	David Barton The Gardner Law Firm (MCEAA)	11/2/05	B-210
EI-1726 * (appears to be the same as one of the letters in EI-1698)	David Barton The Gardner Law Firm (MCEAA)	11/2/05	B-211
EI-1741*	Robert Fitzgerald Medina County Environmental Action Association	11/6/05	B-216
EI-1750* (identical to EI-1741, except for the inclusion of two DVDs that are available at the website floodsafety.com)	Robert Fitzgerald Medina County Environmental Action Association	11/14/05	B-220
EI-1752*	Robert Fitzgerald Medina County Environmental Action Association	11/10/05	B-223
EI-1769* (Response to EI-1698)	David Coburn Steptoe & Johnson (SGR)	11/22/05	B-224
EI-1786* (Response to EI-1769)	David Barton The Gardner Law Firm (MCEAA)	12/5/05	B-224
EI-1802* (Response to EI-1750)	David Coburn Steptoe & Johnson (SGR)	12/16/05	B-225
EI-1803* (Almost identical to EI-1786)	David Barton The Gardner Law Firm (MCEAA)	12/19/2005	B-226

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Environmental Correspondence Tracking Letter Number	Name of Sender	Date Received	Page Number
EI-1805* (Reaffirming comments provided in EI-1358.)	Glenn & Mary Jo Schweers	12/27/05	B-227
EI-1808*	Lisa Schweers	12/27/05	B-227
EI-1810*	Thomas Wooten	1/3/06	B-228
EI-1812*	James Danner Mayor, City of Hondo	1/4/06	B-228
EI-1817*	Ray Jagge	1/9/06	B-229
EI-1826*	Bob Hancock Medina County Historical Commission	1/17/06	B-229
EI-1872*	Robert Fitzgerald Medina County Environmental Action Association	1/25/06	B-229
EI-1898*	Clovis M. Boehme	1/30/06	B-236
EI-1899*	John T. Boehme	1/30/06	B-237
EI-1925*	Tim Hardt, et al.	2/24/06	B-237
EI-1926* (this letter retracts letter EI-1826)	Bob Hancock Medina County Historical Commission	3/1/06	B-237
EI-1928* (this letter responds to EI- 1826 and EI-1926)	Necy, Schulte, et al. Quihi & New Fountain Historical Society	3/3/06	B-237



DEPARTMENT OF THE ARMY
FORT WORTH DISTRICT, CORPS OF ENGINEERS
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

REPLY TO
ATTENTION OF

November 15, 2004

Planning, Environmental, and Regulatory Division
Regulatory Branch

SUBJECT: Project Number 200400620, RAILROAD LINE EXTENSION, DOCKET FD 34284

Ms. Victoria Ruston
Chief, Section of Environmental Analysis
Surface Transportation Board
1925 K Street Northwest
Washington, District of Columbia 20423-0001

Dear Ms. Ruston:

Thank you for your letter dated November 5, 2004. Your request has been assigned Project Number 200400620.

Ms. Cheryl Jasper has been assigned as the regulatory project manager for your request and will be evaluating it as expeditiously as possible. However, because of our permit workload it will take a while for us to respond.

You may be contacted for additional information about your request. For your information, please reference the Fort Worth District Regulatory Branch homepage at <http://www.swf.usace.army.mil/regulatory/> and particularly guidance on submittals at <http://www.swf.usace.army.mil/regulatory/local/submittal.pdf> and mitigation at <http://www.swf.usace.army.mil/regulatory/local/mitigate.pdf> that may help you supplement your current request or prepare future requests.

If you have any questions about the evaluation of your submittal or would like to request a copy of one of the documents referenced above, please contact Ms. Cheryl Jasper at the address above or telephone (817)886-1738 and refer to your assigned project number. Please note that it is unlawful to start work without a Department of the Army permit if one is required.

Wayne A. Lea
Chief, Regulatory Branch

#E1-1075
RJ

November 19, 2004

Surface Transportation Board
Section of Environmental Analysis
1925 K. Street N.W.
Washington, DC 20423

REF: Environmental Impact Statement
Finance Docket #34284
Southwest Gulf Railroad Company
Construction & Operation Exemption
Medina County, Texas

Dear Ms. Ghosh,

In regards to the above referenced docket and the draft Environmental Impact Statement (EIS). We have read the draft and feel that the Surface Transportation Board and the Section of Environmental Analysis (SEA) has prepared a document, which is very thorough and addresses all concerns that have been addressed by the factions opposing Southwest Gulf Railroad and the proposed quarry by Vulcan Materials. We can appreciate the time and effort, which goes in to something of this magnitude.

We are in favor of Vulcan Materials and the proposed quarry and the proposed railway, which will be used to transport the aggregate. We feel that this is the most environmentally friendly and safest option.

This venture will have a very positive impact on Medina County and the surrounding area with new jobs, increased taxes for the county and Hondo Independent School District, which can be used to improve education programs and pay teachers what they deserve, and increased business for small business who will be dealing with the quarry.

We are lifetime residents of Medina County.

Sincerely

Lynn F. Boehme
Lynn F. Boehme

Helen Ann Boehme
Helen Ann Boehme

CC: Surface Transportation Board
Case Control Unit
Washington, DC 20423
Attn: Rni Ghosh
STB Docket No. FD34284

#E1-1076
RJ

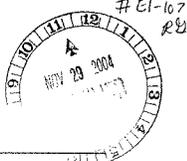
received
11/22/04

received
11/26/04



Natural Resources Conservation Service
101 South Main Street
Temple, TX 76501-7602

United States Department of Agriculture



#E1-107
RJ

November 19, 2004

Ms. Rini Ghosh
SEA, Project Manager
Surface Transportation Board
Case Control Unit
Washington, D.C. 20423

Dear Ms. Ghosh:

We have reviewed the information provided in the Draft Environmental Impact Statement, STB Docket No. FD 34284, for the proposed construction of the Southwest Gulf Rail Line in Medina County, Texas. Our agency is primarily concerned with actions that may impact Important Farmland. We have reviewed this Draft EIS as required by the Farmland Protection Policy Act (FPPA).

As you requested in Section 4.10.2 of the Draft Environmental Impact Statement, we have developed a composite rating for each alternative listed (proposed route, Alternative 1, Alternative 2, and Alternative 3) and completed the AD-1006 Farmland Conversion Impact Rating for all alternatives. The total points in Part VII of the AD-1006 is 123 for the proposed route, 142 for Alternative 1, 138 for Alternative 2 and 120 for Alternative 3. The FPPA law states in 7 CFR 658.4 c (2) that "Sites receiving a total score of less than 160 need not be given further consideration for protection and no additional sites need to be evaluated."

Thank you for the opportunity to review this Draft EIS and the resource materials you submitted to evaluate this project. We also thank you for recognizing the importance of soils in the Draft EIS.

If you have any questions, please call James Greenwade in the Soils Section at 254-742-9960, Fax (254)-742-9859.

Sincerely,

Larry D. Butler

LARRY D. BUTLER, Ph.D.
State Conservationist

cc: Mike Risinger, MLRA Leader, Region 9/State Soil Scientist, Texas
James Greenwade, Soil Scientist, NRCS, Texas

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resource and environment.

An Equal Opportunity Provider and Employer

U.S. Department of Agriculture							
FARMLAND CONVERSION IMPACT RATING							
PART I (To be completed by Federal Agency)		Date Of Land Evaluation Request		11-5-2004			
Name of Project		Southwest Gulf Railroad Company		Federal Agency Involved		Surface Transportation Board	
Proposed Land Use		Rail Transportation		County and State		Medina County, Texas	
PART II (To be completed by NRCS)		Date Request Received By NRCS		11-15-2004		Person Completing Form: James Greenwade	
Does the site contain Prime, Unique, Statewide or Local Important Farmland? (If no, the FPPA does not apply - do not complete additional parts of this form)		YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		Acres Irrigated		44330	
Major Crops(s)		Farmable Land in Govt. Jurisdiction		Amount of Farmland As Defined in FPPA		Acres: 574,330 %67	
Grain Sorghum		Acres: 625,600 % 73		Acres: 574,330		%67	
Name of Land Evaluation System Used		Name of State or Local Site Assessment System		Date Land Evaluation Returned by NRCS			
LESA		NONE		11-16-2004			
PART III (To be completed by Federal Agency)		Alternative Site Rating					
A. Total Acres To Be Converted Directly		Site A		Site B		Site C	
64.2		61.6		62.2		65.2	
B. Total Acres To Be Converted Indirectly		0		0		0	
C. Total Acres In Site		64.2		61.6		62.2	
68.2		65.2		68.2		68.2	
PART IV (To be completed by NRCS) Land Evaluation Information		A. Total Acres Prime And Unique Farmland		48.6		77.2	
B. Total Acres Statewide Important or Local Important Farmland		0		0		0	
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted		0.0001		0.0001		0.0001	
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value		34		32		32	
E. Total Acres Statewide Important or Local Important Farmland		55		69		70	
52		52		52		52	
PART V (To be completed by NRCS) Land Evaluation Criterion		Relative Value of Farmland To Be Converted (Scale of 0 to 100 Points)					
PART VI (To be completed by Federal Agency) Site Assessment Criteria		Site Assessment Criteria		Maximum Points			
1. Area In Non-urban Use		(15)		14		14	
2. Perimeter In Non-urban Use		(10)		9		9	
3. Percent Of Site Being Farmed		(20)		10		10	
4. Protection Provided By State and Local Government		(20)		0		0	
5. Distance From Urban Built-up Area		(15)		0		0	
6. Distance To Urban Support Services		(15)		0		0	
7. Size Of Present Farm Unit Compared To Average		(10)		0		0	
8. Creation Of Non-farmable Farmland		(10)		10		10	
9. Availability Of Farm Support Services		(5)		5		5	
10. On-Farm Investments		(20)		10		10	
11. Effects Of Conversion On Farm Support Services		(10)		5		5	
12. Compatibility With Existing Agricultural Use		(10)		5		5	
TOTAL SITE ASSESSMENT POINTS		160		68		73	
PART VII (To be completed by Federal Agency)		Relative Value Of Farmland (From Part V)		100		55	
Total Site Assessment (From Part VI above or local site assessment)		160		68		73	
TOTAL POINTS (Total of above 2 lines)		260		123		142	
138		138		138		120	
Site Selected:		Date Of Selection		Was A Local Site Assessment Used?			
				YES <input type="checkbox"/> NO <input type="checkbox"/>			
Reason For Selection: A= Proposed Route, B=Alternative 1, C=Alternative 2, D=Alternative 3							
Name of Federal agency representative completing this form:				Date:			
(See Instructions on reverse side)				Form AD-1006 (03-02)			

November 20, 2004

STB Docket No. FD 34284
Surface Transportation Board
Washington, DC 20423-0001

Attn: Rini Ghosh

Dear Ms. Ghosh,

In regards to the above referenced docket, I would like to express my appreciation for a thorough job you, your staff, and your Section of Environmental Analysis (SEA) has done on the Draft Environmental Impact Statement (EIS).

It appears that all points raised by people opposing the quarry and proposed rail way have been addressed and proper mitigants to any issues were given to correct those issues.

My family has owned the land, which will be part of the proposed quarry for many years. When Vulcan first approached my wife and I, we had our reservations, however after doing research on the company and touring other sites, we decided that it was time to do something with the land and Vulcan being a Fortune 500 company was the best fit.

The opposition has sent letters including letters to congressmen and senators expressing issues with property rights along the proposed rail way. However they have continually blasted the landowners who are working with Vulcan on the proposed quarry site. What about our property rights to do what we want with our land? They have also brought up condemnation of land to you and the government officials, however has failed to mention that they misled landowners into thinking that if they would place deed restrictions on their land forbidding railroads from crossing their land, that it would give them better bargaining power. Southwest Gulf Railroad along with Vulcan has done everything humanly possible to work with landowners to purchase the right of way at above market price.

Railing the aggregate 7-miles to the connection point with Union Pacific is far more environmentally friendly and tremendously safer than trucking the aggregate to the connection point. As I understand it, Vulcan is prepared to truck the aggregate if the railway site is disallowed.

The opposition also refuses to acknowledge the economic boost this will bring to Medina County and surrounding areas. The jobs the site will create, the taxes it will generate for the county and Hondo Independent School District, and the revenue generation for businesses, which will be working with Vulcan and Southwest Gulf Railroad are far more economically beneficial then new subdivisions and trailer parks, which would be a drain on the county's infrastructure.

In closing, please don't let the oppositions scare tactics, misleading comments and misstatements of fact sway your decision to recommend the proposed railway as the best environmental choice.

Yours truly,

Clovis Boehme
Clovis Boehme

STB Incoming Correspondence Record

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Surface Transportation Board
Incoming Correspondence Record

#EI-1107

Correspondence Information			
Docket #:	FD 34284 0	Date Received:	11/10/2004
Name of Sender:	Craig Helligman	Date of Letter:	
Group:			

Submitter's Comments
 After reviewing the preliminary EIS on the above docket, it appears that the SEA has done a very thorough job in assessing the environment impact of the proposed rail way and the alternatives and the mitigants on any issues mentioned. I believe that the rail way is the most effective, less dangerous, and most environmentally friendly alternative. The opposition has used every scare tactic imaginable including saying the dust would cause asthma to the dust would cause wrecks on Loop 410 in San Antonio, Texas some 30 miles or so away. Vulcan Materials is a fortune 500 company and would, in my mind, take every precaution necessary to make this a safe venture. This project would be a great economic boost to the county, to the school district, and to the surrounding area. Please don't let the voices of a few jealous people, whose land was not chosen, impact the final decision on this matter. Thank you for your time and hard work.

Image Attachment(s)
EI-1107.pdf

After reviewing the preliminary EIS on the above docket, it appears that the SEA has done a very thorough job in assessing the environment impact of the proposed rail way and the alternatives and the mitigants on any issues mentioned. I believe that the rail way is the most effective, less dangerous, and most environmentally friendly alternative. The opposition has used every scare tactic imaginable including saying the dust would cause asthma to the dust would cause wrecks on Loop 410 in San Antonio, Texas some 30 miles or so away. Vulcan Materials is a fortune 500 company and would, in my mind, take every precaution necessary to make this a safe venture. This project would be a great economic boost to the county, to the school district, and to the surrounding area. Please don't let the voices of a few jealous people, whose land was not chosen, impact the final decision on this matter. Thank you for your time and hard work.

Surface Transportation Board Incoming Correspondence Record

#EI-1108

Correspondence Information			
Docket #:	FD 34284 0	Date Received:	11/22/2004
Name of Sender:	Craig D. Helligman	Date of Letter:	
Group:			

Submitter's Comments
As a follow up to my previous comment, I have some concerns about the public meeting slated for December 2nd. Dr. Fitzgerald of Medina County Environmental Action Association has made comments in local papers that Vulcan must have written the draft EIS. Whoever runs the meeting needs to adhere to the guidelines outlined. Dr. Fitzgerald in other public meetings has tried to takeover and run the meeting his way. They will be very disruptive. Thanks again for all your hard work.

Image Attachment(s)
EI-1108.pdf

As a follow up to my previous comment, I have some concerns about the public meeting slated for December 2nd. Dr. Fitzgerald of Medina County Environmental Action Association has made comments in local papers that Vulcan must have written the draft EIS. Whoever runs the meeting needs to adhere to the guidelines outlined. Dr. Fitzgerald in other public meetings has tried to takeover and run the meeting his way. They will be very disruptive. Thanks again for all your hard work.

<http://stb.dot.gov/Ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/E3F50AC1...> 1/12/2007

STB Incoming Correspondence Record

Page 1 of 1

Surface Transportation Board Incoming Correspondence Record

#EI-1109

Correspondence Information			
Docket #:	FD 34284 0	Date Received:	12/03/2004
Name of Sender:	Craig Helligman	Date of Letter:	
Group:			

Submitter's Comments
I wanted to thank the STB for the opportunity to speak a the public meeting held in Hondo. I'm sure anytime a project like this is proposed, you hear all kinds of emotion feeled speeches and have to weigh each comment for actual impact on any environmental issues. Some of the facts they were throwing out such as flooding are somewhat inflated. It recently rained 5.5 inches on my father-in-laws place on top of already wet ground and my son and I went hunting the next day and did not have to drive through any high water what so ever. If they are building their houses in the creeks and water way's then it doesn't say much for common sense. One gentleman even said this is a desett area. So which is it a wetland area that floods constantly or a desert? I grew up in Hondo where a UP railway goes right through town. Our house was 1/4 mile away and it did keep me awake at night and it did shake our house to pieces. There are many historic building within a few hundred feet as you saw when you went to the meeting. These structures have not had any damage from vibration or noise and this railway does not cause any flooding. These trains come through Hondo every hour at a speed which is a lot faster than the train, which will be hauling aggregate. I see no issues with the rail way which would not be solved with the mitigants proposed in teh DEIS. Thanks

Image Attachment(s)
EI-1109.pdf

Submitters' Comments

I wanted to thank the STB for the opportunity to speak a the public meeting held in Hondo. I'm sure anytime a project like this is proposed, you hear all kinds of emotion feeled speeches and have to weigh each comment for actual impact on any environmental issues. Some of the facts they were throwing out such as flooding are somewhat inflated. It recently rained 5.5 inches on my father-in-laws place on top of already wet ground and my son and I went hunting the next day and did not have to drive through any high water what so ever. If they are building their houses in the creeks and water way's then it doesn't say much for common sense. One gentleman even said this is a desert? I grew up in Hondo where a UP railway goes right through town. Our house was 1/4 mile away and it did keep me awake at night and it did shake our house to pieces. There are many historic building within a few hundred feet as you saw when you went to the meeting. These structures have not had any damage from vibration or noise and this railway does not cause any flooding. These trains come through Hondo every hour at a speed which is a lot faster than the train, which will be hauling aggregate. I see no issues with the rail way which would not be solved with the mitigants proposed in teh DEIS. Thanks

Attached file follows on next page

My name is Craig Heiligman. I am the son-in-law to Clovis Boehme, one of the landowners of the proposed quarry site. I was born and raised here in Hondo, Texas, graduated from Hondo High School and now live in Castroville with my family.

First of all I wanted to thank the Surface Transportation Board and its Section of Environmental Analysis (SEA) for a very thorough and well-written Draft Environmental Impact Statement (EIS). The man-hours and investigation time must have been tremendous. The opposition has made claims in local papers that Vulcan must have written the report. If I spent all that time and effort on a report of this magnitude a comment like that would be very upsetting.

I feel the draft EIS addressed all concerns raised by the opposition and proper mitigants were included for those concerns. It is evident that the rail way is the best option to transport the aggregate from the site to the connection point. I can't believe the opposition would rather have the trucks instead of the railway.

This project will be a great economic boost to Medina County and the Hondo Independent School District in the form of tax dollars, jobs, and increased revenues for small business who will benefit from Vulcan's presence.

The opposition has used every scare tactic imaginable plus tried in every way to delay this project. As a person who grew up in Medina County, I am in shock that people I've known all my life can be brainwashed by these scare tactics and allow outsiders who move here to control them. They convinced these people to place restrictive covenants on their land barring railways and then scream property rights. However when it comes to the property rights of the landowners like my father-in-law where the quarry will be, they don't think they should have any rights. The opposition would rather see subdivisions and trailer parks, which are popping up everywhere rather than a fortune 500 Company like Vulcan, who would provide a boost to the economy rather than a drain on the county's infrastructure.

As mentioned I graduated from Hondo High School. I can't believe that the school board is not fighting tooth and nail for this project, which would bring in thousands of tax dollars. Dollars, which can be used to pay teachers the kind of pay they deserve. Dollars, which could be used to increase and expand programs to better educate the students of the school district. There must be school board members who have personal agendas rather than looking out for what's best for the school district. I am glad to hear that the Castroville Chamber of Commerce and the Mayor of Castroville have made positive comments in regards to this project. It's time Hondo stepped up to the plate and backed this project, which would be a boost to the county's economy.

Once again I want to thank the Surface Transportation Board and its Section of Environmental Analysis for all their hard work.

Surface Transportation Board Incoming Correspondence Record

#EI-1110

Correspondence Information

Docket #:	FD 34284 0	Date Received:	12/05/2004
Name of Sender:	Craig Heiligman	Date of Letter:	
Group:			

Submitter's Comments

I am the son-in-law of one of the land owners of the proposed quarry site. I wanted to thank the STB and its SEA for letting me speak at the recent public meeting in Hondo. I thought the DEIS was well written and addressed all concerns brought up by the opposition and spelled out mitigants for any findings. The opposition continues to make emotion filled statements full of scare tactics. I'm sure that common sense will prevail when the final EIS is sent to be approved. At the meeting the other night, you would have thought that Quihi is a swamp, the way people were talking and then one gentleman said it was a desert. I guess they are covering all their bases. They are worried about flooding. My father-in-law's place had 5.5 inches of rain the other day on already wet ground and my son and I had no problem going hunting and did not have to drive through any high water. If these people are building their homes in creeks and areas prone to high water, then that should say something about common sense. The opposition also brought up negative facts about Vulcan from other parts of the country. As with any large company, there will be incidents happen. But they would not continue to be a Fortune 500 company if there were major problems. I grew up in Hondo where the railway goes right through town. Our house was 1/4 of a mile from the track. Trains come through every hour. I did not loose any sleep nor did our house fall to pieces. As you saw on your way to the Fair Hall, there are a number of historic buildings in downtown Hondo that are a within feet of the railway. These building have sustained no damage from vibration. Hondo has continued to survive with the trains. These trains come through at a lot faster speed than the proposed trains will be moving from the quarry. The opposition acts like the county roads which will be passed are interstate highways and there will be major traffic jams. Look at all the millions of miles of railways all over the U.S., which cross major thoroughfares and highways with no problems. This is only a 7 mile track and will have no adverse impact on the environment, historic buildings, flooding, noise, or traffic. Please don't let the emotion filled scare tactics made by the opposition influence the final EIS. This project would be a great economic boost to the county and school district.

Thank You.

Image Attachment(s)

EI-1110.pdf

<http://stb.dot.gov/Ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/84B813108...> 1/12/2007

STB Incoming Correspondence Record

Page 1 of 1

Surface Transportation Board Incoming Correspondence Record

#EI-1111

Correspondence Information

Docket #:	FD 34284 0	Date Received:	12/06/2004
Name of Sender:	Jacqueline W. Conrad	Date of Letter:	
Group:	MCEAA, Inc.		

Submitter's Comments

Ms. Ghosh:
At the recent meeting in Medina County, you were shown a newspaper with headlines stating that the SGR permit had been granted. I, perhaps because I was seated near the back of the room, was unable to hear your response. Has this permit already been issued? If so, why did we go through this meeting? Your response is requested. Thank you, Jacqueline W. Conrad

Image Attachment(s)

EI-1111.pdf

I am the son-in-law of one of the land owners of the proposed quarry site. I wanted to thank the STB and its SEA for letting me speak at the recent public meeting in Hondo. I thought the DEIS was well written and addressed all concerns brought up by the opposition and spelled out mitigants for any findings. The opposition continues to make emotion filled statements full of scare tactics. I'm sure that common sense will prevail when the final EIS is sent to be approved. At the meeting the other night, you would have thought that Quihi is a swamp, the way people were talking and then one gentleman said it was a desert. I guess they are covering all their bases. They are worried about flooding. My father-in-law's place had 5.5 inches of rain the other day on already wet ground and my son and I had no problem going hunting and did not have to drive through any high water. If these people are building their homes in creeks and areas prone to high water, then that should say something about common sense. The opposition also brought up negative facts about Vulcan from other parts of the country. As with any large company, there will be incidents happen. But they would not continue to be a Fortune 500 company if there were major problems. I grew up in Hondo where the railway goes right through town. Our house was 1/4 of a mile from the track. Trains come through every hour. I did not loose any sleep nor did our house fall to pieces. As you saw on your way to the Fair Hall, there are a number of historic buildings in downtown Hondo that are a within feet of the railway. These building have sustained no damage from vibration. Hondo has continued to survive with the trains. These trains come through at a lot faster speed than the proposed trains will be moving from the quarry. The opposition acts like the county roads which will be passed are interstate highways and there will be major traffic jams. Look at all the millions of miles of railways all over the U.S., which cross major thoroughfares and highways with no problems. This is only a 7 mile track and will have no adverse impact on the environment, historic buildings, flooding, noise, or traffic. Please don't let the emotion filled scare tactics made by the opposition influence the final EIS. This project would be a great economic boost to the county and school district.

Thank You.

Submitter's Comments

Ms. Ghosh:
 At the recent meeting in Medina County, you were shown a newspaper with headlines stating that the SGR permit had been granted. I, perhaps because I was seated near the back of the room, was unable to hear your response. Has this permit already been issued? If so, why did we go through this meeting? Your response is requested. Thank you, Jacqueline W. Conrad

Surface Transportation Board
Incoming Correspondence Record

#EI-1112

Correspondence Information			
Docket #:	FD 34284 0	Date Received:	12/08/2004
Name of Sender:	Jacqueline W. Conrad	Date of Letter:	
Group:	MCEAA, Inc.		

Submitter's Comments
Ms. Rutson, At the recent meeting in Medina County, you were shown a newspaper with headlines stating that the SGR permit had been granted. I, perhaps because I was seated near the back of the room, was unable to hear your response. Has the permit been issued? If so, why was there a meeting? Your response is requested. Thank you. Jacqueline W. Conrad

Image Attachment(s)
EI-1112.pdf

<http://stb.dot.gov/Ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/C094514E8...> 1/12/2007

STB Incoming Correspondence Record

Page 1 of 1

Submitter's Comments:

Ms. Rutson,
 At the recent meeting in Medina County, you were shown a newspaper with headlines stating that the SGR permit had been granted. I, perhaps because I was seated near the back of the room, was unable to hear your response. Has the permit been issued? If so, why was there a meeting? Your response is requested. Thank you.
 Jacqueline W. Conrad

Surface Transportation Board
Incoming Correspondence Record

#EI-1118

Correspondence Information			
Docket #:	FD 34284 0	Date Received:	12/09/2004
Name of Sender:	Jacque Conrad	Date of Letter:	12/09/2004
Group:	MCEAA, Inc.		

Submitter's Comments
Ms. Rutson, I want to thank you for your telephone response to my recent e-mail regarding the meeting in Hondo, Texas regarding the Castroville Newspaper Headlines. I was not the lady that brought the newspaper to your attention. I was in the audience. I would like to request that you put your answer to me in written form by simply replying to me at my e-mail address that is listed above. Thank you. Jacque Conrad

Image Attachment(s)
EI-1118.pdf

35-18
#E1-1225
RJ

Submitter's Comments

Ms. Rutson,
I want to thank you for your telephone response to my recent e-mail regarding the meeting in Hondo, Texas regarding the Castroville Newspaper Headlines. I was not the lady that brought the newspaper to your attention. I was in the audience. I would like to request that you put your answer to me in written form by simply replying to me at my e-mail address that is listed above. Thank you. Jacque Conrad



Surface Transportation Board / Section of Environmental Analysis

Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

Public Meetings
December 2, 2004

Comment Form

Name Elizabeth Wood
Address 671 CR 252, Hondo

- I wish to speak today.
- I do not want to speak but would like SEA to read my comments at the meeting.
- I wish to submit a written comment, but do not want it read at today's meeting.

My husband and I are homeowners located across the street from the proposed quarry. Our daily commute to work and church will be impeded by the proposed rail line. We are most concerned by the certain threat of increased flooding of roads, traffic hazards introduced at intersections and the destruction of ~~our~~ the quality of our air, water and peaceful environment. We are opposed to the proposed SGR railway!

36
#E1-1226
RJ



Surface Transportation Board / Section of Environmental Analysis

Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

Public Meetings
December 2, 2004

Comment Form

Name George Rice
Address 414 E French, San Antonio, TX 78212

- I wish to speak today.
- I do not want to speak but would like SEA to read my comments at the meeting.
- I wish to submit a written comment, but do not want it read at today's meeting.

THE PROPOSED RAIL LINE WILL ALLOW THE DEVELOPMENT OF A QUARRY OVER THE MOST SENSITIVE PORTION OF THE EDWARDS AQUIFER - THE RECHARGE ZONE.

IF THERE IS NO RAIL LINE - THERE WILL PROBABLY NOT BE A QUARRY.

THEREFORE, THE EIS SHOULD CONSIDER THE EFFECTS OF THE QUARRY ON THE EDWARDS AQUIFER.

#E1-1249
RJ



Surface Transportation Board / Section of Environmental Analysis

Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

Public Meetings
December 2, 2004

Comment Form

Name TRACY CARON
Address P.O. Box 1052 George West TX 78022
361-449-3034

- I wish to speak today.
- I do not want to speak but would like SEA to read my comments at the meeting.
- I wish to submit a written comment, but do not want it read at today's meeting.

I FEEL THAT THE EIS STATEMENT THOROUGHLY ADDRESSES ALL CONCERNS AND SHOULD FOLLOW THE PROPOSED ROUTE.

THANK YOU

Tracy Caron

#E1-1250
R9



Surface Transportation Board / Section of Environmental Analysis

Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

Public Meetings
December 2, 2004

Comment Form

Name Joyce Landrum
Address 776 CR 354 Hondo TX

- I wish to speak today.
- I do not want to speak but would like SEA to read my comments at the meeting.
- I wish to submit a written comment, but do not want it read at today's meeting.

The aquifer recharge zone is directly in the path of Vulcan's operation. I am very concerned about a water well problem in a waterwell catchment where some could collapse and others would be predicted. These problems are unavoidable. We see devices tactics being used by Vulcan materials to gain a permit. I respectfully ask that BEFORE you make a decision, a FULL connected-action study by STB is justified for the railroad-quarry. Surely this is not just a matter of paperwork for STB. Do not give Vulcan condemnation power to condemn easily Texas heritage land, historical sites, and Indian mounds, and to then make this a dirty industrial area. Thank you for the opportunity to be heard.

#E1-1251
R9



Surface Transportation Board / Section of Environmental Analysis

Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

Public Meetings
December 2, 2004

Comment Form

Name Charlotte Adams
Address 4010 C.R. 4516

- I wish to speak today.
- I do not want to speak but would like SEA to read my comments at the meeting.
- I wish to submit a written comment, but do not want it read at today's meeting.

I live near alternate Route 2, would it come next to me or thru my land.

#E1-1252
R9

December 2, 2004

Surface Transportation Board
Case Control Unit
Washington D.C. 20423
Attn: Rini Ghosh
STB Docket No. FD 34284

Rini Ghosh,

I am Archie Gerdes. My land is being divided in two by the rail line between Dunlay and the quarry site. This land has been in my family since 1891.

Will I be compensated for the loss of deer, hog and other game hunting? This is a big economic factor for Medina County and myself. All my improvements are on the west side of the ranch. Will Vulcan pay for a water well, pens, barn and utilities? Will Vulcan keep up easement fence and keep noxious weeds out?

Will Vulcan be responsible for clean-up of de-railment and/or chemical spill? Also, will I be compensated for the devaluation of my property and flood damage due to trestle or bridges over Elm and Quihi creeks; who will pay for this?

Who will pay me for forced sale of livestock?

The four mile water hole is the only source of water I have in this one pasture. It is ppring fed and has never gone dry. Indian Scouts watered their horses there in the early days. If it goes dry will Vulcan drill me a well?

Archie Gerdes
450 CR 351
Hondo, TX 78861

#E1-1253
R9



Surface Transportation Board / Section of Environmental Analysis

Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

Public Meetings
December 2, 2004

Comment Form

Name Tom Ransdell
Address 800 Isom Road v San Antonio, TX 78216
Suite 300

- I wish to speak today.
- I do not want to speak but would like SEA to read my comments at the meeting.
- I wish to submit a written comment, but do not want it read at today's meeting.

#E1-1255
RJ

#E1-1257
RJ



Surface Transportation Board / Section of Environmental Analysis

Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

Public Meetings
December 2, 2004

Comment Form

Name JACK LOU
Address P.O. Box 6301 Mico, TX 78056
J Loue 46 e NetZero -

- I wish to speak today.
- I do not want to speak but would like SEA to read my comments at the meeting.
- I wish to submit a written comment, but do not want it read at today's meeting.

I'm Mico Fire Chief AT medina LAKE
DAM I CONCERNED WITH FIRE/POLICE/
EMS BEING ABLE TO RESPOND TO
EMERGENCIES WITH THE PROPOSED
RAIL ROAD BLOCKING ACCESS &
MUTUAL AID WITH TCEQ STUDYING
THE STABILITY OF MEDINA LAKE DAM &
LOCATION BEING MONITORED BY TCEQ WHAT
EFFECT WILL OR WILL HAVE ON
STABILITY OF MEDINA LAKE DAM
& DIVERSION LAKE DAM. ARE THERE
PROVISION FOR FIRE/POLICE/EMS
ACCESS TO NEEDED AREAS -

capacity, the Edwards Aquifer has in fact tremendous permeability, allowing whatever occurs on the surface of the recharge zone to rapidly find its way into the aquifer. I emphasize this because the inexact science of geology allows for different interpretations and we all know paid consultants (of which I am not one) will skew the facts toward the side of their client. The undeniable fact is that the Edwards Aquifer transmits fluids and some particulates with amazing capacity. Why would a governmental agency ever facilitate this type of activity over the recharge zone? Knowing the proximity of this site to our water wells at Plant No. 5, why should the only water supply for these 700 families be placed at risk? Paid consultants for Vulcan/Southwest Gulf Railroad will argue that the risk is negligible. Even if the risk were negligible, why should these families and East Medina County Special Utility District have to bear it?

I have worked in an extractive industry, upstream oil exploration and production, for nearly 25 years. We would dearly love to have the "right of condemnation" as a tool to help us make money. But that is not how the American Free Enterprise System works, that is how Totalitarian governments work. If you allow Vulcan under the guise of Southwest Gulf Railroad to condemn these peoples land for the sole benefit of a private industry I fear not only for their water, I fear for their freedom.

Respectfully yours,

Timothy L. Hildenbrand
Vice President
East Medina County Special Utility District

E.M.C.S.U.D.



EAST MEDINA COUNTY
SPECIAL UTILITY DISTRICT
16313 FM 471 SOUTH
DEVINE, TEXAS 78016
(830) 709-3879 FAX (830) 772-4082
www.emcsud.dst.tx.us

December 2, 2004

Attn: STB Finance Docket 34284
Ms. Victoria J. Rutson
Chief of Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W., Suite 500
Washington, D.C. 20423-0001

Re: Proposed Southwest Gulf Railroad Company Rail Construction
Medina County, Texas
STB Finance Docket No. 34284

Dear Ms. Rutson:

My name is Timothy Hildenbrand. I am an elected public official residing in Medina County, Texas serving as Director and Vice President of the East Medina County Special Utility District. I have a Bachelor of Science degree in Geological Engineering and am a Licensed Professional Geoscientist in the State of Texas.

East Medina County Special Utility District's Plant No. 5 lies approximately 5.5 miles south of the proposed Vulcan quarry. The proposed rail line would be constructed to service and facilitate the proposed quarry and would run near our Plant No. 5. East Medina's Plant No. 5 consists of various elevated storage facilities but most importantly two municipal water wells drilled into the Edwards Aquifer. These two wells and aquifer serve approximately 30% of our nearly 2,400 local customers on a daily basis and is the sole source of supply for water for over 700 families.

How can the Surface Transportation Board rule on the proposed Southwest Gulf Railroad Company issue without an exhaustive environmental impact study on the effects of the proposed quarry sitting on the Edwards Aquifer Recharge Zone? My initial research and study have lead me to conclude that the only 100% guarantee that I can make to my constituency that the proposed Vulcan quarry will not pollute the aquifer in the vicinity of Plant No. 5, is for it not to be constructed. The effects of rain and point source pollutants on the Edwards Aquifer are immediate and dramatic. In the last week alone, water inside Natural Bridge Caverns, located northeast and in the aquifer, rose over 70" concurrent with the recent rains. My point is that although it has good filtering

Office Hours 9:00 AM - 4:00 PM Monday Thru Friday

#E1-1258
RJ



Surface Transportation Board / Section of Environmental Analysis

Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

Public Meetings
December 2, 2004

Comment Form

Name Sheila Caron
Address P.O. Box 1058 George West, TX 78022

- I wish to speak today.
- I do not want to speak but would like SEA to read my comments at the meeting.
- I wish to submit a written comment, but do not want it read at today's meeting.

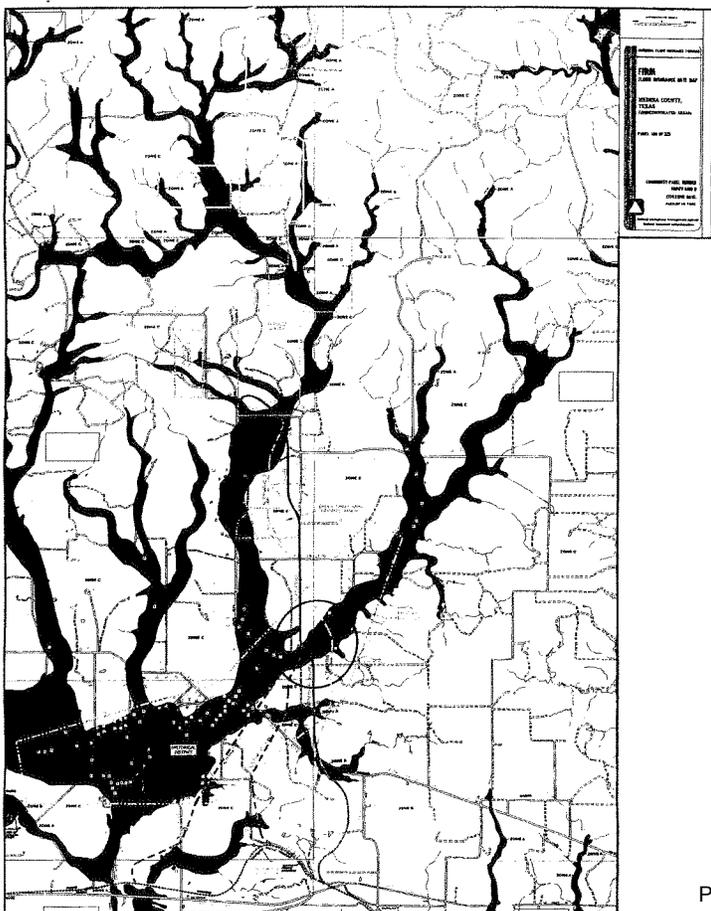
I come to you in writing expressing my concern
to the opposition of the Vulcan Quarry & Railroad.
I grew up in Duhick & knew all of the life long
residents of this community. I am appalled at the
fact that free enterprise does not even enter
their minds. When I was living there my
FATHER Wayne Balzen worked for the department
of transportation; farm our land had in the off
season yearly year's held another job. He did this
to make a living. I feel & know that the
ground surface transportation board be in favor
of granting Vulcan Enterprises the Railroad
right of way. The ground work has been

#E1-1259
R24

Docket No. FD 34284

Attached map submitted by the Medina County Environmental Action Association at the public meetings on December 2, 2004. Original copy is in color.

done by all parties and the Quihi opposition group are just upset because they do not have any residual income source from this project. There are several people with ^{real} concerns and those people need to deal with Vulcan independently.



12-08-04 08:32pm From: US REP HENRY BONILLA 210-687-9185 T-749 P.002/004 F-898

HENRY BONILLA
23D DISTRICT, TEXAS
2458 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4511

Congress of the United States
House of Representatives
Washington, DC 20515-4323

COMMITTEE ON APPROPRIATIONS
CHAIRMAN - SUBCOMMITTEE ON AGRICULTURE
SUBCOMMITTEE ON DEFENSE
SUBCOMMITTEE ON FOREIGN OPERATIONS

December 8, 2004

#E1-1260
R24

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423

Case#: 2028573

Dear Secretary Williams:

Enclosed please find correspondence from my constituent, Dr. Robert Fitzgerald, President of the Medina County Environmental Action Association (MCEAA) of Quihi, Texas. The MCEAA's membership is requesting an extension of 60 - 90 days to the Surface Transportation Board's public comment period for the Southwest Gulf Railroad Company's proposed rail line construction in Medina County, Texas.

Please review this matter and respond to me at my San Antonio district office. My District Constituent Liaison, Gabriel Lozano, will work with me on this case and can be contacted at the number listed below if you require assistance.

Thank you for your prompt attention to this matter.

Sincerely,

Henry Bonilla
Member of Congress

HB:gl
Enclosure

The Medina County Environmental Action Association, Inc.

202 CR 450, HONDO, TX 78861
www.dontmesswithquihi.com

Phone 830-741-5040
Fax 830-426-2060

December 8, 2004

Congressman Henry Bonilla
11120 Wurzbach, Suite 300
San Antonio, Texas 78230
Fax: 210-697-9185

Re: Proposed Quarry and Rail Line - Medina County
Vulcan Materials Co/Southwest Gulf Railroad
Surface Transportation Board Finance Docket 34284

Dear Congressman Bonilla:

We respectfully request your assistance in obtaining a 60 or 90 day extension to the comment period on the DEIS presented by the STB to the people of Medina County. This comment period is presently scheduled to expire on January 10, 2005.

We have stated the reasons for this request in the accompanying letter to the STB.

Please submit our letter for the extension to the Surface Transportation Board on our behalf. Again, we want to thank you for the hard work you do for the people in Medina County.

Sincerely,

Dr. Bob Fitzgerald

Dr. Bob Fitzgerald, President
MCEAA, Inc.

MCEAA, Inc., for your Home, Health, and Heritage

+ The Medina County Environmental Action Association, Inc.
202 CR 450, HONDO, TX 78861
www.dontmesswithquihi.com
Phone 830-741-5040
Fax 830-426-2060

December 8, 2004

Victoria Rutson
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Re: Vulcan Materials/Southwest Gulf Railroad
Medina County Project
Finance Docket 34284

Dear Ms. Rutson:

We are requesting a 60 or 90 day extension of the comment period on the DEIS of the above project. This comment period is presently scheduled to expire January 10, 2005.

We know you realize that everyone is busy with holiday plans, travel, entertaining, shopping, guests, etc., at this time. This is the busiest time of the year for everyone. Holiday activities alone exclude almost any other endeavor. Therefore, it is much more difficult for many people to respond before January 10. It is a great injustice to require all those concerned to respond during the limited time they have between now and January 10 on a proposed project that will impact Medina County for generations.

Prior to the meeting on December 2, 2004, we requested to not have that public meeting and 30-day comment period during the busy holiday season, but our request was acknowledged. In view of the above and STB's refusal to hold workshops for the public, we request the comment period be extended for 60 or 90 days.

We are seeking the assistance of Senator John Cornyn and Congressman Henry Bonilla in securing this extension. We anticipate that they will contact you in this regard.

Sincerely,

Dr. Robert T. Fitzgerald
Dr. Robert T. Fitzgerald, President
MCEAA, Inc.

CC: Senator John Cornyn
Representative Henry Bonilla
State Senator Frank Madla
State Representative Tracy King
Will Carter, BMA

MCEAA, Inc., for your Home, Health, and Heritage

#E1-1261
RS

4. As you undoubtedly learned, there was unanimous agreement from those commenters critical of the railroad routes concerning the lack of information on how problems in many areas would be handled, as well as what the impact would be on the respective part of the environment. Specifically, we are amazed that STB would not determine the environmental damage from flooding and traffic to water sources, and cultural and historic areas, caused by the railroad.

We are also greatly dismayed that STB would *even consider* issuing a permit to SGR and then allow SGR to do as they pleased in dealing with these problems. We do not believe the poorly stated and ill-defined mitigation clauses in the DEIS will in any way prevent irreparable environmental damage. Because the DEIS is grossly inadequate and leaves so many of our scoping questions unanswered, we ask, Why is this? Why did the URS Corporation, (a reportedly respectable firm), limit its research and findings in the very areas we had pointed out? Was it due to a lack of funding? Or time restrictions illegally imposed by Vulcan and allowed by STB? Certainly these questions deserve answers, just as we had faith that our scoping comments and questions would be answered.

We wish to point out that the validity of the entire URS report has been questioned by the fact that there may be biased findings due to a conflict of interest by URS. As you learned, this firm also studied the integrity of the Medina Lake Dam, as noted by Will Carter, director of BMA Corporation, which owns the Medina Lake Dam. The impact of the quarry being on the same fault lines as the Medina Lake Dam and the dam's associated relief wells, needs careful and detailed studies.

We also are requesting that you please send a copy of the sign-in list of those attending both meetings, as well as the list of those speaking at both meetings, on December 2, 2004.

Sincerely,

Dr. Bob Fitzgerald
Dr. Bob Fitzgerald, President
MCEAA, Inc.

CC: Senator John Cornyn
Representative Henry Bonilla
State Senator Frank Madla
State Representative Tracy King
Will Carter, BMA

MCEAA, Inc., for your Home, Health, and Heritage

The Medina County Environmental Action Association, Inc.
202 CR 450, HONDO, TX 78861
www.dontmesswithquihi.com
Phone 830-741-5040
Fax 830-426-2060

December 8, 2004

Victoria Rutson
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Re: Vulcan Materials/Southwest Gulf Railroad
Medina County Project
Finance Docket 34284

Dear Ms. Rutson:

MCEAA, Inc. members wish to thank the SEA section of STB for your recent visit to Hondo. We appreciate the sincere attention you and your staff as well as members of the URS environmental team displayed.

On December 3, 2004, members of the MCEAA, Inc. discussed at length the content of the recent meeting. We wish to relate to you the following requests and questions. We would appreciate answers as soon as possible to these questions.

1. MCEAA wishes to re-emphasize our demand for a connected action EIS between the railroad and the quarry. Seven hundred sixty-six people signed a request that STB study both the quarry and the rail line because they are connected actions. These two projects are inseparable. As repeatedly stated (beginning with our initial contact with STB in our Petition to Revoke) without the rail line the quarry would not exist. Conversely, without the quarry, the Southwest Gulf Railroad rail line would not exist. As proof, who would build a rail line to nowhere? STB has properly ordered an EIS on the rail line. It must order an EIS on the quarry, which we all know is a connected action to the rail line, and not a cumulative effect of the rail line. STB must not shirk its' lawful responsibility. The environment in Medina County must not be jeopardized by default. There is no other agency, state or federal, that is authorized to study the environmental impact of the quarry, which is connected to the rail line. When will the decision concerning reconsideration of the connected action between the proposed quarry and SGR be made?
2. When will MCEAA, Inc. be notified?
3. Who will make this decision, the SEA section or some other section or division of the STB or another government agency?

The Medina County Environmental Action Association, Inc.

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Phone 830-741-5040
Fax 830-426-2060

December 8, 2004

Congressman Henry Bonilla
11120 Wurzbach, Suite 300
San Antonio, Texas 78230
Fax: 210-697-9185

Re: Proposed Quarry and Rail Line - Medina County
Vulcan Materials Co/Southwest Gulf Railroad
Surface Transportation Board Finance Docket 34284

Dear Congressman Bonilla:

We respectfully request your assistance in obtaining a 60 or 90 day extension to the comment period on the DEIS presented by the STB to the people of Medina County. This comment period is presently scheduled to expire on January 10, 2005.

We have stated the reasons for this request in the accompanying letter to the STB.

Please submit our letter for the extension to the Surface Transportation Board on our behalf. Again, we want to thank you for the hard work you do for the people in Medina County.

Sincerely,

Dr. Bob Fitzgerald, President
MCEAA, Inc.

MCEAA, Inc., for your Home, Health, and Heritage

The Medina County Environmental Action Association, Inc.

202 CR 450, HONDO, TX 78861
www.dontmesswithquih.com

Phone 830-741-5040
Fax 830-426-2060

December 8, 2004

Victoria Rutson
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Re: Vulcan Materials/Southwest Gulf Railroad
Medina County Project
Finance Docket 34284

Dear Ms. Rutson:

We are requesting a 60 or 90 day extension of the comment period on the DEIS of the above project. This comment period is presently scheduled to expire January 10, 2005.

We know you realize that everyone is busy with holiday plans, travel, entertaining, shopping, guests, etc., at this time. This is the busiest time of the year for everyone. Holiday activities alone exclude almost any other endeavor. Therefore, it is much more difficult for many people to respond before January 10. It is a great injustice to require all those concerned to respond during the limited time they have between now and January 10 on a proposed project that will impact Medina County for generations.

Prior to the meeting on December 2, 2004, we requested to not have that public meeting and 30-day comment period during the busy holiday season, but our request was acknowledged. In view of the above and STB's refusal to hold workshops for the public, we request the comment period be extended for 60 or 90 days.

We are seeking the assistance of Senator John Cornyn and Congressman Henry Bonilla in securing this extension. We anticipate that they will contact you in this regard.

Sincerely,

Dr. Robert T. Fitzgerald, President
MCEAA, Inc.

CC: Senator John Cornyn
Representative Henry Bonilla
State Senator Frank Madla
State Representative Tracy King
Will Carter, BMA

MCEAA, Inc., for your Home, Health, and Heritage

#E1-1267

RY

The Medina County Environmental Action Association, Inc.

202 CR 450, HONDO, TX 78861
www.dontmesswithquih.com

Phone 830-741-5040
Fax 830-426-2060

December 8, 2004

Congressman Henry Bonilla
11120 Wurzbach, Suite 300
San Antonio, Texas 78230
Fax: 210-697-9185

Re: Proposed Quarry and Rail Line - Medina County
Vulcan Materials Co/Southwest Gulf Railroad
Surface Transportation Board Finance Docket 34284

Dear Congressman Bonilla:

We respectfully request your awareness and assistance in obtaining answers to the questions and comments in the enclosed letter from MCEAA to the Surface Transportation Board. We believe these questions and comments are justified following the public meeting held December 2, 2004, which was attended by approximately 200 citizens, in Hondo, Texas.

We are requesting that you please submit the enclosed letter to the Surface Transportation Board on our behalf.

We wish to thank you for allowing Gabe Lozano to represent you at this very important meeting concerning a proposed project that will greatly affect the future of Medina County. We truly appreciate your support of the people in the Quihi area.

Sincerely,

Dr. Bob Fitzgerald, President
MCEAA, Inc.

MCEAA, Inc., for your Home, Health, and Heritage

The Medina County Environmental Action Association, Inc.

202 CR 450, HONDO, TX 78861
www.dontmesswithquih.com

Phone 830-741-5040
Fax 830-426-2060

December 10, 2004

Victoria Rutson, Chief,
Section on Environmental Analysis
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423-0001
Fax 202-565-9000

Re: Finance Docket 34284

Dear Ms. Rutson:

The purpose of this letter is to inform the Surface Transportation Board of an upcoming rail study on the San Antonio area railroads.

An article in the December 8, 2004 San Antonio Express-News, stated the study will look at recent collisions, how railroads intersect with streets and **how much and what kind of freight goes through the San Antonio area.**

MCEAA, Inc. would like to know if the STB will participate in this study. If so, it must take into account the impact of the proposed SGR shipment of at least 1000 cars per week (5 million tons per annum) going through San Antonio as well as the upcoming freight from the new Toyota plant in southwest Bexar County that will also use this line.

If STB is not involved in this study, MCEAA, Inc. requests the name of any known Federal agency that would either conduct or be involved with the study.

We would like a prompt reply to these questions in view of the very limited amount of time we have to comment on the DEIS.

Sincerely,

Dr. Robert T. Fitzgerald, President

Encl. Article - San Antonio Express News 12-8-04

CC: Senator John Cornyn
Representative Henry Bonilla
State Senator Frank Madla
State Representative Tracy King

received
12/10/04

#E1-1263
RJA

County kicks in \$25,000 for rail

Mrs. A. H. Guerra
422 CR 421
Hondo, Texas 78861

December 3, 2004

safety study

Several agencies are partnering in response to string of crashes.

BY ELIZABETH ALLEN
EXPRESS-NEWS STAFF WRITER

Continuing to grapple with an issue over which they have no authority, Bexar County commissioners voted Tuesday to spend \$25,000 partnering on a half-million-dollar study of area roadways.

collisions, how railroads intersect with streets, and how much and what kind of freight goes through the San Antonio area. Bexar County Judge Nelson Wolff has called for rail operator Union Pacific to step up its safety programs after several train accidents, including two that claimed five lives. He's also pushing a regional rail relocation plan.

should kick off in the spring, said Seth Mitchell, the county's chief of staff. UP will cooperate in the study. Wolff said TxDOT is paying more attention to rail service and how it can take pressure off highways, "where before they never really even mentioned the word 'rail.'"

A county has little power but can make a lot of noise, commissioners accepted a petition of nearly 3,000 signatures from Helotes resident John Eakin protesting a Wal-Mart proposed at the edge of the Northwest Bexar County town.

Sen. Frank Madden of San Antonio has offered to introduce a bill in the Legislature's upcoming regular session dealing with the issue. Madden, who has family land nearby, has sent a letter to Wal-Mart opposing a store at the Helotes site.

Commissioner Paul Elizondo said Sheriff Ralph Lopez has some authority to enforce development standards on the project — such as traffic and drainage — and that Lopez has offered "to make sure that's given extreme due diligence, if you know what I mean."

Eakin, who said more than 900 signatures came from Helotes citizens angry with the proposed site on Scenic Loop Road, found some support for his cause among the commissioners. "I can't imagine a worse site," said Commissioner Lyle Larson. Wolff told Eakin that state

Commissioner Paul Elizondo said Sheriff Ralph Lopez has some authority to enforce development standards on the project — such as traffic and drainage — and that Lopez has offered "to make sure that's given extreme due diligence, if you know what I mean."

commissioners on the current county rail population, detention population monitor. Kristie Blust said the number of inmates was down to 3,755, or 96.4 percent of capacity. That's a hair off the sheriff's stated ideal of 38 percent. The population is down in part due to seasonal patterns, Blust said.

In her regular report to com-

missioners on the current county rail population, detention population monitor. Kristie Blust said the number of inmates was down to 3,755, or 96.4 percent of capacity. That's a hair off the sheriff's stated ideal of 38 percent. The population is down in part due to seasonal patterns, Blust said.

Ms. Rini Ghosh
Surface Transportation Board
Case Control Unit
Washington, DC 20423

received
12/14/04

RE: STB Docket #FD 34284

Dear Ms. Ghosh,

Thank you for attending the meeting last night (December 2nd) at the Medina County Fairgrounds Hall, along with the representatives of the Surface Transportation Board and Vulcan Materials. The presentation was very helpful. The fact that several representatives of Vulcan Materials were there to explain their proposal, and to take public comments, was a sign that they were trying to educate and also listen to the folks in Hondo. This irreversible change to our lives merits further study as to its effect on the environment and the people and homes surrounding it.

My objections to the proposed quarry are as follows:

- a. The loud sounds, polluted air smells, and traffic problems will be very difficult to tolerate.
- b. The water that we drink will be polluted by run-off from the quarry and the railroad. The consequences, both for wildlife, and for humans, will be both disastrous and irreversible. The Edwards Aquifer, very close to what would be the bottom of the quarry, is extremely permeable, and absorbs whatever pollutants are in roads and fields, along with any rain.
- c. When there is flooding, it will be very destructive to the environment. The roads aren't built to take a lot of truck traffic. There is a lot of flooding in this area.
- d. Blasting from the quarry, along a fault line, could disrupt the Medina Dam and create enormous flooding and loss of life. It will also be a safety threat to those in the area.

Examples of ignorant industrialization are rampant in countries such as China, where there has been little or no effort to preserve the environment. Quini is an old part of Hondo, which will lose its charm, and become dirty and foul, if a quarry and railroad are built. The thought is unbearable to many of us living in this area.

Let us consider the environment as the precious gift that it is, and not let it become an ash heap. It is wrong to allow this aggressive company free reign.

Thank you for your time and consideration of this issue.

Sincerely,
Anne Guerra

#E1-1265
RJA



E. G. Rod Pittman, Chairman
William W. Meadows, Member
Darfo Vidal Guerra, Jr., Member

J. Kevin Ward
Executive Administrator

Jack Hunt, Vice Chairman
Thomas Wein Labatt III, Member
James E. Herring, Member

#E1-1264
RJA

received 12/16/04

December 6, 2004

Victoria Rutson, Chief
Surface Transportation Board
1925 K Street NW
Washington, DC 20423-001

Re: Draft Environmental Impact Statement – Finance Docket No. 34284

Dear Ms. Rutson:

As a result of budget reductions incurred over the past 18 months, the Texas Water Development Board no longer has resources to review reports such as the Environmental Impact Statement for the Southwest Gulf Railroad Company Construction and Operation Exemption, Medina County, Texas. Please do not hesitate to give me a call at (512) 936-0813 if you have any questions.

Sincerely,

Bill Mullican

Bill Mullican
Deputy Executive Administrator
Office of Planning

c: Dr. Barney Austin, Director – Surface Water Resources, Texas Water Development Board

December 6, 2004

Surface Transportation Board
Case Control Unit
Washington, DC 20423
Attn: Rini Ghosh
STB Docket No. FD 34284

Dear Ms. Ghosh,

I support the construction and operation of the seven-mile line of railroad in Medina County, Texas, that would connect the proposed Vulcan Construction Materials, LP quarry and the Del Rio subdivision of the Union Pacific Railroad Company, near Dunlavy, Texas.

I accept and concur with the draft Environmental Impact Statement (EIS) prepared by the office of the Board that carries out the Section of Environmental Analysis (SEA). The draft statement, issued on Nov. 5, 2004, appears to have thoroughly evaluated the environmental effects that may impact the area, especially for transportation and safety, public and worker health, water and biological resources, air quality, noise, vibration, socioeconomics, and cultural resources.

Sincerely,
Dianne Pipes
Dianne Pipes
11119 Quail Rise
San Antonio, Texas 78249



HENRY BONILLA
230 DISTRICT, TEXAS

COMMITTEE ON APPROPRIATIONS
CHAIRMAN-SUBCOMMITTEE ON AGRICULTURE
SUBCOMMITTEE ON DEFENSE
SUBCOMMITTEE ON FOREIGN OPERATIONS

Congress of the United States
House of Representatives
Washington, DC 20515-4323

December 15, 2004

#E1-1266
RJ

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423

Case#: 2028573

Dear Secretary Williams:

Enclosed please find correspondence from my constituent, Dr. Robert Fitzgerald, President of the Medina County Environmental Action Association (MCEAA) of Quilhi, Texas. The MCEAA's membership is requesting that the Surface Transportation Board address four concerns they believe are crucial to the consideration of the Southwest Gulf Railroad Company's proposed rail line construction in Medina County, Texas.

Please respond to the attached correspondence from the MCEAA. I also ask that you please provide a copy of your response to my San Antonio District office. My Constituent Liaison, Gabriel Lozano, will work with me on this case and can be contacted at the number listed below if you require assistance.

I thank you for your prompt attention to this matter.

Sincerely,


Henry Bonilla
Member of Congress

HB:gl
Enclosure

The Medina County Environmental Action Association, Inc.

202 CR 450, HONDO, TX 78861
www.dontmesswithquih.com

Phone 830-741-5040
Fax 830-426-2060

December 8, 2004

Congressman Henry Bonilla
11120 Wurzbach, Suite 300
San Antonio, Texas 78230
Fax: 210-697-9185

Re: Proposed Quarry and Rail Line Medina County
Vulcan Materials Co/Southwest Gulf Railroad
Surface Transportation Board Finance Docket 34284

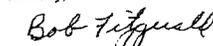
Dear Congressman Bonilla:

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We are requesting that you please submit the enclosed letter to the Surface Transportation Board on our behalf.

We wish to thank you for allowing Gabe Lozano to represent you at this very important meeting concerning a proposed project that will greatly affect the future of Medina County. We truly appreciate your support of the people in the Quilhi area.

Sincerely,


Dr. Bob Fitzgerald, President
MCEAA, Inc.

MCEAA, Inc. for your Home, Health, and Heritage

PLEASE REPLY TO:

11120 WURZBACH, SUITE 300
SAN ANTONIO, TX 78230
(210) 697-9185

1300 MATAMOROS STREET, SUITE 1108
LAREDO, TX 78040
(956) 736-4862

111 EAST BRISBANEWAY, SUITE 101
DEL RIO, TX 78840
(808) 734-6567

107 WEST AVENUE E, #14
ALPINE, TX 79820
(432) 824-1113

http://www.house.gov/bonilla

+

The Medina County Environmental Action Association, Inc.
202 CR 450, HONDO, TX 78861
www.dontmesswithquih.com
Phone 830-741-5040
Fax 830-426-2060

December 8, 2004

Victoria Rutson
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Re: Vulcan Materials/Southwest Gulf Railroad
Medina County Project
Finance Docket 34284

Dear Ms. Rutson:

MCEAA, Inc. members wish to thank the SEA section of STB for your recent visit to Hondo. We appreciate the sincere attention you and your staff as well as members of the URS environmental team displayed.

On December 3, 2004, members of the MCEAA, Inc. discussed at length the content of the recent meeting. We wish to relate to you the following requests and questions. We would appreciate answers as soon as possible to these questions.

1. MCEAA wishes to re-emphasize our demand for a connected action EIS between the railroad and the quarry. Seven hundred sixty-six people signed a request that STB study both the quarry and the rail line because they are connected actions. These two projects are inseparable. As repeatedly stated (beginning with our initial contact with STB in our Petition to Revoke) without the rail line the quarry would not exist. Conversely, without the quarry, the Southwest Gulf Railroad rail line would not exist. As proof, who would build a rail line to nowhere? STB has properly ordered an EIS on the rail line. It must order an EIS on the quarry, which we all know is a connected action to the rail line, and not a cumulative effect of the rail line. STB must not shirk its' lawful responsibility. The environment in Medina County must not be jeopardized by default. There is no other agency, state or federal, that is authorized to study the environmental impact of the quarry, which is connected to the rail line. When will the decision concerning reconsideration of the connected action between the proposed quarry and SGR be made?

2. When will MCEAA, Inc. be notified?

3. Who will make this decision, the SEA section or some other section or division of the STB or another government agency?

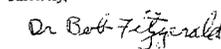
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We also are requesting that you please send a copy of the sign-in list of those attending both meetings, as well as the list of those speaking at both meetings, on December 2, 2004.

Sincerely,


Dr. Bob Fitzgerald, President
MCEAA, Inc.

CC: Senator John Cornyn
Representative Henry Bonilla
State Senator Frank Madla
State Representative Tracy King
Will Carter, BMA

MCEAA, Inc. for your Home, Health, and Heritage

#E1-12.67
RRL

12/6/2004

#E1-1268
RRL

December 7, 2004

DEC 16 2004
RECEIVED

DEC 16 2004
RECEIVED

Surface Transportation Board
Case Control Unit
Washington, DC 20423
Attn: Rini Ghosh
STB Docket No. FD 34284

To: Surface Transportation Board
Case Control Unit
Washington, DC 20423
Attn: Rini Ghosh
STB Finance Docket 34284
Southwest Gulf Railroad Company
Medina County, Texas

Re. Draft Environmental Impact Statement for the proposed Southwest Gulf Railroad

Dear Ms. Ghosh:

My name is Larry Coyle and I own property abutting the proposed Vulcan quarry that is to be served by the Southwest Gulf Railroad (SGR). This letter is being written to comment on the draft Environmental Impact Statement (EIS) prepared by the Surface Transportation Board's Section of Environmental Analysis (SEA).

My first comment concerns the no-action alternative. The stated result of this alternative is that Vulcan would truck limestone to the Union Pacific Railroad at Dunlay, Texas. I don't believe this is a foregone conclusion and should not be indicated in the EIS as such. It is my opinion the current infrastructure of roads would not allow trucking to be an economically viable option for Vulcan. Vulcan has made this statement publicly in the past.

Secondly, this EIS strictly addresses the impact of rail traffic generated by Vulcan's limestone transport. Since SGR has been designated a common carrier, this generalization is unrealistic and the EIS should consider effects of additional rail traffic and traffic carrying hazardous cargo. If it is truly the position of the SEA that this railroad will only carry Vulcan's limestone, then it must consider the proposed quarry and this proposed railroad as a joint project and thus include the environmental impacts of the quarry in this EIS. My personal opinion is that the SGR will only serve Vulcan and consequently should never have been given common carrier status. It is unconscionable that SGR will have the right of Eminent Domain strictly for the economic gain of a Fortune 500 company.

Lastly, the most troubling impact of this project has not been addressed in this report and is already being experienced. This is the effect that this project is having on the community. It is turning friend against friend and family against family. The lines have been drawn following the money trail. No amount of limestone is worth this.

Thank you in advance for consideration of these comments.

Sincerely,

Larry Coyle, P. E.

cc: Medina County Environmental Action Association

Comments:

I hereby ask that the Surface Transportation Board and Section of Environmental Analysis Adopt the Draft EIS for Finance Docket 34284, Southwest Gulf Railroad and approve the building of such proposed Railroad, according to the Mitigation Measures listed.

The applicant's Voluntary Mitigation Measures VM1 and VM2 subsections (a) through (h), and VM3, VM4, and VM5.

SEA's Recommended Mitigation with cooperation using approved Engineering and design methods with VM and SGR concerning the following:

- Transportation and Traffic Safety- (1) thru (10).
- Public Health and Safety- (11).
- Worker Health and Safety- (12).
- Groundwater- (13) thru (19).
- Surface Water- (20) thru (29).
- Wetlands- (30) thru (32).
- Biological Resources- (33) thru (36).
- Air Quality- (37) and (38).
- Land Use- (39).
- Noise- (40).
- Vibration- (41) thru (43).
- Recreational and Visual Resources- (44).
- Cultural Resources- (45).
- Karst Features- (46) and (47).

It is my belief that SEA has worked long and hard to address all concerns listed and will approve the building of the SGR according to the documentation of facts found in this investigation.

It is my concern that the STB and SEA section should not become involved in Quarry operations that were brought up in the Public Meeting. The operations of the Quarry are governed and will be held to strict standards according to good mining practices. Therefore the requests for studies on the Medina Dam, Air pollution, Water pollution and environmental problems that could be encountered during the operation of the Quarry does not fall under the jurisdiction of the STB.

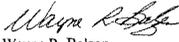
STB Incoming Correspondence Record

Page 1 of 1

The STB should not be involved questions on Monies generated for taxes. One Statement made was that because of the increased population caused by more employment would not generate enough taxes for the costs involved to educate the pupils. There is a mistake in the mathematics. There was no mention made that the increased population was going to pay school and county taxes, only that the extra tax generated by the quarry and railroad would not cover the increased population.

Will Carter of the BMA had a request that Vulcan make a study of the Medina and Diversion Dams for their integrity. BMA has been advised by preliminary studies on these two dams that these studies should be made. This is before and not related to the proposed quarry and railroad in Medina County. All BMA is looking for is a free ride for someone else to do the work that they are responsible for.

Again, I applaud the SEA for the in depth study, derived from the comments of the people attending from the first public meeting received by and after February 26, 2004. You have acted on all 47 issues derived, thoroughly and unbiased. Thank you for your efforts to address any and all concerns.


Wayne R. Balzen
905 Oakridge
Pleasanton, Texas 78064
Email-waynebalzen@evl.net

Surface Transportation Board
Incoming Correspondence Record

#E1-1270

Correspondence Information			
Docket #:	FD 34284 0	Date Received:	12/26/2004
Name of Sender:	Chris Mitchell	Date of Letter:	12/26/2004
Group:			
Subscriber's Comments			
I sent this over on Dec. 2, 2004 but I can't see where to look at this & other comments regarding STB & Vulcan/SGR. Where do I have to go online to read other comments about this??? I am sending a certified copy out tomorrow so that this is part of the official record before Jan 10, 2005. Thank you Chris Mitchell			
Image Attachment(s)			
E1-1270.pdf			

Submitter's Comments:

I sent this over on Dec. 2, 2004 but I can't see where to look at this & other comments regarding STB & Vulcan/SGR. Where do I have to go online to read other comments about this??? I am sending a certified copy out tomorrow so that this is part of the official record before Jan 10, 2005. Thank you Chris Mitchell

Attached file on following pages:

December 2, 2004

Public Meeting
Hondo TX.

For the Record, my name is Chris Mitchell. I am Commissioner Elect for Medina County Pct. 1. Since I do not officially take office until Jan. 1st please let the record reflect these are my personal comments about the SGR proposed rail construction.

After reading an executive summary of the EIS draft & other excerpts from the 3 volume set, my # 1 concern remains safety & flooding issues. This executive summary is undoubtedly what the STB Board will read in lieu of the voluminous EIS itself. Having lived just outside Washington D.C. for over 20 years, I am well versed in the bureaucratic methods of "summarizing." Developing an EIS of this magnitude (3 volume set), virtually guarantees the decision makers will be influenced by whomever presents this summary for their review.

It's interesting to note that the "proposed route" language refers to "six drainage features with intermittent seasonal flow", while the alternating routes 1, 2, 3 (which of course are not the preferred routes) refer to the same named creeks as "streams". The reality is whether SGR, SEA or anyone else chooses to minimize the description; they are streams that flood, not "six drainage features..." So far in 2004 our "seasonal flow" has probably totaled over 50 inches. These are flood prone lands.

In addition you don't use the term "at grade crossings" anywhere in the proposed route language, yet the wording in each alternative route mentions "at grade crossings" for each county road named. What exactly does SGR plan to do for crossings?

SGR states it might enter into an agreement as a "common carrier" with Union Pacific. This does not provide any of us with a sense of safety or security based on UP's record of accidents just this past 6 months! Once this is accomplished then Medina County is stuck dealing with UP.

TxDot lists a traffic count from 2000 for FM 2676. This does not accurately reflect today's traffic. FM 2676 is heavily traveled each & every day by San Antonio commuters, school buses and lake traffic in addition to our regular farmers & ranchers. The current Commissioner states anywhere from 40-200 vehicles on the county roads??? That's a big spread! There needs to be more current data obtained since Medina County's population is already where it was projected to be in 2010...and this is 2004. Imagine what the next 6 years will bring.

SGR states "approximately 4 trains per day." How will the increase in demand for product be handled? Will train traffic increase to 6, 8? Is this a 24/7, 365 day operation? How will all this impact Hondo City crossings...will they be backed up?...what about emergency vehicles, school buses trying to maintain a schedule?

On page 4-16 of the EIS draft paragraph V: "SGR shall develop a plan with TxDot & Medina County that specifies the responsibility of each party concerning maintenance & repair of grade crossing warning devices and grade crossings." The preceding paragraph U states "SGR shall maintain appropriate grade warning devices at all grade crossings." Which is it & what does it mean to Medina County?

It will be my recommendation to Commissioners Court that Medina County taxpayers not be subjected to any financial burden as a result of SGR's rail operations if granted by the STB Board. As taxpayers we already subsidize enough federal & state rail activities. If SGR is successful in their request then SGR & Vulcan can absorb the costs of maintenance & repair of the devices and grade crossings.

Again, I reiterate, safety of our citizens, flooding concerns are my priority. I would encourage the STB to take another look at this and to do what's in the best interest of Medina County.

Thank you,
Chris Mitchell

Page 1

FD 34284 received
11/3/05 Dec 29, 2004
IFEI-127
R32

Surface Transportation Board
Section of Environmental Analysis
1925 K Street, N.W., Suite 500
Wash. D.C. 20423

RE: Southwest Gulf Railroad Company
Proposed Rail Construction
Medina County, Texas
Docket # 34284

This letter is in response to the invitation for public comment on the proposed railroad in Medina County, Texas requested by Southwest Gulf Railroad Company

My name is M. Douglas Ruff. I presently reside at 242 W Haskell, Boerne, Texas, (Phone # 830-249-3906). I was born in the New Fountain-Darbi Community in 1951 and lived in the area until 1978. Today I still own farm and Ranch land in the community (about 3 miles from the proposed railroad). This land will remain in my family's possession until at least the next generation.

My Great Great Grandfather's and Grandmother's on three sides of my family (RUFF, ROHM FALK, AND SEIFWEERS)

emigrated to the New Mountain-Denki Community during the period 1845-1860's. Two of their homes are still standing in Denki. One of these is the Henry Schreier Home and was featured in the STB presentation given in Hondo, Texas on December 2nd, 2004

Besides my personal heritage, I have many ties to the community. Many of my old friends and relatives still own property and live in the immediate area of the proposed rail line. For the people who own property in the exact path of the rail line, I believe they will be severely impacted and need to be generously compensated, hopefully by negotiation rather than court order.

For those who own land in the community but not in the exact path of the rail line, I believe the impact will be minimal. Except for horns sounding at rail crossings and occasional delay while traveling to Rio Medina, Hondo, or Castroville the impact will have little effect on those who reside or own property in the area.

I believe that the positive effect to the community far outweighs the negative aspects because it will provide good jobs to young people who would prefer to work in the community rather than travel to San Antonio as farther. The associated Quarry will also provide quality materials at reasonable cost for County road improvements as well as contribute substantially to the tax base for schools and County roads.

Other reasons why this railroad is needed and I have heard no discussion, is the fact that the Gulf Coast (Beaumont to Corpus Christi) is devoid of quality deposits of stone or gravel. Gravel deposits have been mostly depleted. Therefore, stone for construction must come from some other region of the state. It is vital to the state economy that Highway connecting the Metro Area along the Gulf Coast to the interior of the state be maintained and improved. This Railroad and the Quarry it will serve is probably the very best location to meet the growing needs of stone to the

Gulf Coast and will reduce the cost of highways to the tax payers of the State of Texas.

Vulcan Materials Company (owner of the proposed railroad) is the premier stone producer in the United States and has a record dating back to at least the 1960's of leading the Stone Industry in eliminating environmental concerns. I worked for Vulcan from 1973 until 1978 and have personal knowledge of their commitment to a clean environment. I believe most residents of the New Mountain-Denki Community will be pleasantly surprised at what good neighbors Vulcan will be.

Sincerely,

Douglas Peff

Surface Transportation Board Incoming Correspondence Record

#EI-1281

Correspondence Information			
Docket #:	FD 34284 0	Date Received:	01/06/2005
Name of Sender:	Robert Clark	Date of Letter:	01/06/2005
Group:			

Submitter's Comments: I am very concerned about the proposed railroad and quarry. It would disrupt our lives greatly. This 24 hour operation would be noisy all night. Who will repair my water well when the blasting damages it? My most important comment is: we need to have a meeting so we can ask our questions to the board and get an answer back right away. The board should be responsible to the citizens of the country. We deserve a chance to talk to the board face to face.

Surface Transportation Board
Incoming Correspondence Record

#EI-1282

Correspondence Information			
Docket #:	FD 34284 0	Date Received:	01/06/2005
Name of Sender:	barbara clark	Date of Letter:	01/06/2005
Group:			

Submitter's Comments
My grandson rides the schoolbus to school and back home everyday. It takes one hour to get home and I'm worried the slow moving train crossing 2676 and taking a lot longer. In the morning the train might make the whole bus late for school. With all the train derailments lately I'm also concerned about his safety at all the crossings. I'm sure Vulcan can find another place that is away from so many people.

<http://stb.dot.gov/Ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/0ED4EF85...> 1/12/2007

STB Incoming Correspondence Record

Page 1 of 1

Surface Transportation Board
Incoming Correspondence Record

#EI-1284

Correspondence Information			
Docket #:	FD 34284 0	Date Received:	01/06/2005
Name of Sender:	robert clark	Date of Letter:	01/06/2005
Group:			

Submitter's Comments
I am very concerned about the proposed railroad and quarry. The 24 hour operation would be very noisy. I am very worried about my water well. Who will repair it if the blasting damages it? My #1 comment is: Why aren't we talking to the board members? The board members need to be accountable to the citizens of the country. We need a meeting with the board members and they can answer our questions face to face.

<http://stb.dot.gov/Ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/B8CEA923...> 1/12/2007

Surface Transportation Board
Incoming Correspondence Record

#EI-1283

Correspondence Information			
Docket #:	FD 34284 0	Date Received:	01/06/2005
Name of Sender:	barbara clark	Date of Letter:	01/06/2005
Group:			

Submitter's Comments
My grandson rides the schoolbus to school every day. It takes one hour and I'm worried the slow moving train will get him home even later. In the morning the whole schoolbus might be late for school. With all the train derailments lately I'm also concerned about safety at all the crossings. I'm sure Vulcan can find a better place for a quarry where there aren't so many people affected.

<http://stb.dot.gov/Ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/4B41440C0...> 1/12/2007

STB Incoming Correspondence Record

Page 1 of 1

Surface Transportation Board
Incoming Correspondence Record

#EI-1286

Correspondence Information			
Docket #:	FD 34284 0	Date Received:	01/07/2005
Name of Sender:	Wayne Balzen	Date of Letter:	01/07/2005
Group:			

Submitter's Comments
Again I thank you for allowing me to speak on 12/2/04 at the public meeting in Hondo, Tex. You are to be commended on the DEIS for its content concerning only the issues. I support your decisions and hope that you will continue to address them on your report to the STB committee. Much work, investigation, adherence to the laws, and review has been achieved to compile this DEIS. Thank you for your dedication and hard work to complete this document and proposal.

<http://stb.dot.gov/Ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/0E472B64...> 1/12/2007

Surface Transportation Board
Incoming Correspondence Record

#EI-1287

Correspondence Information

Docket #:	FD 34284 0	Date Received:	01/08/2005
Name of Sender:	Lynn Kitchen	Date of Letter:	01/08/2005
Group:	Medina County Environmental Action Association		

Submitter's Comments

Please find attached my comments for the Draft EIS as the technical Representative for MCEAA. I will be sending hard copies under separate cover by Fedex, Monday delivery.

Image Attachment(s)

Comments: 1-5-05.pdf

Surface Transportation Board
Incoming Correspondence Record

#EI-1289

Correspondence Information

Docket #:	FD 34284 0	Date Received:	01/09/2005
Name of Sender:	Max Walden & Carol Casillas	Date of Letter:	01/09/2005
Group:			

Submitter's Comments

See Attachment(s) below.

Image Attachment(s)

EI-1289 Walden.pdf; EI-1289_Casillas.pdf

<http://stb.dot.gov/Ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/F2281FAD...> 1/12/2007

<http://stb.dot.gov/Ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/66A33C25...> 1/12/2007

Max Walden 655 CR 365 Hondo, Texas 78861

Re: Finance Docket No. 34284 - Southwest Gulf Railroad Company

Comments on the Environmental Impact Study
Finance Docket no. 34284
Southwest Gulf Railroad Company

General comments:

The first public statements by Vulcan occurred at a local meeting at the Quihi Gun Club with an impromptu attendance by several employees of Vulcan. The president of the SW division, I believe his name is Ransdell, stated, "If you folks don't want the railroad we won't build it but we also will not do the Quarry as trucking would be too expensive". (I heard it with my own ears, he denies it now)

TRUTH! They thought the threat of losing the quarry would create pressure to drop opposition of the RR. He didn't say trucking would harm the environment, their current reason for not trucking.

The quarry and the railroad are one project. As they say in the old song "Love and marriage, you cant have one without the other" Also this same night, in conversation with a very exuberant geologist, " You guys are not very progressive, if we don't get new sources of cheap limestone, foundations in Houston will double in price" Yeah, lets ruin our environment for million dollar houses. Vulcan is not concerned with the environment, just their bottom line.

There is no justification for common carrier status. Rail line has been available from Hondo to Houston for 100 years, no more is needed.

TRUTH! If you grant this status to them, you will be granting an unconstitutional use of eminent domain.

One more comment that indicates ethical malfeasance by SGR and inadequate investigation by SEA occurs in ES2.1.2, page 7. I suggest inadequate investigation because they admit that the information used was provided only by SGR. The medina Dam route elevation alone would refute the claim "significant adverse impacts to floodplains, hydrology soils etc. There are no flood plains or wetlands, it is 50 feet higher than the routes crossing Quihi creek. All other routes cross Quihi creek which is nothing but flood plain. We pay out many dollars for our flood insurance. I doubt any house on the Medina Dam route pays flood insurance.

TRUTH! It would just cost SGR more to build the Medina dam route and less expensive to go across Quihi creek Refer back to our statement about "bottom line".

Now on to specific comments. Mitigation - Since we have no government out here to voice complaints, I suggest Vulcan fund a committee to oversee the required mitigations. These committee members will live adjacent the RR line or Quarry and appointed by the county commissioner. The fund will include attorney fees if legal council is necessary.

Noise - ES15/16

I suggest SEA Folks go to AVE M/highway 90 in Hondo and record train noise, then go to the intersection of 365/4512 and measure the difference. That will demonstrate the significance.

Air Quality - ES 14

NO-ACTION alternative will not create truck emissions because they will not mine the Quarry without the RR Mr. Ransdell said so and we know he would not lie.

Socioeconomic - ES 17

The impact is already being felt, real estate sales are rare and will get worse near the RR site when it begins operation. May I recommend some mitigation? Vulcan should have to compensate all landowners within a certain distance from the RR. Would you allow a RR or a quarry to be built near your home without compensation? I hope the three directors voting have access to this thought.

Indirect Impacts - ES 17
Years from now, the undesirable presence of the RR will cause a steady deterioration and a federal superfund will have to renew it.

Environmentally preferable alternatives
NO ACTION, they wont mine the quarry. There is limestone all the way west to Del Rio and south of the balcones escarpment and the union pacific RR goes that way also.

Re: Finance Docket No. 34284 - Southwest Gulf Railroad Company

I almost did not attend the Public Meeting held on 12/2/04 at the Medina County Fair Hall. I assumed it would be just so much BS. Again. In my opinion, it began that in just that way. The attorney and reps from the STB/SAE began to tell us how the proposed rail construction and coincidentally, the gravel/limestone Quarry, would minimally impact our community and our lives. The data used to prepare the draft EIS was commissioned, bought and paid for by SRG. It is obvious to individuals who live in this area that neither the STB nor the SEA actually did any research "on the ground". The draft EIS was prepared using less than perfect data.

A majority of the people who spoke at this meeting were very emotional in their opposition to the rail line, many included the Quarry itself. The few individuals not opposed do not reside anywhere near the area that will be impacted; some do not even reside in Medina County.

I live at the junction of CR 450/365. The Quibi runs directly in front of my home. The Elm creek crosses 450 about a half-mile west. I cross the Elm, Hondo, Verde and Cherry creeks along with a couple of the "unknown" tributaries each time I leave home. I have seen them all at flood stage and I have seen them at a trickle. On a regular basis, I see white and gray cranes, dove, quail and several species of ducks and beautiful white egrets along the creek. I am fortunate to see white tail and spotted deer, raccoons, gray fox, nutria, porcupines, squirrels, rabbits, possums, armadillos and turtles in my yard. I have seen hundreds of arrowheads and other weapons and tools right down this little dirt road, left hundreds, even thousands of years ago by our predecessors.

All this will end with construction of the rail line. Drive west on highway 90 to Knippa and see what a quarry and a railroad have done. Knippa is ugly desolate and filthy. Drive from Rio Medina towards San Antonio via fm 471, see where trucks are hauling out gravel and limestone and are stripping once fertile farmland.

We have neighbors whose families have farmed the area for over a hundred years, people who have stayed when it was not easy or profitable. Their entire live, their hearts are in the places they call home.

Controversy over the proposed quarry and rail line has caused considerable adversity in the community. It has changed lives, turning life long friend and neighbors against each other. Should the entire situation magically disappear, the heart of this little community has already been damaged. Aside from the probable impact on our water, biological resources, air quality, land use noise, vibration, historic and archeologically sensitive areas, it is clear that the detrimental impact on the populace should be considered.

I am 58, Max is 70. We like many in the Quibi area are not young enough, wealthy enough or healthy enough to "start over". We do not want to live near this proposed "BLIGHT" on our lovely community. Like a lot of our neighbors, everything we have is in this property. Look at the map showing the proposed routes (CR 450/365). Would you want to live here?

Carol Casillas

E1-1292
R9



Surface Transportation Board / Section of Environmental Analysis

Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

Public Meetings
December 2, 2004

Comment Form



Name Ray H. WARDWELL (BOBBIEN & WILLIAM)
Address 150 CR 368, Mico TEXAS 78056
830-741-3271 RESIDENT SINCE 1984

- I wish to speak today.
- I do not want to speak but would like SEA to read my comments at the meeting.
- I wish to submit a written comment, but do not want it read at today's meeting.

REF. FD 34284
THE PROPOSAL FOR (ALABAMA BASED) VULCAN IND. PROPOSED QUARRY AND METHOD OF TRANSPORT IF MATERIAL THE SERIOUS IMPACT OF THIS QUARRY, RAIL LINE AND/OR TRUCK ROUTE MUST BE STUDIED/RESEARCHED AS A SINGLE/COMPLETE PROJECT. OVERALL THE IMPRESSION GIVEN, BY THOSE GENERATING FROM IT, IS THAT THE AREA IS SPARSELY POPULATED AND SHOULD REMAIN SO. VISITED THE QUARRY IN THE PURCHASE OF 50 ACRES AND HAS MADE 300+ COMMENTS TO (ALABAMA) VULCAN PROPERTY "MGT." FOR COMMUNITY PROBLEMS. TECHNICAL ADVISORS, HIRED BY VULCAN, CLAIM THAT NO ONE WILL KNOW THEY ARE THERE. PREVIOUS MEETINGS HAVE INDICATED THAT NEIGHBORS ARE OPPOSED TO QUARRY & TRANSPORTATION OF MATERIAL BY LAND OR RAIL INDICATING THE NEED TO CONSIDER THIS AS A SINGLE PROJECT NOT 2 OR 3 SEPARATE PROJECTS. THOSE OF US WHO LIVE HERE ARE CONCERNED OVER OUR AIR, WATER, NOISE, TRAFFIC (RAIL OR TRUCK), WILDLIFE, LAND QUANTITY, OVERALL QUALITY OF LIFE - NO ONE HERE, MOTER HERE WITH THE HOPE SOME DAY WE WILL HAVE A GRAVEL PIT, TRUCK ROUTE AND RAILROAD LINE. READING THROUGHOUT THE EIS, STUDY "MILITATIONS NOT REQUIRED" OR LEFT TO VULCAN'S JUDGEMENT ARE FOUND. "BEST MANAGEMENT PRACTICES" ARE SITED THROUGHOUT EIS PAPER, REVIEWING LAST BITES FILED AGAINST VULCAN IND. APPROVEMENT CONTINUED AND RESIDENTS PROTESTING QUARRY OPERATIONS INDICATE NEGATIVE AFFECT ON COMMUNITY. THIS PROJECT SHOULD BE CONSIDERED AS A TOTAL NOT GRIND OF PROJECTS - THE BENEFIT FOR A FEW (WHO DO NOT LIVE HERE) ARE PUTTING RESIDENTS RIGHTS AND QUALITY OF LIFE AT RISK.

#E1-1293
RA

Schweers Historical Foundation, Inc.
2405 South IH-35
New Braunfels, TX 78130-6817
(830) 625-6680

received
1/10/05

January 10, 2005

Surface Transportation Board
Section of Environmental Analysis
1925 K Street, NW Suite 500
Case Control Unit
Washington, DC 20423

Attn: Rini Ghosh
STB Docket No. FD 34284

Dear Ms. Ghosh:

I am the current President of the Schweers Historical Foundation, Inc. that has a membership of 187 and growing. We are particularly interested in the four homes built by the children of Schweer and Zeda Balzen in the mid 1850's. All are still restorable. Willie Schweers died suddenly and while a small group of us were trying to contact his Estate to buy the Henry Schweers home for restoration, we found that Vulcan Materials had already placed a purchase contract on the two properties. We then offered to purchase it from them. They then offered to donate both homes to us if we would form a 501(c) 3 tax exempt organization; the William Home has been donated, the Henry Home will be donated after the railroad issue is settled. Vulcan has been very generous with our Foundation, and upon further investigation we find that Vulcan Materials is highly regarded in other communities where they operate. Forbes and Fortune has rated them at number eight in social responsibility.

I have reviewed the three volume draft of the Environmental Impact Statement, and attended and spoke at both sessions at the public hearings held in Hondo on December 6, 2004. I met and spoke with you at that public hearing. Your group and others involved in the analysis of the routes, has done a thorough and commendable job. We strongly feel the preferred route is the best solution for their transportation needs. The no action alternative that would force the transportation of the material by truck is absolutely the worst possible solution. I know that your group will be fair in your analysis, and won't let emotional appeals bias your decision.

I currently live in the city of New Braunfels and sit on the board of the New Braunfels Industrial Development Corporation. If this opportunity to attract a major corporation of Vulcan Materials stature presented itself here, I would suspect that we would offer any incentive available to lure this company to our community. Any socially responsible company such as Vulcan Materials that would potentially bring one hundred and fifty above average salaries, and several million dollars of property investment, would be considered an economic windfall to any community.

Please feel free to contact me for further comments regarding this situation. My e-mail address is cr.schoch@shcglobal.net and my mobile phone number is 830-708-2977. Thank you for the opportunity to consider my position on this matter.

Sincerely,

C. Ray Schoch,
President

Page 1

#E1-1295
RA

Jan 24, 2005

STB Docket No. FD 34284

Surface Transportation Board
Case Control Unit
Washington, D.C. 20423
Attn: Rini Ghosh
STB Docket No. FD 34284



This is my second letter in response to the invitation for public comment on the proposed rail line in Medina Co, Texas requested by Southwest Gulf Railroad Company.

My name is Melvin Douglas Ruff. I presently reside at 242 W. Bascoak, Boerne, Texas (76806) (Phone 830-249-3906). I was born in the New Fountain - Quiki Community in 1931 and lived in the community until 1978. Today I still own farm and ranch land in the community (about 3 miles from the proposed railroad). This land will remain in my family's possession until at least the next generation.

My great great grandfather's and grandmother's on three sides of my family (RUFF, BAHM-FALK, AND SCHWEERS) immigrated to the New Fountain - Quiki Community from 1845 to the 1860's. Two of their homes are still standing in Quiki. One of these houses is the

Page 2

"Henry Schweers House" and was pictured in the STB presentation given in Hondo, Texas on December 2nd, 2004

Besides my personal heritage, I have many ties to the Community. Many of my old friends and relatives still own property and live in the immediate area of the proposed rail line. For the people who own property in the exact path of the rail line, I believe they will be severely impacted and need to be generously compensated, hopefully by negotiation rather than court order.

For those who own land in the community but not in the exact path of the rail line, I believe the impact will be minimal. Except for horns sounding at rail crossings and occasional delay while traveling to Rio Medina, Hondo, or Cartersville the impact will have little effect on those who reside and/or own property in the area.

I believe that the positive effect to the Community far outweighs the negative aspects because it will provide good jobs to young people who would prefer

to work in the Community rather than travel to San Antonio as farther. The associated quarry will also provide quality materials at reasonable cost for County Road improvements as well as contribute substantially to the tax base for schools and County Roads.

Other reasons why this railroad is needed and I have heard no decision is the fact that the Gulf Coast (Beaumont to Corpus Christi) is devoid of deposits of quality stone and gravel deposits have been mostly depleted. Therefore, stone for construction must come from some other region of the State. It is vital to the State economy that highways connecting the Metro areas along the Gulf Coast to the interior of the State be maintained and improved. This railroad and quarry in Bink is probably the very best location to serve the growing needs for stone along the Gulf Coast and will reduce the cost of highways to the Tax Payers of Texas.

Vulcan Materials Company (owner of the proposed railroad) is the premier stone producer in the United States and has a record dating back at least to the 1960's of leading the

Stone Industry in eliminating environmental concerns at all their quarry sites. I worked for Vulcan from 1973 until 1978 and have personal knowledge of their commitment to a clean environment. I believe most residents of the New Fountain - Bink Community will be pleasantly surprised at what good neighbors Vulcan will be.

Sincerely,
Douglas Riff

STEPTOE & JOHNSON LLP
ATTORNEYS AT LAW

#E1-1296
RSJ

David H. Coburn
202.429.8063
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Fax 202-429-3902
steptoe.com

January 10, 2005

Received
1/10/05

VIA HAND DELIVERY

Surface Transportation Board
Case Control Unit
Washington, DC 20423
Attn: Rini Ghosh
STB Docket No. FD 34284

Re: Finance Docket No. 34284 -- Southwest Gulf Railroad Company -- Petition for Exemption from 49 U.S.C. § 10901 to Construct and Operate a Rail Line In Medina County, Texas

Southwest Gulf Railroad Comments on Draft EIS

Dear Ms. Ghosh:

Petitioner Southwest Gulf Railroad ("SGR") hereby offers the following comments on the Draft EIS issued by the Board on November 5, 2004. SGR appreciates the hard work and careful study that SEA and its contractor have undertaken in preparing the thorough Draft EIS that has been issued. SGR also agrees with the DEIS's conclusions with respect to the environmental preference of a rail line versus a no-build alternative that would result in truck transport of aggregate from the quarry to a remote rail loading area. Further, SGR continues to believe, and the DEIS supports its view, that the environmental impacts of its proposed route are either minimal or can be mitigated so that they are not significant. In that regard, SGR stands ready to consult with SEA and other agencies to address any remaining concerns as the NEPA and Section 106 processes move forward.

SGR's comments will focus on the proposed mitigation measures. The comments are designed, in some cases, to clarify the terms of those measures and, in others, to propose modifications that SGR believes will improve the mitigation measures in a manner consistent with SGR's understanding of SEA's intentions and the public interest. SGR stands prepared to respond to any questions or concerns raised by these comments.

Ms. Rini Ghosh
January 10, 2005
Page 2

Voluntary Mitigation Measure No. 3 -- SGR has voluntarily agreed to use continuously welded rail for the line of rail that it proposes to construct between the quarry and the UP line. This will reduce noise levels from train operations between the quarry plant and the southern terminus of the SGR line. However, for sake of clarification, SGR notes that it may not use continuously welded rail for the loading loop or the straight track alternative at the plant site, and did not intend that its offer of using such rail for the line extend to the loading loop or alternate straight track. Based on its consultations with HDR Engineering, a rail engineering firm with which it has consulted on these matters, SGR understands that it likely will not be practical or economical to use welded rail for this track given the tight confines of any loading loop track and the number of switches that would be located on the loop or the straight track at the plant site. Further, to the extent that such rail is designed as a noise mitigation measure, its use on the grounds of the plant facility will not serve that purpose, particularly given that trains will be moving at a very slow speed (about 5 mph) at the plant site.

SGR notes in this regard that the DEIS concludes that rail line operations over the proposed route or Alternatives 2 or 3 will not exceed the STB's noise impact thresholds set forth at 49 CFR 1105.7(e)(6) (an increase in noise level of 3 dbA or more resulting in a noise level of 65dbA or more). This is true at both receptors ML1 and ML2, which are the studied receptors closest to the quarry plant area. See DEIS at 4-80. Thus, SGR submits that there is no need to mitigate noise through the use of welded rail in the plant area since noise impacts there will be minimal.

Mitigation Measure No. 6 -- SGR suggests that this measure be modified to add the following language before the period: "consistent with recognized highway safety standards taking into account the level of highway traffic at the crossing." SGR recommends that this language be adopted in order to better define the term "appropriate" as used in the draft mitigation measure. In this regard, SGR recognizes that the nature of crossing protections deemed warranted will vary based on the level of highway traffic at issue. SGR will consult with responsible highway safety officials on these matters.

Mitigation Measure No. 18 -- SGR recommends that the last clause of this measure be modified as follows: "and shall remediate any soils contaminated by any diesel or gasoline release for which Southwest Gulf Railroad Company is responsible as soon as practicable." This revised language will clarify, we believe consistent with SEA's intent, that SGR is not responsible for remediating soils that are contaminated as a result of conduct unrelated to SGR's activities.

Mitigation Measure No. 24 -- This mitigation measure requires that SGR conduct a floodplain study and "obtain" a Medina County Floodplain "permit" for each floodplain crossing prior to initiating rail construction. The condition is apparently based on a conversation during the pre-DEIS consultation period between SEA's third party consultant and the Medina County Floodplain Administrator, which is described in a message set forth in Appendix C to the DEIS (at page C-39) and discussed at page 4-35 of the DEIS. SGR proposes that the condition be revised to require that SGR: (a) conduct a floodplain study for submission to the Medina County Floodplain Administrator and (b) consult with the Medina County Floodplain Administrator to ensure that SGR's construction plans will not cause more than a 12 inch rise in the current 100-year floodplain elevation, consistent with the Floodplain Administrator's permitting standards as set forth during the pre-DEIS consultation process. SGR intends to adhere to the

standards for floodplain crossing described in the communications with the Floodplain Administrator. Based on such adherence, SGR also believes that it will meet the standards for issuance of a permit by the Administrator. Nonetheless, in light of federal preemption of state and local rail permitting obligations that might stifle rail construction authorized by the STB, SGR does not believe that its ability to construct its rail line should be conditioned on whether the Medina County Floodplain Administrator chooses to issue a permit to SGR, or to do so in a timely manner. See discussion of exclusive federal jurisdiction at page 4-13 of the DEIS. Accordingly, SGR urges that language in this mitigation measure requiring that a permit be obtained prior to construction be eliminated, and that the alternative mitigation measures described above be adopted in its place.

Mitigation Measure No. 26 -- This measure would require that SGR minimize ground contact by "oil cleaning materials." SGR is not certain what is meant by the quoted term and thus requests that this measure be clarified, or eliminated, in the final EIS.

Mitigation Measure No. 30 -- SGR is concerned about the portion of this proposed measure that would require SGR to avoid placing fill material or structures in the ordinary high water mark of any creek channel that will be crossed. This absolute restriction could have an adverse impact on the final design of bridges, with no offsetting benefit. To the extent that a Corps permit may be needed to cross any creek channel, SGR would need to comply with the terms of any such permit prior to initiating construction, as the DEIS recognizes at pages 4-38 and 4-39. Also see proposed mitigation measure no. 25. Consistent with the terms of the DEIS, which recognize that Corps approval would be required with respect to any crossing subject to Corps jurisdiction under Section 404 of the Clean Water Act, SGR requests that this proposed measure be revised to require that SGR comply with any applicable Corps requirements in connection with the placement of fill material or structures in creeks during construction. Further, SGR intends to use best management practices in connection with the construction of the stream crossings and expects to minimize any placement of fill material and structures in the ordinary high water mark of any creek channel, consistent with its obligation to minimize impacts to wetlands as per the opening provisions of mitigation measure no. 30.

Mitigation Measure No. 32 -- Based on a May 28, 2003 letter from the Texas Parks and Wildlife Department, SEA has proposed that graded embankments not exceed a 4:1 slope. SGR respects the views of TPW, but believes that there may be situations where a 3:1 slope may be appropriate in terms of runoff impacts, while allowing the railroad's footprint to be smaller. SGR thus requests that it be allowed the flexibility to consult with TPW about any proposed embankments that would have a 3:1 slope and be permitted to use such embankments if TPW so consents.

Mitigation Measure No. 33 -- This proposed mitigation measure is very broadly written to require SGR to avoid disturbing any natural buffers contiguous to floodplains in order to prevent soil erosion and preserve wildlife cover, food sources and travel corridors. SGR will of course endeavor to avoid any such disturbance of natural buffers, but complete avoidance may not be feasible. Thus, SGR recommends that this measure be revised to require that SGR use best practices during construction to avoid or minimize disturbance to the relevant natural buffers.

Mitigation Measure No. 41 -- This mitigation measure could be read to require that SGR reroute or redesign its line following consultation to ensure well structure and pipeline integrity. SGR believes that the goals of this measure will generally be achievable with only minimal engineering changes. Thus, SGR requests that the condition be revised to eliminate the words "to the design of the rail line." Further, the comma between "well" and "structure" also should be eliminated.

Mitigation Measure No. 45 -- The Draft Programmatic Agreement (PA) set forth in the DEIS is substantively unchanged from that which SGR negotiated with the Texas Historic Commission several months ago. SGR stands ready to sign the agreement in its current form. SGR agrees with the DEIS that the PA offers sufficient mitigation for any impacts to cultural resources. In that regard, SGR notes that the PA contemplates that the issue of cultural landscape will be addressed by the study required to be conducted pursuant to the PA, Section III.B.2 and 3. Further, the PA also contemplates an assessment of potential future development in the project area that might be encouraged by the rail line. See PA, Section I.C. Thus, to the extent that SEA believes that further analysis of cultural landscape issues may be warranted (and this is raised as an issue at page 4-98 of the DEIS), the PA offers a means for undertaking that analysis and addressing the cultural landscape question.

SGR appreciates the opportunity to offer these comments and looks forward to the issuance of the Final EIS for its rail project.

Respectfully,

David H. Coburn
Attorney for Southwest Gulf Railroad

Surface Transportation Board
Incoming Correspondence Record

#EI-1297

Correspondence Information:			
Docket #:	FD 34284 0	Date Received:	01/10/2005
Name of Sender:	Carole S. Romano	Date of Letter:	01/10/2005
Group:	Castroville Conservation Society		
Submitter's Comments:			
See attachment.			
Original Attachment(s):			
EI-1297.pdf			

January 10, 2005

Surface Transportation Board
Case Control Unit
Washington, D. C. 20423
Attn: Rini Ghosh
STB Docket No. FD 34284

As President of Castroville Conservation Society, I spoke at the public hearing on December 2, 2004, in Hondo, Medina County, Texas concerning the very large proposed Vulcan Quarry and rail route. The Conservation Society has many concerns about the quarry, as did the landowners and residents of Medina County who spoke so eloquently and heartfelt about the impending changes.

The proposed Vulcan Quarry, rail and truck route would greatly impact rural Medina County's way of life - changing forever the landscape, as well as air quality and endangering irreplaceable historic Quilts architecture, archeological and wildlife areas.

If Vulcan is permitted to impose on Medina County, while making an enormous profit, then every effort should be made to comply with citizen requests, as valuable ranch land, historic homes and archeological sites forever will be impacted by erosion, blowing dust, traffic and damage to the county roads.

Please, do not permit route 1 for the rail line. Vulcan needs to use the least intrusive one for the landowners, historic/architecture and archeological areas. The cost is minimal compared to the loss of valuable natural resources.

TEXDOT has estimated between 75 and 150 trucks a day in addition to the rail lines. Our two lane county roads will be made unsafe and involve costly maintenance. Estimates are four trains daily, each with 100 cars arriving and departing the quarry. (Two loaded leaving and two empty coming.)

Please listen to and respect the feelings of landowners and citizens. They need your help. Save Medina County!

Sincerely,

Carole S. Romano
President
Castroville Conservation Society
P.O. Box 1543
Castroville, Medina County, Texas 78009

Surface Transportation Board Incoming Correspondence Record

#EI-1298

Correspondence Information			
Docket #:	FD 34284 0	Date Received:	01/10/2005
Name of Sender:	Thomas R. Hester, Ph.D.	Date of Letter:	01/10/2005
Group:			
Submitter's Comments			
Comments on the Draft EIS for Finance Docket 34284			
Image Attachment(s)			
EI-1298.pdf			

<http://stb.dot.gov/Ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/5520A91C...> 1/12/2007

2

PO Box 625
Utopia, TX 78884
January 10, 2005

Ms. Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20402-0001

Dear Ms. Rutson:

I am writing to provide extended comments on the "Draft Environmental Impact Statement Related to Finance Docket No. 34284, Southwest Gulf Railroad Company... Medina County, Texas."

Specifically, I address the issue of cultural resources related to the prehistory and early history of the Quihi area. There are significant problems in the DEIS and in the Draft Programmatic Agreement. The superficial efforts made by SGR to do preliminary cultural resource assessments were noted in my oral comments in the December 2, 2004 public meeting in Hondo, TX. The first preliminary report submitted by URS has been found to be lacking in almost all aspects by the Texas Historical Commission and others who have read it. This is most likely due to minimal time for fieldwork and analysis being funded by SGR. In an effort to put a "patch" on the first assessment, SWG and URS sent archaeologist Dr. Daniel Cassidy to the area, again for a very brief period and, unfortunately for him, during a major rain event. Dr. Cassidy appears to have done the best he could in the highly inadequate time frame provided. His experience in dealing with this type of project was, however, evident when in his final recommendations, he advised that SGR should avoid the proposed routes because of the *unique historical context* found at Quihi. Furthermore, he quickly recognized the potential importance of a major mid-19th century stone wall that exists on the Lindsey property.

A couple of the errors in Dr. Cassidy's assessment are noted below. What seem to be "minor" oversights turn out to be critical in terms of cultural resources, including:

(1) a statement that Uvalde Gravels do not occur in the area, when in fact such deposits are extensive and are well published as the **Quihi Soil**. Because of ancient geological processes, the nature of the deposition of this Soil is still unclear. It is even more important to note that archaeological sites as old as 10,500 years ago are buried in Quihi

Soil (Uvalde Gravel). This was clearly shown in July 2004 by excavations at site 41ME132 (Mangold Site; Weimers Ranch). The site and the Quihi Soil are in the uplands, an area ignored by preliminary assessments. It is clear that ME132 is not isolated, but part of a larger archaeological pattern formed by a process that is not well understood. To address such an issue, extensive geological and **geomorphological** research must be done. It is not mentioned in the Draft Programmatic Agreement, although geomorphology is a critical element in modern archaeology.

A perspective on what confronts the funded archaeological research proposed in the DEIS (see below) can be obtained from a brief description of work done in the area by the **Southern Texas Archaeological Association (STAA)**. The STAA is a non-profit organization composed of about 400 members, both avocational ("amateur") and professional. It was founded in San Antonio over 30 years ago and publishes a widely circulated journal. When I was introduced to the archaeology of the area through working with collections from the 41ME132 and 41ME133 sites from the late Buddy Mangold, I thought there was a need to carry out initial excavations at these sites to obtain a better view of the context and potential at each. In July 2004, the STAA held a tightly-organized, problem-oriented field school on the Weimers Ranch. The STAA funded the work from its own coffers and from fees provided by participants. Six days of excavations at both sites were very revealing, particularly with reference to the formation processes involved in the archaeological record (e.g., the Quihi Soil). The STAA asked a noted geomorphologist to look at the sites and his research is ongoing. Additionally, site 41ME132 is located adjacent to a spring and bog which was likely the reason, 10,500 years ago, that humans began to camp at this site. STAA has arranged for an experienced palynologist to do pollen cores in the bog, with the hope of gaining some insight into local paleoclimate. This researcher has worked extensively in areas of Texas where pollen was supposedly "impossible" to obtain, and has developed techniques that have permitted the formulation of vegetational and climatic sequences in southern and south central Texas.

It is perhaps because so little is known about the Quihi area, so little has been learned by the SGR "assessments," and so little is expected by THC (based on the Draft Programmatic Agreement) that **neither geomorphology nor climate studies** are included in the Draft PA. I am certain this will be remedied in the Final Draft PA, as the archaeologists at THC are keenly aware how quickly the database changes in Texas archaeology.

(2) a wholly inadequate review of the **American Indian peoples** who were in the area. This topic will be of serious concern among local American Indian organizations and their leaders. At the December 2, 2004, meeting, Mr. Ray Hernandez of the Tap Pilam group in San Antonio spoke eloquently about this problem, and he consulted extensively with the congressional staffers who were there. Mr. Hernandez is well known across southern Texas as a spokesman for American Indians, and his impact has been felt on many construction projects.

The Draft Programmatic Agreement must require that a trained, experienced **ethnohistorian** must examine the historical records. A great deal of data are to be found in the literature, both mid-19th century and Spanish Colonial, on these groups. Just because it has not yet been done in the past does not mitigate the necessity of such ethnohistory being prepared at this time. After a rail bed has been laid, ethnohistorically-sensitive areas will already be gone. A perfect example of the potential of ethnohistory is Dr. Maria F. Wade's published study (University of Texas Press, 2003) on the American Indians of the Edwards Plateau and their interaction with the Spanish. The area of focus was immediately to the west of Quihi. Dr. Wade went through Spanish archives and found data on the Native peoples that had never been found nor fully understood.

Dr. Cassidy is to be commended, to be sure, for his effort to provide a predictive model of cultural resources based on soil types in the Quihi area. This is an admirable first step. He realizes, as do other serious scholars, that the Quihi area constitutes a **unique historical context**. As I noted above, this second URS report recommends that all proposed rail routes in the Quihi area be abandoned and a new effort made to use the old Dunlay route.

Indeed, the **historic context is what is in peril** in the plans of SGR. Geographers, archaeologists, historians and other researchers have long worked with the concept of a "landscape." Within the landscape, there can be certain elements that pull together a significant moment in the development of a region. At Quihi, there is an archaeological landscape about which we know very little. Is it an important and integrated set of sites without parallel in this part of Texas? We cannot determine this with the extant data. However, **STAA surveys** done in July 2004 and shovel test excavations in 2005, suggest that there are a lot of sites out there, perhaps within proposed SGR routes, or outside the proposed routes. For example, in the 2004 STAA survey, additional sites were found on the Weimers Ranch, and a series of extremely interesting sites were documented along Elm Creek. These sites have been formally recorded at the Texas Archeological Research Laboratory, UT-Austin. They are likely just a drop in the bucket in terms of the local site inventory. In January, 2005, a team of **STAA members carried out shovel-test research** at the Renken Site, in the Elm Creek drainage. Thirteen shovel tests were dug to help ascertain the extent of the site and buried deposits. The site turns out to be at least 200 meters in length. The shovel tests, 1 meter deep, revealed layers of silt and burned rock, flint flakes, a Bulverde point (Middle Archaic), and extremely well preserved animal bones (probably deer). While this site and others on Elm Creek may well be outside proposed SGR activities, they illustrate the **potential for important sites within the whole area**.

While both of the SGR assessments are useful in getting an idea of the mid-19th century cultural record in the Quihi area, much more must be done. It is not enough to simply "move" a house to a new location. That saves the house, but destroys the **historic context**. The constellation of early stone homes and buildings around Quihi are without

parallel in this part of Texas. Not even in Castroville is such a unique settlement preserved -- and Castroville received First Lady Laura Bush's recognition in the **Preserve America** federal program. Houses can't just be picked up and "moved." **Their context must be studied through historical archaeology and by architectural historians.** While one of the houses that will be impacted by an SGR route, the Saathoff-Scheule home, is on the National Register of Historic Places, there are many such potential Register buildings in the area. The local historical group is working toward the designation of a National Register District, a designation that is clearly warranted.

The Quihi area represents, I would argue, a **unique, unparalleled rural historical landscape**. Though "progress" has modified this area of pre-Civil War settlement, it remains remarkably intact in comparison to similar early settlements in Texas and elsewhere. Quihi is not "unique" simply because of its old buildings. Quihi had a key role in the settlement and development of south central Texas, and is a prominent part of chronicles of early commerce (cf. the Chihuahua Road) and early military explorations. Even the natural landscape, such as the stream drainages, is little modified, and the processes of deposition within the drainages may well have preserved a pollen record of environmental change for at least the last 15,000 years.

Railroads are not new to the towns lying south of the Edwards Plateau. Knippa, D'Hanis, and Hondo (and to a certain extent, Uvalde) grew up along the 19th century rail lines. Their historical landscape includes these railroads, which are a key part of their development. However, there is **no rationale for the serious disturbance, if not destruction, of the Quihi historical landscape** by building new, short railroads for the profit of private, non-local corporations. In essence, the STB is being asked to provide a permit (and it has never failed to provide such a permit!) so that a rail line can be built through the Quihi historical landscape in order to haul limestone to consumers in Houston! To put it more bluntly, your Federal agency could well end up approving a short term, private profit objectives that will significantly degrade the long term viability of an unequalled cultural and historical resource.

Though I have done research in the Quihi region for only a brief time, I have carried out fieldwork and publication in southern Texas for 40 years. As detailed in an earlier letter, these investigations have also included sites in Medina County, Bandera County, Uvalde County, Kendall County and Bexar County. It is unlikely that any other archaeological researcher can match this experience and the perspective which it provides. I also directed the largest archaeological research laboratory in the State, at UT-Austin, for 17 years, as well as carrying out fieldwork and publication in other parts of the State. I am also a member of the Medina County Historical Commission and have participated in the Commission's review of this proposed project. I note these factors not to boost my ego, but simply to point out that I am well aware of what sorts of landscapes are worthy of preservation. And, I am well aware of the earlier destruction of such landscapes through ill-advised subdivisions, rail lines, and commercial activities.

I have never seen such a culturally-significant landscape as the one which incorporates the Quihi area. The STB staff and commissioners in Washington must understand that the destruction of cultural resources is a nationwide concern and a nationwide disaster. Why must the destruction of such a landscape be of such a "national interest" (STB is in the business of permits for railroads across the United States) that the Quihi area must be the next, and totally unnecessary, victim? This is not a narrow, "tree-hugger- environmentalist- preservationist" view. It is a reality based on the science and history that is already known, and which is so clearly evident, from the Quihi landscape.

Sincerely yours,

Thomas R. Hester, Ph.D.
Professor of Anthropology, emeritus
The University of Texas at Austin

Surface Transportation Board
Incoming Correspondence Record

#EI-1299

Correspondence Information

Docket #:	FD 34284 0	Date Received:	01/11/2005
Name of Sender:	Ted Portner	Date of Letter:	01/10/2005
Group:			

Submitter's Comments:

The purpose of the STB? I believe the purpose has been lost. Up until now in being a part of the process, I have watched, I have listened, I have been active, concerned, interested. Wanting to understand all there was to both sides of the issue. I tried to keep an open mind and heart knowing that this was a major issue and would have major effects on everyone in my community as well as my family, homestead and way of life. This painstaking process is all necessary in order to get all the clarity possible for this type of devastation upon a community. Some of the saving grace to this process is to have an unbiased 3rd party involved to look at all the "facts" honestly and help bring resolve and closure that is truly for the good of "all".

The STB is one said such organization founded by the people of these United States and funded by all the people of these United States. Our tax dollars at work or so we would like to believe.

But as I have watched, listened, been an active part and have been whole heartedly concerned for the good of all in this process, I have been completely dumfounded with the peoples of the STB. I have never in all my years seen such a charade, such a farce, such a waste of money and of our time as citizens of this country and process. Your review (DEIS) was never even done! And you damn well know it. The STB cut and pasted documents with headers that were entitled for this project, stuck them in a binder and called it a study. Then patronized the people who pay your salaries with the opportunity to blow steam. You could care less what we are faced with, what we've been through, what all this means to our families and what will happen after your charade is over. You are heartless and without a conscience. Your organization (if you can call it that) should be and will be held liable for total corruption.

Image Attachments:

EI-1290.pdf

TED PORTENIER

331 County Rd 252
Honda, TX 78861
830 426 4901

January 10, 2005

Surface Transportation Board
Case Control Unit
1925 K Street, NW
Washington, D.C. 20423-0001

Attention: Rini Ghosh

Re: Finance Docket No. 34284

Dear Rini Ghosh,

The purpose of the STB: I believe the purpose has been lost. Up until now in being a part of the process, I have watched, I have listened, I have been active, concerned, interested. Wanting to understand all there was to both sides of the issue. I tried to keep an open mind and heart knowing that this was a major issue and would have major effects on everyone in my community as well as my family, homestead and way of life. This painstaking process is all necessary in order to get all the clarity possible for this type of devastation upon a community. Some of the saving grace to this process is to have an unbiased 3rd party involved to look at all the "facts" honestly and help bring resolve and closure that is truly for the good of "all".

The STB is one said such organization founded by the people of these United States and funded by all the people of these United States. Our tax dollars at work or so we would like to believe.

But as I have watched, listened, been an active part and have been whole heartedly concerned for the good of all in this process, I have been completely dumbfounded with the peoples of the STB. I have never in all my years seen such a charade, such a farce, such a waste of money and of our time as citizens of this country and process. Your review (DEIS) was never even done! And you damn well know it. The STB cut and pasted documents with headers that were entitled for this project, stuck them in a binder and called it a study. Then humored the people who pay your salaries with the opportunity to blow steam. You could care less what we are faced with, what we've been through, what all this means to our families and what will happen after your charade is over. You are heartless and without a conscience. Your organization (if you can call it that) should be and will be held liable for total corruption.

Respectfully Submitted,
Ted Portenier

cc: US Congressman Henry Bonilla
US Senator John Cornyn
Texas Senator Frank Madla
Texas Representative Timoteo Garza
Medina County Judge Jim Barden
Medina County Commissioner Royce Hartman

331 COUNTY RD 252
HONDO, TX 78861

January 8, 2005

Surface Transportation Board
Case Control Unit
Washington, DC 20423

Attention: Rini Ghosh
STB Docket No. 34284

EI-1310

received
1/10/05

I have read the summary Draft Environmental Impact Statement (DEIS) you were so kind to send to my attention in regard to the Vulcan quarry and associated railroad planned for Medina County.

I feel that many of my concerns about the ways that this proposed operation will disrupt the tranquility of our daily lives has been trivialized in the report. My water well provides a marginal volume of water now - I expect that it could be completely dry when competing for the large amounts of water consumed by a quarry operation. I don't think any agency can provide reasonable assurances that this will not occur and I simply cannot afford to drill a new well on my limited retirement income.

It is not right to give the power to a private company to condemn historic farmland for uses destined only to line the pocket of private profit-seeking companies. How do you expect a relatively poor county such as Medina, to keep up with the great increases in road repairs caused by a serious increase in traffic caused by very heavy trucks? They can't even keep the roads adequately repaired now!

And who needs more train wrecks. Have you read the paper? Count them! I understand that they want to construct highway crossings "on grade" rather than building overpasses. With the heavy volume of rail/truck traffic predicted, it will be enormously disruptive to the whole community.

Flying rocks from gravel trucks cracking windshields, large clouds of limestone dust contaminating our air 24/7, day and night blasting, rail noises, horns etc will pollute a large part of the county. I'm sure you have limestone in your neighborhood - why don't we propose this operation be relocated there?

Sincerely,

Al & Jerrie Bishop
241 CR 253
PO Box 87
Rio Medina, TX 78066



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

JAN 10 2005



EI-1313

Ms. Rini Ghosh
Project Manager
Surface Transportation Board (STB)
Case Control Unit
Washington, DC 20423

STB Docket No. FD 34284

Dear Ms. Ghosh:

In accordance with our responsibilities under Section 309 of the Clean Air Act, the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Draft Environmental Impact Statement (DEIS) for the proposed Southwest Gulf Railroad Company rail line construction in Medina County, Texas. The proposed rail line would extend seven miles from a loading track at the Vulcan Construction Company limestone quarry to the Del Rio Subdivision of the Union Pacific Railroad Company, near Dunlay, Texas.

EPA rates the DEIS as "EC-2," i.e., EPA has "Environmental Concerns and Requests Additional Information in the Final EIS (FEIS)." EPA has identified environmental concerns and informational needs to be included in the FEIS to complement and to more fully insure compliance with the requirements of NEPA and the CEQ regulations. Areas requiring additional information or clarification include: Spill Prevention, Containment and Countermeasures (SPCC) plan development, air quality, and the incorporation of recommendations to minimize rail line construction aquatic impacts at stream crossings.

Our classification will be published in the Federal Register according to our responsibility under Section 309 of the Clean Air Act, to inform the public of our views on proposed Federal actions. Detailed comments are enclosed with this letter which more clearly identify our concerns and the informational needs requested for incorporation into the FEIS. If you have any questions, please contact Mike Jansky of my staff at 214-665-7451 or by e-mail at jansky.michael@epa.gov for assistance.

EPA appreciates the opportunity to review the DEIS. Please send our office five copies of the FEIS when it is sent to the Office of Federal Activities, EPA (Mail Code 2252A), Ariel Rios Building, 1200 Pennsylvania Ave, N.W., Washington, D.C. 20460.

Sincerely yours,

Bonnie Braganza, Acting Chief
Office of Planning and
Coordination (6EN-XP)

Enclosure

Internet Address (URL) • <http://www.epa.gov>
Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 25% Postconsumer)

DETAILED COMMENTS
ON THE
SURFACE TRANSPORTATION BOARD
SOUTHWEST GULF RAILROAD COMPANY
PROPOSED RAIL LINE CONSTRUCTION AND OPERATION
IN MEDINA COUNTY, TEXAS
DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)



Background

The Surface Transportation Board's Section of Environmental Analysis (SEA) has prepared a DEIS for the Southwest Gulf Railroad Company's proposed rail line in Medina County, Texas. The proposed seven mile long rail line would connect a proposed Vulcan Construction Materials limestone quarry and the Del Rio subdivision of the Union Pacific Railroad Company, near Dunlay, Texas. SEA prepared this DEIS pursuant to the provisions of the National Environmental Policy Act (NEPA) and related environmental regulations. The DEIS discusses the potential environmental impacts that may result from the construction and operation of the proposed rail line and includes SEA's preliminary recommendations for mitigating possible environmental effects.

The following comments are now offered for consideration in the development of the FEIS.

Edwards Recharge Zone:

The rail line project is located, in part, on the Edwards aquifer recharge zone. After reviewing the documents, EPA offers the following comments to strengthen the Final Statement:

1. The boundary between the Edwards aquifer recharge zone and the transition zone should be shown on the detailed maps as well as the small-scale maps, and in particular should be included on Figure 4.17-1. Please incorporate into the Final EIS.

2. EPA concurs with the SEA recommendation (p. 4-32) of a condition requiring development of and compliance with a Spill Prevention, Containment and Countermeasures (SPCC) Plan. The Plan should be site-specific and should include a map showing recharge features in the Edwards aquifer recharge zone in the vicinity of the rail line, and indicate measures to protect ground water from contamination through those features. Please incorporate into the Final EIS.

3. The document should contain more information on the fueling and maintenance areas which will be located outside the recharge zone (e.g. storage and management of fuel, thickness of confining layer there, and safeguards against drainage of spills onto the recharge zone). Please discuss in the Final EIS.

Mitigation of Wetland and Aquatic Stream Crossing Impacts

The project involves construction of a rail line for seven miles to transport limestone from a proposed rock quarry to a Union Pacific rail line for shipment to markets in the Houston area and other areas. It appears the impacts to aquatic areas will be mainly from stream crossings. Since there will be several stream crossings and we have no site specific information, we can only make general recommendations to minimize impacts of construction on streams and riparian areas. Our recommendations are as follows:

1. We recommend span bridges where possible to minimize impacts to stream. This should certainly be done for all perennial streams.
2. Where channel work is necessary, precautions should be taken to avoid channel degrading from head-cutting. For example, grades at the culverts and bridges should remain at their existing levels.
3. If a series of box culverts is installed to carry high flows, one culvert should be lower than the others to handle frequent flows (i.e. "bankfull" or less), with other culverts at higher elevations for less frequent events.
4. Plan the route and design crossings to avoid the need to cut off meanders and channelize streams reaches.
5. Minimize impacts to the riparian corridor, especially forested areas. For example, do not clear the entire right-of-way through the riparian area or floodplain. Only clear what is needed for construction and access.
6. Minimize impacts to the creek banks (soil and vegetation). Stabilize and replant disturbed banks with native vegetation as soon as construction at that point is finished.
7. All best management practices should be used to minimize erosion of banks and bare soil, and reduce siltation of streams. Bare soil should be stabilized and revegetated as soon as possible. Hay bales and silt fences should be inspected and repaired as needed after each rainfall event that creates runoff. All silt fences should be parallel to contours. Long and steep slopes need multiple rows of fencing.
8. Wetlands or forested floodplain should not be used for staging or storage areas or for borrow areas.

Air Quality

We have reviewed the DEIS to assure compliance with applicable conformity regulations

per 58 FR 63214. Medina County, Texas is in attainment for all National Ambient Air Quality Standards; therefore, general conformity regulations do not apply. However, any demolition, construction, rehabilitation, repair, dredging or filling activities have the potential to emit air pollutants. EPA recommends best practices be implemented to minimize the impact of any air pollutants. Furthermore, construction, and waste disposal activities should be conducted in accordance with applicable local, state and Federal statutes and regulations.



FD 34284

EI-1314

6.10-1.1-5

January 7, 2005

Ms. Rini Ghosh
Surface Transportation Board
Case Control Unit
1924 K Street, NW
Washington, D.C. 20423-0001

Dear Ms. Ghosh:

The purpose of this letter is to provide comments on the Surface Transportation Board (STB) Finance Docket No. 34284 regarding Southwest Gulf Railroad Company's proposed construction and operation of seven miles of railroad track in Medina County, Texas. On November 15, 2004, the Edwards Aquifer Authority (Authority) received the Draft Environmental Impact Statement (DEIS) from the Section of Environmental Analysis (SEA) of the STB. Authority staff has reviewed the DEIS and presents the following comments:

Regarding Section 4.5.2 Groundwater – Operational Impacts to Groundwater:

The second paragraph of this section (pg. 4.31) indicates that there is a small risk of petroleum entering groundwater and that to reduce the risk, fueling and maintenance of locomotives will be conducted in an area off of the Edwards Aquifer Recharge Zone (EARZ). Based on the geologic map presented on Figure 3.6-1 (pg. 3-39), it appears that the maintenance and fuel storage area will be located on an outcrop of Del Rio Clay immediately south the EARZ. Authority staff recommends that the maintenance and fuel storage area be located as far south of the EARZ as possible in an area that will drain away from the EARZ and in area where, at a minimum, the full thickness of Del Rio Clay is present. This precaution will provide additional protection for the Edwards Aquifer from spills at the maintenance and fueling facility.

Authority regulations prohibit the installation of new aboveground and underground storage tanks that contain hazardous materials on the EARZ. (EDWARDS AQUIFER AUTHORITY RULES, ch. 713, subch. G). Any excavations into Del Rio Clay that encounter Edwards Limestone will be considered as being on the EARZ; therefore, the installation of tanks containing regulated materials into any such excavation will be prohibited.

Ms. Rini Ghosh
January 7, 2005 – Page 2

If the maintenance and fuel storage area must be located in an area of Del Rio Clay outcrop, Authority staff recommends that any storage tanks be constructed with tertiary containment. Many consider the Del Rio Clay to act as a barrier to contaminants and water from entering the Edwards Aquifer; however, naturally occurring fractured clays are not engineered fills and should not be considered as imparting protection to the Edwards Aquifer.

The referenced DEIS section also discusses the need for a Spill Prevention, Containment, and Countermeasures (SPCC) Plan. Authority staff emphasizes the need for an aggressive SPCC Plan for the portion of the rail line that crosses the EARZ. Due to the potential for rapid infiltration of any spills on the EARZ and due to the rapid groundwater flow rates in this karst aquifer, spill prevention will be essential to preventing aquifer contamination.

The Authority appreciates the opportunity to comment on the subject DEIS. If you have any questions regarding these comments, please contact Ms. Robin L. Tremallo, P.G., Environmental Coordinator, at (210) 477-5141, or by e-mail at rtremallo@edwardsaquifer.org.

Sincerely,

Robert J. Potts
General Manager

RP:RLT:JRH/ev

10 January 2005



Surface Transportation Board
Case Control Unit
Washington, D.C. 20423

SURFACE TRANSPORTATION BOARD
CASE CONTROL UNIT
WASHINGTON "D.C. 20423

EI-1315

EI-1316

Attention: Mr. Rini Ghosh

ATTN: RINI GOSH
STB DOCKET FD 34284

Subject: STB Docket No. FD34284 - Environmental Impact Statement - Proposed
Vulcan Materials Quarry & Southwest Gulf Railroad Rail Line Project

Dear Mr. Ghosh:

This letter is in response to the Draft Environmental Impact Statement (DEIS) for the proposed Vulcan Materials Quarry & Southwest Gulf Railroad Rail Line Project.

The DEIS reads like it was written by Vulcan Materials and not by the Surface Transportation Board. The potential flooding from changes in topography as a result of building the rail line were not mentioned in the study. Further, dust from quarry operations would be a problem that was not addressed in the DEIS. Since the quarry is programmed to be a 24-hour operation, noise is an issue that should be addressed as it relates to wildlife and human life.

Heavy truck traffic on State Farm Road 2676 would have a negative impact on not only the maintenance on the road itself, but also would impact farm-to-market traffic. Driving on Farm Road 2676 would be rendered much more dangerous for other than the big quarry trucks.

In summary, I believe the DEIS comes up short on many issues and further study is warranted.

Sincerely,

Humberto Holguin
605 C.R. 368
Mico, Texas 78056

FIRST LET ME THANK THE STB FOR GIVING ME THE OPPORTUNITY TO EXPRESS MY COMMENTS ON THE AFTER THE FACT AUTHORIZATION GIVEN TO VULCAN MATERIALS TO BUILD A RAIL LINE FROM IT'S INDEPENDENT QUARRY TO THE U.P. LINE IN DUNLAY, TEXAS. FROM EVERY STANDPOINT THIS HAS BEEN A DONE DEAL FROM THE START. THE DEIS REPORT SOUNDS LIKE IT WAS WRITTEN BY VULCAN FOR VULCAN. THIS RAIL LINE SHOULD BE CONSIDERED PART OF THE MBGA QUARRY SITE AND THE DEIS SHOULD INCLUDE STUDY AS ONE UNIT. THE WAY THIS RAIL LINE AND QUARRY WILL EFFECT THE PEOPLE WHOS FOREFATHERS SETTLED THIS LAND BACK IN 1843/44 CAN NEVER BE ERASED AND YOU AS THE STB BOARD ARE THE ONLY ONES THAT CAN STOP IT.

DON'T LET VULCAN HAVE THE RIGHT TO TAKE OUR LEGAL OWNERSHIP OF THIS LAND AWAY FROM US BY THE ANTIQUATED LAW OF EMINENT DOMAIN.

VERLAN & RUSSELL MANGOLD

807 33rd STREET

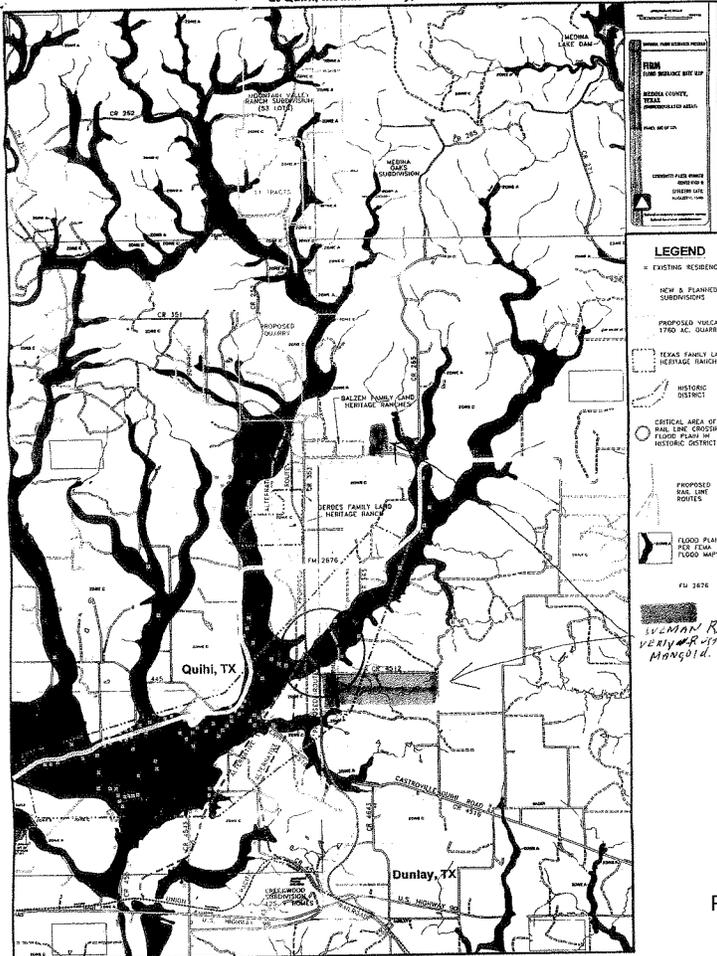
HONDO, TEXAS 78861

WEMAN RANCH

QUIHI, TEXAS

Original of map attachment submitted in color. Please contact the Section of Environmental Analysis to view a color copy.

PROPOSED VULCAN MATERIALS QUARRY AND SOUTHWEST GULF RAILROAD RAIL LINE PROJECT at Quihi, Medina County, Texas



Attn: STB FD 34284 Jan 6-05
I was born and raised in the Quihi and Hondo Area and am very interested in the outcome of the decision that the STB makes.
I can understand why the people that have their property divided are upset and I believe they should be compensated generously.
As for the railroad is concerned I think Vulcan is making every effort to take the route that effects everyone the least. Also I would much rather have the railroad than the trucks on our roads. I think the jobs would be a benefit to the Area. I hope your decision will be for the railroad.

EI-1317



Ruth Shapiro
3231 FM 2676
Hondo, Tx. 78861

Surface Transportation Board
Case Control Unit
Washington, DC 20423
Attn: Rini Ghosh
STB Docket No. FD 34284



January 9, 2005

ET-1318

I am a 6th generation descendant of Schweer and Zeda Balzen, who arrived on the Quihi Creek in 1856 as part of Henry Castro's Quihi Colony. Their four (4) children were married in Quihi, and they built pioneer homes along the Quihi Creek in 1856, 1858, 1865, and 1872. I deeply care about issues concerning our environment, cultures, preservation of our historical buildings, and issues that affect our citizens such as water resources, safety, dust and noise control, and vibrations from traffic and industry.

The Surface Transportation does a good job of addressing the afore-mentioned concerns, and I am confident that you will make the necessary studies and investigations to see that our life in Texas is properly protected. I am also confident that you will make an unbiased determination based on scientific facts, and not emotional appeal, or to satisfy someone's personal agenda.

I feel strongly that our free private enterprise system is what makes America strong, and the envy of the world. We must not stifle our transportation systems, but allow the most efficient flow of traffic and transportation throughout our land.

I think we must allow businesses such as Vulcan Material Company to build railroads, roads, gas lines, etc. to efficiently move their products to markets. Everyone in our land benefits with cheaper products, and their community support. Controlled growth is good!

The proposed quarry is in a very remote area, and will not be an aesthetics problem. Modern plant equipment will provide noise and dust control at an acceptable level, and the recycling of water will keep water consumption low. Vibrations from blasting will not affect homes because of distance to the nearest buildings. Shipping by rail will keep dust at a minimum. Two train loads in and out every 24 hours will not affect road traffic much. A train traveling only 20 mph will pass a given point in only five (5) minutes, and only four times each day. This will cause minimal delay on lightly traveled rural roads. Dust from the trains will be a minimum, and train vibrations will not affect structures near the tracks.

Vulcan has agreed to mitigate reasonable issues, such as cultural, wildlife protection, and floods. I think this is the way our laws and regulations are supposed to work. To allow our free enterprise system the cheapest and most efficient means of operating, but also to provide the protection of public concerns. I think this is exactly what is taking place, and I appreciate your efforts. I support the construction of the proposed railroad track and the quarry. We need Vulcan's products!

Sincerely,

Susan Martin
Susan Martin

clearly designed to serve one industry for one purpose. If other industries will be served by this line, a cumulative impact study should be required as part of this draft EIS that will address the impacts from these additional uses. In that the SGR project would have serious environmental, cultural, and economic impacts to the private property traversed by the proposed routes, as well as to the community of Quihi as a whole, GEAA recommends the No-Action Alternative be adopted by STB regarding this project.

Sincerely,

Annalisa Peace
Annalisa Peace
Development and Outreach Coordinator
Greater Edwards Aquifer Alliance

Member Groups

- Alamo Group of the Sierra Club
- Aquifer guardians in Urban Areas (AGUA)
- Austin Regional Sierra Club
- Bexar County Green Party
- Hays CAN (Community Action Network)
- Helotes Heritage Association
- Medina County Environmental Action Association, Inc.
- San Antonio Conservation Society
- San Geronimo Watershed Alliance
- San Marcos River Foundation
- Save Barton Creek Association
- Save Our Springs Alliance
- Smart Growth San Antonio
- Sustainable Energy and Economic Development (SEED) Coalition
- Wimberley Valley Watershed Association
- West Texas Springs Alliance



GEAA Greater Edwards Aquifer Alliance

January 9, 2005

Surface Transportation Board
Case Control Unit
Washington, DC 20423

ET-1319

Attn: Rini Ghosh
Re: STB Docket No. FD 34284

Dear Ms. Ghosh and members of the Surface Transportation Board,

I am submitting these comments on behalf of the Greater Edwards Aquifer Alliance, a coalition of sixteen member groups from throughout the Edwards Aquifer Region. The Greater Edwards Aquifer Alliance (GEAA) is a non-profit organization whose mission is to promote effective broad based grassroots advocacy for conservation and sustainable management of the Edwards Aquifer Ecosystem throughout the twenty-one county Edwards region.

The Surface Transportation Board (STB) has recognized the Southwestern Gulf Railroad Company (SGR) as a "common carrier" and has thus accorded the rights of condemnation through eminent domain for construction of the seven-mile rail line to connect the Vulcan Materials Company (Vulcan) quarry project with an existing Union Pacific Railroad Company line. The draft Environmental Impact Statement (EIS) compiled by the Section of Environmental Analysis (SEA) does not include a cumulative impact study of uses other than those proposed to serve the Vulcan Materials Company. The draft EIS states in section ES.1.1 that "SGR would also hold itself out as a common carrier and provide service to other industries that might locate in the area in the future." Yet, no impacts of such "other industries" are addressed in this document.

Section ES 2.0 "Description of Proposed Action" confines itself to a description of the proposed SGR that only includes use of this line by Vulcan. All studies contained in the draft EIS pertain exclusively to the impacts from activities serving Vulcan. Should the STB maintain the fiction that the SGR is a "common carrier", the cumulative impacts of rail traffic through the proposed routes should include projections of uses by "other industries".

GEAA objects to the fiction that SGR is a "common carrier" and most strenuously objects to STB granting governmental powers of condemnation to a project that is

P.O. Box 15618, San Antonio, Texas 78212
(210) 320-6294 / www.AquiferAlliance.org
1809 Blanco Road, San Antonio, Texas 78212

Victoria Rutson
Rini Ghosh
S.T.B. Docket No. SD 34284



Curtis Saathoff
7506 Pipers Run
San Antonio, TX 78251
210-684-4989

ET-1320

In reference to the proposed Vulcan RR and Rock Quarry. My home is Curtis Saathoff and we operate a family farm and ranch near the proposed RR and Quarry. My Mother and Father (Both in their late 80's) still live on the farm which is located at 6710 FM 2676. We have approx. 700 acres which we own. The ranch land is near the proposed Quarry and the farm land is near the proposed RR. we are approx. 2 miles from the Quarry and 2 miles from the RR where it will cross 2676. My concerns are flooding, noise & dust pollution, traffic, damage to our water wells, and a decrease in our land values. The Quihi creek and two other small creeks pass through the farm land and we have had water surround my parents home when it flooded in the past. If the RR is allowed to be built it will cause the flow of water to back up and water will come into my parents home and will also cause more erosion to our farm land. we also have shallow water wells (30FT) and no other source of water for our cattle and homes on the property. These wells are hand dug and vibrations from the RR and Quarry could cause them to fail. we also use 2676 regularly to move cattle, farm equipment, farm products, medical needs, and shipping. FT 2676 is the only Road that we can use to get to Hondo, TX where we do most of our business. If the proposed RR is built, there should be an overpass where it crosses 2676. The Quihi area is and shall remain a farming and ranching area. A RR and quarry will put a burden on us and our neighbors. Vulcan should not have the power to condemn land for their RR which will only benefit them and the few landowners where the quarry is located. Who will pay for damages caused by the RR and quarry? Vulcan, our government which approved the RR. No! It will be us. Please do not give Vulcan a RR, it will ruin our lives as well as our neighbors. Thank you for your consideration in this matter.
Respectfully,
210-684-4989 Curtis Saathoff
Curtis Saathoff
7506 Pipers Run
San Antonio, TX 78251

EI-1322

10 JAN 2005



2
1/2005

SURFACE TRANSPORTATION BOARD
CASE CONTROL UNIT
WASHINGTON, D.C.
STB FD 34284

I AM COMMENTING ON ALABAMA BASED VULCAN INC PROPOSAL
GRAVEL QUARRY, RAIL LINE AND TRUCK ROUTE TO TRANSPORT
MILLIONS OF TONS OF GRAVEL FOR THE NEXT "50 YEARS"
OPERATING TRAINS, TRUCKS AND GRAVEL QUARRY EQUIP.
"24 HOURS A DAY".

VULCAN 1ST APPROACH TO RESIDENTS WAS NEGATIVE
WITH EXCEPTION OF OWNERS WHO WILL BENEFIT FROM
THIS INDUSTRY MANY OF DO NOT RESIDE IN AREA.
SINCE THAT TIME VULCAN HAS ATTEMPTED TO SEEK
VARIOUS EXEMPTIONS, SHORT CUTS & PURCHASES TO
SIDE STEP RESIDENTS. VULCAN HAS DESCRIBED THE
AREA ONLY FIT FOR GRAVEL PRODUCTION AND SPARSELY
POPULATED, THIS IS SIMPLY NOT TRUE.

AS OPPOSITION HAS INCREASED VULCAN HAS -

- PURCHASED LAND UNDER NAME OTHER THAN VULCAN (MED-TEX LAND INC)
- PURCHASED RAIL ROAD AS A "COMMON CARRIER" TO CONFUSE AND OF OWNERS NOT WISHING TO SELL OR LEASE THEIR LAND "SOUTHWEST GUERR"
- VARIOUS STATEMENTS & RETRACTIONS ON ROADWAY SAFETY CONSTRUCTION.

o STATED IN HONOO ANNUAL PAPER 5 JUN 2003
"STB UNANIMOUSLY APPROVED SOUTHWEST GULF
RAILROAD COMPANY'S (SGR) PETITION FOR A
NEW SHORTLINE RR."

o REQUEST EXEMPTIONS FOR FULL
ENVIRONMENTAL STUDY

ONE COMMENT 5 JUN 2003, HONOO ANNUAL SUMS 24
VULCAN'S ACTIVITIES - "CURRENTLY WE (VULCAN)
ARE PROVIDING ADDITIONAL INFORMATION TO
STB'S SECTION OF ENVIRONMENTAL ANALYSIS, (SEA)
MARKS AN IMPORTANT MILESTONE FOR SGR."

AS A 21 YEAR RESIDENT, NEAR PROPOSED QUARRY,
USER OF LOCAL ROADS, I RESPECTFULLY SUBMIT
TO THE APPROVING BOARD A CAREFUL CONSIDERATION
OF HOW YOUR DECISION WILL AFFECT
THE QUALITY OF LIFE FOR THOSE OF
US WHO "LIVE" HERE.

I HAVE NOT "REPEATED" NEGATIVE EFFECTS ON
AIR, NOISE, WATER, VISUAL, TRAFFIC SAFETY,
BIOLOGICAL RES., AS THESE HAVE BEEN POINTED
OUT TIME AND TIME AGAIN BY RESIDENTS
HERE (AND MANY AROUND THE COUNTRY)

Thank you for your consideration
[Signature]

ROY H. WARDWELL
180 CR 365
MICO TX 78056
830-741-3271

EI-1325



PO BOX 369
Cotuitville, Texas
January 8, 2005

Surface Transportation Board
Case Control Unit
Washington, D.C. 20423

Attention: Rini Ghosh
STB Docket No. FD 34284

Dear Mr. Ghosh and Members of the Surface Transportation Board:

Three minutes. Three minutes at a public hearing to express
one's concerns about the long term effects of the proposed Vulcan
Materials Quarry and Southwest Gulf Railroad Line --- Three
minutes isn't quite enough time to relate how my life and the
lives of Quiki residents and others will be changed forever, so thank
you for "listening" to me a bit longer.

I am a landowner and a homeowner near the proposed
quarry site. My property could very well bear a "Heritage Ranch".
My family for three generations have lived and worked this land along
the Elm Creek directly north and west of the Bender Family Heritage Ranch.

Over the past one hundred years, each generation has raised
livestock on the brushy portion and a variety of crops in the small
arable part in the east. We have risen with the times and
worked until dusk. Like the Native Americans who preceded us, we
have appreciated the beauty of the flora and fauna around us. We have
prayed for more rain during droughts and watched in awe as floods
have taken fences and surrounded and entered others' homes. Some of
us have leased our land for hunting and other purposes or we have
brought other jobs to help us survive during bleak times. We've mended
fences and remained grateful that the rains have replenished
stock tanks with water for our cattle and for the livestock that
brought us. We have begun again; we have continued. Farming and
ranching has been our way of life - a rewarding way of life!

Now we find our way of life threatened. The pristine beauty of
this area of Medina County could be marred by a quarry, by dirt and
dust, creating health problems for many. The peace and quiet that
has been ours would be replaced by the sounds of rock crushers and by
trucks and railroad cars transporting limestone. Will our livestock
be able to hear our call above the din? Will we still hear the swoot
of a deer or merrill at the flight of a covey of quail or a flock of
turkeys?

The building of a railroad track will change the flow of water
following the rains. These drainage changes will result in additional
flooding and/or the elimination of tanks that have provided water
for livestock and wildlife. I am concerned about the safety of
the underground water that flows will the quarry/railroad and its
use of huge amounts of water affect the level and the quality of the
water in the wells of my neighbors in the Quiki area now and in the
future? In other areas of the Edwards Aquifer? How will the next
three generations have their needs for a safe water supply met?

I am concerned about the safety of travelers - children
riding school buses, farmers slowly moving equipment and produce,
wage earners making their daily journey to/from San Antonio and
back where, hunters making the rush to go their lease. There have
been several deadly accidents in recent years caused by large trucks
and there have been six mishaps involving trains in the San Antonio
area in the past six months.

My concern also extends to the damage that historic sites
and buildings might incur as a result of the quarry/railroad.
Many of these buildings have been in existence since the 1850's when
the first European settlers arrived with Santa Fe's colonists. Can
these structures survive?

Here are some of my concerns. Thank you for "listening"
to my concerns for an additional three minutes.

Sincerely,
Roy H. Wardwell

EI-1326

2315 Alladin Drive
San Antonio, Texas 78228

January 10, 2004

Surface Transportation Board
Case Control Unit
1925 K Street, NW
Washington, D. C. 20423-0001

Attention: Rini Ghosh

Subject: Finance Docket Number 34284

Dear Ms. Ghosh:

The Draft Environmental Impact Statement considers every environmental impact of the proposed railroad as having no significant impact or as being easily ameliorated by minor changes to the proposal, which by the way, will be designed, approved, monitored, approved, and validated by Vulcan. Such a one-sided approach does not qualify as scientific nor are the proposed solutions fair to all concerned.

The Study fails to consider the environmental impact of the proposed quarry for which the railroad is to be built. For example:

1. Dust pollution. Dust particles from mining and transporting operations will foul the air and cover everything in the environment, adversely affecting the health and the natural beauty of wildlife and habitat. The dust will adversely affect the health of human residents and the operation of machinery of all kinds. The efficiency and lifetimes of automobiles, air conditioners, power saws, generators and other machinery with moving parts (all machinery) will be reduced. The health of pets and farm animals will not benefit from the dust. Even goats may choke on dust covered forage. Thirty mile vistas will be reduced by dust hanging in the air.
2. Noise pollution. The proposed fifty year twenty-four hour quarry operation will create an incessant barrage of clamorous nerve grating noise which will not end in my lifetime. The noise will drive wildlife from the region; thus reducing their effective habitat. Wildlife species of the region include deer, hog, coyote, fox, wildcat, opossum, raccoon, armadillo, squirrel, road runner, turkey, hawk, snakes, lizards, and many other native species. In addition, livestock animals are sensitive to noise and will be more difficult to raise and market.



3. Water pollution: Our only source of water in the subdivision is well water from the Edwards Aquifer. Each household must have its own individual septic system to dispose of waste water. Livestock use water from open tanks. All three systems may be compromised by the proposed operations. If blasting weakens a septic system, nearby wells will be contaminated. If blasting fractures the impervious formations we may lose our well water. Loss of well water ends all farming and livestock operations on our arid hill country ranches.

How will residents affected by the proposed quarry operations be protected or compensated for loss of health, quality of life, and livelihood? I believe the Environmental Impact Statement should address these issues and assess the costs to residents. Measures should be put in place to prevent such losses. A fund should be set aside for settling claims of loss due to quarry operations. A procedure should be put in place specifically for adjudicating claims of loss due to quarry operations.

Sincerely,

George R. Holguin

January 9, 2005

Surface Transportation Board
Case Control Unit
Attention: Rini Ghosh
STB Docket Number FD 34284
Washington, DC 20423



EI-1327

Dear Rini Ghosh:

I am sending comment regarding the Draft Environmental Impact Statement (DEIS) for the proposed Vulcan materials quarry and Southwest Gulf railroad rail line project at Quihi, Medina County, Texas.

The rail line crossing is in a very critical area that includes a flood plain in an historical district. Flooding will be enhanced by the railroad tracks, its roadbed, and the trestle bridge. The historical sites, homes and ranches will suffer a significant impact on the overall environment with large amounts of water, air and noise pollution. This is unacceptable.

Gravel truck traffic, road damage, road construction, train whistles, floodlights, land cuts, land fills and flooding issues are the substantial problems that Quihi residents should not have to endure for the financial benefit of the Vulcan Company. Quihi is a continuously growing community that attracts quiet country living, wildlife, small businesses, farming, and family recreational activities.

I ask that you seriously consider the DEIS carefully and prevent the Vulcan quarry project from destroying Quihi historical sites, homes, ranches, water quality and wildlife.

Respectfully,

T. Lynn Landrum
4297 County Road 145
Alvin, Texas 77511

SURFACE TRANSPORTATION BOARD

Case Control Unit
Washington, D. C. 20423

Attention: Rini Ghosh
STB Docket No. FD 34284

EI-1328



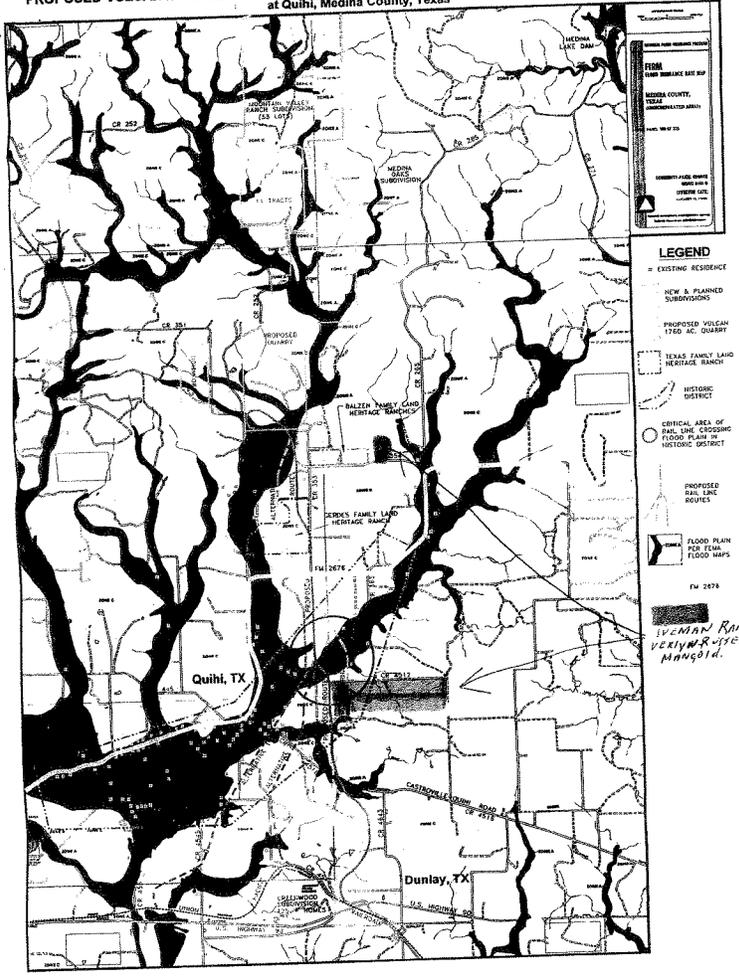
1. W.H. Mangold (Buddy) spent his final years collecting artifacts on the Mangold-Wiemers Ranch. You do not have a record of the artifacts or the history of this Ranch. The artifacts weren't registered at the time. The report on all the findings, will come out in 2005.
2. We have owned this ranch since the death of my father and have been trying to keep this ranch in it's original condition since that time. For the last 6 years Mobile homes on our fence line have cost us time and money and closed roads and new fences have been the end of that problem. A month after that problem, we hear Vulcan will be putting a railroad and quarry in our area. Is this fair?
3. We have family history in this area that Vulcan will destroy. Both Grandparents Great Grandparents Settled this community. The Wiemers Oak out of New Fountain is family owned land. My great grandparents are buried on Road #365 My grandmother was born in the Offinger Home on #365. My grandfather started the New Fountain Methodist Church.
4. Thank you for letting us voice our views at the STB Meeting in Hondo. Maybe you relised that we have feelings about how you spend our tax money. We do not like you favoring companies for profit of stock holders. How about favoring families with feelings about history.
5. Vulcan has talked to me only to say "We are coming thru." Not "We care, we will do all we can to make you happy"! Instead of giving us problems for the last 5 years.
6. We all have lives other than dealing with Vulcan and their troubles. We don't want them!
7. Please keep Vulcan off our roads. Make them build their own roads and keep them off our flood plane and out of our drinking water in our Aquifer with it's great tasting water. The DEIS did not cover this.

Page 2 Attn: Rini Gosh - STB Docket No. 34284

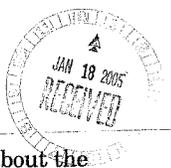
8. Vulcan should be fined or made to sacrifice if they damage anything in Medina County. Like donating gravel to Medina County. The DEIs does not punish them if they do wrong. The rest of us get fined or sent to prison if we do wrong.
9. Vulcan has damaged San Antonio. Take a picture of North San Antonio by air and see how they have destroyed our beautiful hill country. It is an embarrassment for the citizens of Bexar County.
10. Send Vulcan back to Alabama!
11. Civil Liberties are being trampled natural resources are being plundered and people are dying on a fools errand. "Smithsonian 05
12. New Report - Another train accident Kirby - East of San Antonio 3 rail cars off the tracks. Gravel - Sand truck driving too fast pushed cars off track. In 03 282 people injured in train wrecks 36 people killed. It seems every week. 1-10-05 another train wreck in Bexar County. Maybe it's time to slow the trains down. Grantville N. C. another wreck - Chlorine gas. More killed. 1-6-05
13. Trains are disturbing our sleep. our drive to work. Our meals at Bill & Rosa's cafe in D'hanis is disturbed by a train. Tonight Ronnie Mason songs were disturbed by the train. Our trip to the Hondo National Bank was disturbed by the train. And when we move to Hondo in 05 we will be disturbed by trains again. And then you want to destroy the quite of our ranch by sending a train there too.

Rusty and Verlyn Mangold
 807 - 33rd Street
 Hondo, Texas 78861
 WEMAN RANCH
 Quihi, Texas

Original of map attachment submitted in color. Please contact the section of Environmental Analysis to view a color copy.



RE STB DOCKET # FD 34284
 RINI GAOSH
 EI-1329



We wish to express our feelings and opinions about the proposed Rail spur connecting the Vulcan quarry to an existing line several miles to the south near Dunlay, Texas. This spur cannot be separated from the quarry since this is a rural residential area which has no other businesses other than the proposed quarry. This spur simply would serve no other use other than transporting gravel. The proposed site is about six miles below the Medina lake dam which is 99 years old. Damage to this dam causing failure would simply be catastrophic to hundreds, perhaps thousands of residences located down stream. In addition, most of the homes in this area are served by privately owned water wells. Our well produced water at 240 feet. Many of our neighbors have even more shallow wells. Vulcan states that they plan to dig and quarry to a depth of 200 feet We are very fearful that the blasting would damage many wells in the area. The Edwards aquifer is the source of water for the entire city of San Antonio and many surrounding areas. The quarry site is to be located over the recharge zone for this aquifer. How can anyone be willing to approve blasting within forty feet of this aquifer? We feel very strongly that this is a genuine danger to the health of people who rely on this sole water source for survival. Additionally, the quarry site as well as the proposed rail line is in a flood plain. How will excavation effect the water flow in this entire area? The cuts and fills over these

FD 34284

several miles will have an enormous impact on where all the ground water goes. If the Medina dam fails the entire area would be destroyed. There is a strong feeling among many residents that Vulcan is such a huge company that some studies have been accepted upon information given by Vulcan rather than properly performed by the appropriate agencies. No one at Vulcan is concerned with protecting this historical area or it's citizens.. Making money may be the "American Way", however, it should not be made at the expense of hundreds of Americans who love their homes as well as their community.

It is our sincere hope that no action will be taken in favor of this rail spur.

Thank You,
 Leslie and Elaine Semmelmann
 4125 County Road 251
 Hondo, Texas 78861

Leslie Semmelmann
Leslie A. Semmelmann

January 10, 2005

EI-1330

*received
1/11/05*

RESTRICTIONS

Ms. Victoria Rutson, Chief
SEA Section
Surface Transportation Board
1925 K Street S W
Washington, D.C. 20423

Re: FD 34284
Vulcan Materials/SGR project
Medina County, TX

Dear Ms Rutson:

Enclosed is a map that Ms. Rini Ghosh asked for at the December 2, public meeting. It is a map of the covenant that covers over 9500 acres of land. Approximately 60 parcels of land are in this covenant, which places a deed restriction on the land prohibiting any rail line of any description, or conveyor belt system, from being placed on the property.

Vulcan has stated that they have all the land that they need for the rail, except for 0.5 of a mile. This is not true, as you can see from the map. Even some of the areas not shaded in (not part of the covenant) are not available to them. The owners have expressed to us that, while not desiring to be in the covenant, they do not want a rail on their land, and are not willing to sell.

Approximately 2.3 miles of the proposed route is in this covenant, and not available to Vulcan. They will only get it through condemnation.

This is an extreme abuse of the eminent domain laws, and Vulcan should not be able to condemn land for their own profit.

We are asking our U. S. Congressman, Henry Bonilla, to submit this to you for us.

Thank you for your consideration.

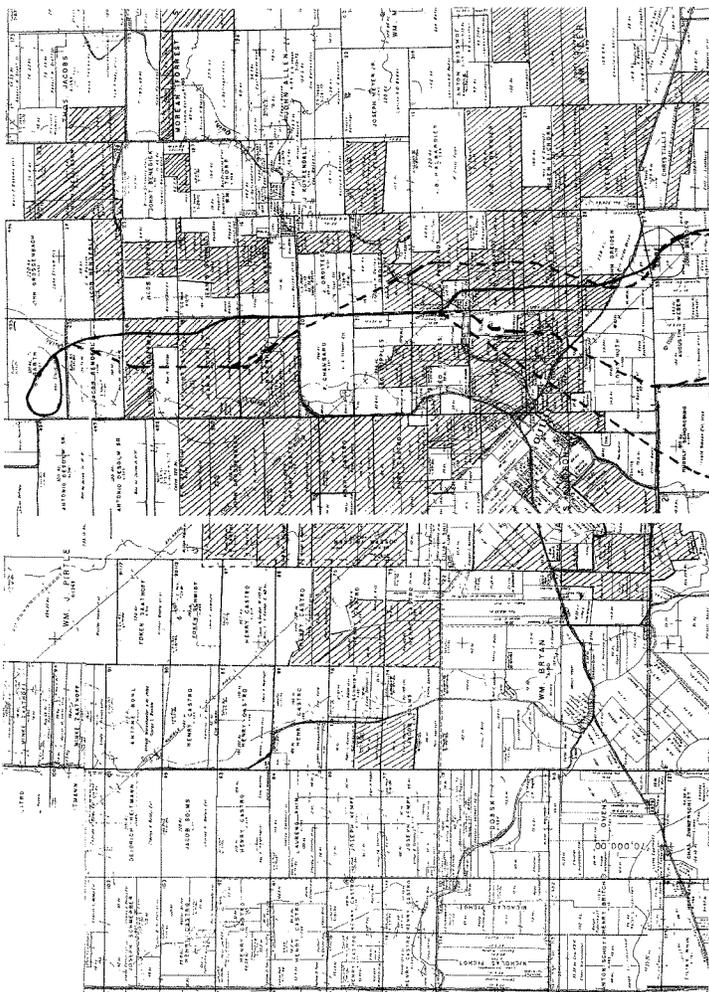
Sincerely,

Alyne Fitzgerald

Encl:

Map

In no case shall the Restricted Properties, or any part or portions thereof, ever be used for, nor shall there ever be placed thereon, that type of structure or improvement commonly known as a "railroad", "rail line", "spur" or "siding", or "railroad tracks" or "rails" "rail or railroad trestle" or "conveyor belt system" of any kind or nature whatsoever or any type of structure or transport action system which resembles, even remotely, that type of structure or improvement commonly known as a "railroad", "rail line", "railroad tracks" or "rails", "rail or railroad trestle" or "conveyor belt system" of any kind or nature whatsoever.



Reduced from original submitted. Original available for viewing by contacting the Section of Environmental Analysis.

ATTN: Rini Gosh
Fax: 202-565-9000

EI-1332

*received
1/11/05*

Dear Rini,

My name is Richard Fournier. I live in Quihi, Texas approx. 2 miles from the proposed Quarry site. I am writing to you today to ask you, no...to beg to you to please reconsider plans for this quarry.

If you would please take just a few minutes, I would like to share with you my reasons for not wanting my home surrounded by this quarry.

In 1958 my Parents brought my two brothers and one sister to Quihi because San Antonio was not the environment they wanted us to be raised in. They felt that a country upbringing was better. I feel they were correct in this decision.

In Quihi, my entire family grew up in an 800 square foot home (still standing on the property) built in 1890. This home has been remodeled several times along the way...but the core and sentimental value of this home cannot be found anywhere else on earth for me. I have lived in this home since I was 1 year old. The walls, the floors, the ceilings have watched and listened to my entire family grow up. This home has heard the joys as well as the sorrows of my family for almost 50 years.

The memories of my childhood are preserved in this home. I remember my Mother (in her bathrobe) on Easter Sunday, before Church, singing as she made breakfast for my brothers, my sister and my Dad. I remember my Dad sitting in his recliner after a hard days work watching a black and white television.

I remember how my two brothers would scramble for the back door as my Dad would come in the house...knowing that they should be outside on a tractor or repairing fence. And my sister always cleaning or washing something to help with the endless list of chores.

I remember standing by the chicken house as my Mother came out of the house...and screamed to my Dad that President Kennedy had been shot and how she cried that entire day. My Dad would not leave her for one minute and he hugged her most of the day trying to console her.

I remember my brother Frank...showing me how to drive tractors and trucks when I was only 7 years old (and I remember this often as I have never had a wreck that has been my fault in my life).

I remember my brother Ben...how we used to go back into the pasture to hunt. Many of my hunting skills are still alive today because of him. And there...always close to me is my sister...and I will never forget how she taught me to swim in the cattle troughs.

You see Rini...this is not just my home...this is a part of me. I have just returned from Northern Colorado from a 7 year employment with Hewlett Packard. Not even a year ago...I purchased most of my Parent's property, not as an investment but for the happiness and memories that it brings me. It's the quiet, the deer that come up to the earth tank in the back. One day many years from now...I dream of walking down the driveway, barefooted, just as I did when I was 5 years old. Also, you can see that my Parent's were right...a country upbringing was the correct choice. I have come from

working with cattle, horses and tractors to the high tech industry as an Enterprise Storage Engineer. My work now is moving Terabytes of data from hundreds of Server Silos to Storage Arrays that are smaller than a phone booth. One day...I would like to come back to the cattle, horses and tractors.

Rini, please just for a moment... put yourself in my shoes. Maybe you did walk a similar path... where every waking moment of your childhood was sheer happiness because of the family that you grew up in??
What if God blessed you with "that home... that place" that you shared some of the happiest times in your life?
Would you do it?
What kind of decision would you make?
Would you just shrug it off as a possible bad investment... or would you attempt it?
Would you purchase this property that everytime you set foot on it... you would be instantly catapulted back into those times and to those people that you hold so deep and dear in your heart...and then you find it impossible to hold back the smiles, the laughter, the tears...

I can honestly say that I don't know how your childhood was...but I can tell you that mine was nothing short of divinely inspired by God. Grandparents, Parents, brothers and sisters that all loved you. These memories... these times... these families are what we all in Quihi are trying to preserve... please help us.



Rich Fournier
390 CR 353 Hondo Texas 78861
HP Certified Enterprise Storage Engineer
HP Channel Partner Manager
phone: 512.263.6840
cell: 512.663.4503
fax: 512.263.7018
email: rich@pncunt.com

"Sandy Young"
<sl.young50@sbccglobal.net>

01/10/2005 11:48 PM

To: <web.site.feedback@stb.dot.gov>
cc: "Alyne Fitzgerald" <amfitz@earthlink.net>
Subject: Quihi Project

EI-1333

Dear Sir,

I am strongly opposed to the proposed project you have planned for the Quihi, Texas area. I live near the area where the trains would run, and I am not convinced of the safety that such an increase would threaten. I have watched the history of rail accidents in the San Antonio area and other areas of the country of late and I am uncomfortable about the increase in traffic that such a plan would cause.

I live in the Creekwood Subdivision. This is a strong residential area with many young families and retired older couples. The proposed expansion would harm the rural atmosphere of the area. Further, I am convinced that insufficient effort has been made to insure that the increase in rail traffic with the added noise and air pollution would undermine the property values for our homes. Even now, often the railroad traffic goes through here at such a rate that the vibrations cause my floors to vibrate and the windows to rattle. I have cracked plaster in every room in my home, and see no benefit in repairing it, yet again, as it will just crack again as soon as it is repaired.

The tax structure of the community here is not sufficient to support the education of the number of students that would be coming into the area if the proposal is approved. I work in Northside Independent School District in San Antonio and see daily, firsthand, the danger of uncontrolled and indeterminate growth. Until there is a plan for funding the education of the children of the workers and giving them a quality education while continuing the caliber of education that is currently in place in the area, no such approval should be given, in my opinion. The children of the area are the future and when we cannot prepare them educationally then we have desperate problems.

Sandra L. Young
1024 CR 4511
Hondo, Texas 78861
830-425-8885
210-885-8842



January 6, 2005

EI-1334



Ms. Rini Ghosh
Surface Transportation Board
Case Control Unit
STB Docket No. FD 34284
Washington, DC 20423

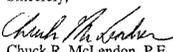
Re: Draft Environmental Impact Statement
Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

Dear Ms. Ghosh:

The Environmental Affairs Division and the San Antonio District of the Texas Department of Transportation (TxDOT) have completed their review of the Draft Environmental Impact Statement received by this agency on November 22, 2004.

TxDOT has no comments to the proposed project at this time; however, for any portion of the project that crosses TxDOT right-of-way, Southwest Gulf Railroad Company would be responsible for compliance with all applicable local, state, and federal regulations and for performing any environmental analysis and mitigation. If Southwest Gulf Railroad Company does plan to cross TxDOT right-of-way, please contact the San Antonio District Maintenance office at 210.615.5856 for any coordination and permitting that may be required.

Thank you for affording TxDOT the opportunity to comment on this proposed project. If you have any questions or require further assistance, please contact Barrylyn West in the TxDOT-San Antonio District at 210.615.5840 or Vicki Crnich in the Environmental Affairs Division at 512.416.3029.

Sincerely,

Chuck R. McLendon, P.E.
Project Management Section Director
Environmental Affairs Division

January 10, 2005

Finance Docket No. 34284

Terry & Sylvia Greer
496 CR 253
Mico, TX 78056

Surface Transportation Board
Case Control Unit
1925 K Street, NW
Washington, D.C. 20423-0001

Attention: Rini Ghosh
Fax No. (202) 565-9000

Re: STB Docket No. 34284

Dear Ms. Ghosh:

My wife and I have been residents of the Medina Oaks subdivision since April of 2000. Our residence is located about 1/4 mile north of the proposed quarry site and have several concerns about the proposed rail line and quarry.

Thank you for sending a copy of the Draft Environmental Impact Statement (DEIS). In reviewing the DEIS we feel there are several issues that effect the proposed SGR railway to the Vulcan Quarry Site. I am submitting the following comments regarding the DEIS and the Vulcan Quarry.

Water Quality: I am concerned about the effects the quarry will have on water wells. Our well head is located about 100 feet above the proposed quarry elevation. The static water level of our well is 290 feet and is our only source of water. We understand that the quarry is located over the Edwards recharge zone. It is also our understanding that Vulcan plans to locate diesel storage tanks above the recharge zone. Is this prohibited? We also understand that dynamiting releases nitrates into the soil which eventually seeps into the water supply. We have additional concerns that quarrying to a depth of 200-250 feet will not leave enough substrate above the Edwards Aquifer to filter out the nitrates and diesel. If our water supply becomes contaminated or if wells run dry after the quarry process begins, who will be liable for damages? Will water quality monitoring stations be installed to monitoring the proposed railway and quarry to assure compliance with water quality standards?

Air Quality: I am concerned about the effects the railway and quarry will have on the air quality. I am an Asthmatic and have concerns about the increase of dust particulate that will be generated by the blasting, crushing and transporting of limestone. With a south prevailing wind the dust will travel north toward our residence. Vulcan Materials should be required to provide dust abatement equipment at each dust emitting location. Will air monitoring stations be installed to insure that Vulcan and SGR complies with the air quality standards? Test reports should be made available to local residents and property owners.

EI-1335

received 1/10/05

Noise Levels: We are concerned about the increased noise levels around the quarry and the rail lines. We can hear the passing Union Pacific trains 10 miles away. We are concerned about the increased noise level of proposed railroad and quarry 3 miles away. We feel noise level monitoring stations should be installed around the proposed quarry and rail line. Test reports should be made available to local residents and property owners.

Environmental Impact: My wife and I choose Medina Oaks as tranquil natural habitat in the hill country to build our home. Much of the value of our homestead is attributed to the tranquility and beauty of the natural habitat that surrounds our property. Why should SGR and Vulcan be permitted to profit by the destruction of this beautiful habitat.

Major Transportation Concerns: We are concerned that a grade level railway will increase local travel delays, traffic hazards, flooding and road maintenance. We feel the DEIS did not sufficiently address the impact the effects the SGR railway will have on the local area. Below are the concerns we feel were insufficiently addressed:

1. Grade separation at FM 2676 to prevent traffic delays and accidents.
2. Flooding due to railroad berms, trestles and culverts.
3. Train wrecks and derailments.
4. Increased noise levels caused by train engines and blowing of horns at the 6 to 9 railroad crossings 24 hours per day.
5. Diesel fuel spillage.
6. Increased dust from transporting material in uncovered railcars.
7. Damage to FM 2676 not designed for transporting 78,000 lb. gravel trucks and the traffic delays due to road maintenance.
8. The additional cost to maintain FM 2676 at the expense of local tax payer.
9. Having our land condemned by a private railroad company.
10. Damage to nearby historic structures due to flooding, vibration, dust and diesel fumes.

We feel the DEIS did not include a complete study on the times and duration of rail traffic across any and all roads without grade separation, the effect of the delays, derailment, frequency, probability of accidents, stopping distances, noise levels and vibration, spills of chemicals and diesel fuels, or other hazardous materials being transported.

Page 2 of 3

ROBIN PORTENIER
331 COUNTY RD 252
HONDO, TX 78861
830 426 4901

February 24, 2004

Surface Transportation Board
Case Control Unit
1925 K Street, NW
Washington, D.C. 20423-0001

Attention: Rini Ghosh

Re: Finance Docket No. 34284

Dear Rini Ghosh,

We are the Portenier family and reside approximately 100 yards from the Southwest Gulf Railroad Company's (SGR) loading area. We are wholly against SGR's attempt to construct a rail line between the proposed quarry and Union Pacific.

It is imperative that your agency comprehends the real effects of this railroad and does not enable SGR to destroy citizen's land and water supply to name a few of the many harmful effects that will occur.

SGR is owned by Vulcan Materials. The ONLY reason Vulcan created SGR and is requesting a common carrier status is to obtain a license to condemn citizen's property. Please understand this is the ONLY reason. This railroad does not fall within the same guidelines of past railroads where the railroad condemned property for the good of all. This 7-mile railroad Vulcan would like to build is solely for the good of Vulcan Materials. At first Vulcan attempted to buy land from the individual owners. When the owners did not wish to sell their land, Vulcan went after common carrier status to condemn the property they needed against the landowners' will. Vulcan masked their selfish deeds by saying, "the economy will boom and businesses will develop along the rail line." If this were true, businesses would have already built up around the existing Union Pacific line that transports to far more reaching areas than Vulcan's 7-mile track between their quarry and Union Pacific. Should your agency turn a blind eye to these schemes, rest assured you will be held accountable to a higher agency.

The Draft EIS is severely lacking in credible information and the mitigations that were listed are lazy.

The Final EIS need include a more detailed and thorough investigation on the following issues:

1. The Quarry – the sole reason for the Railroad is to transport material from the Quarry. They are connected! Without the quarry, there would be no railroad. The full effects of the quarry should be included in the Final EIS. The SEA stated that they are authorized to study the environmental impacts of the railroad only. Then why did the SEA study the effects of trucking the limestone? Vulcan stated early on that they did not want to transport via truck for economic reasons. It appears to the public that that the SEA is working for Vulcan (SGR). The quarry and the Railroad are absolutely connected and therefore should be a part of this study.
2. Vibration – The study poorly comments on the effects of vibration to water wells and other sensitive structures. We need more conclusive information with more data. Also, the mitigation listed is a joke. Asking a company like Vulcan with a history of not following regulations to "monitor pile driving activities and make modifications" is not sufficient for the citizens whose sensitive structures

The DEIS did not include a full flood analysis of the proposed and alternative routes of the railroad, and the quarry site as well, including avoidance of debris clogging the trestles during flooding.

The DEIS did not include a study of the effects of the truck traffic on FM2676 and the unimproved county roads, and the increase in maintenance, the dangers to other vehicles, etc., the roads periodically closed for repair, for all routes, proposed and alternatives.

The DEIS did not include a study on the cumulative effects that new industries brought in by the rail and quarry will have on the Quihi area, with a full cost/benefit study.

As a tax paying property owner we would appreciate your attention to the above issues.

Sincerely,

Terry Greer

cc: U.S. Congressman Henry Bonilla
U.S. Senator John Cornyn
Texas Senator Frank Macla
Texas Representative Timoteo Garza
Medina County Judge Jim Barden
Medina County Commissioner Chris Mitchell
Railroad Commissioner Victor G. Carrillo

Page 3 of 3

- 2 -

January 10, 2005

will be affected.

3. Land Use – Should the SEA allow SGR to build this railroad, you will enable a company to steal citizen's property. For this reason alone, Vulcan should not be allowed to build its railroad. It is appalling to imagine that a government agency would even consider this! One senior land owner would lose a majority of his income from the loss of hunters being able to lease his land. The Draft EIS barely covers the effects and brushes over the mitigation by stating the land owner would be "ensured of access to their land severed by the railroad."

In closing, we are asking you to carefully consider the importance of this study. Take into full account the effects of the Railroad and quarry.

Respectfully Submitted,



Robin Portenier

cc: US Congressman Henry Bonilla
US Senator John Cornyn
Texas Senator Frank Macla
Texas Representative Timoteo Garza
Medina County Judge Jim Barden
Medina County Commissioner Royce Hartman

6522 Thunderbird
San Antonio, Texas 78240
January 8, 2005

EI-1337

Page 2

Surface Transportation Board
Case Control Unit
1925 K Street, N.W.
Washington, D.C., 20423-0001

Attn: Rini Ghosh
Re: Finance Docket #32484

received
1/11/05

Dear Ms. Ghosh:

As property owners in north central Medina County, just west of the proposed Vulcan Materials Quarry site and the proposed SGR railroad, we wish to make known a few of our many concerns. Our concerns deal with several issues, the primary one being air quality.

In our area of north central Medina County, we do not have paved county roads. In all cases, the roads are constructed from a crushed limestone placed over a caliche base. When we experience a period of time in which there is little or no rain, the dust from increasing vehicle traffic is almost unbearable. We can go for months without any rainfall in this area. I guess that the citizens living in this area failed to realize that the dust conditions could and would get much worse. The additional dust that will be generated from uncovered railcars will make it unbearable. This is not taking into account the dust that will be generated from the proposed 1700 acre rock quarry that the rail line will serve. Naturally, this concern of our family and all other families who happen to live or own property in this area, falls right behind Vulcan Material's concern to make a huge profit at our sacrifice and expense. Who would want to farm, ranch and live where you are choked with dust. Even plant life would find it hard to exist under these conditions.

Another concern of our family, is for our good neighbors who would be forced to relinquish land to allow a railroad through, should SGR be granted to operate with common carrier status. The right of eminent domain would be misused, in this case, to allow Vulcan Materials to obtain land for rail right of way. It would be strictly for their commercial use only. There is no other, and probably will never be, proposed industry customer needing to use rail transportation along any of the proposed rail routes. How eminent domain can be justified, in this case is beyond all common sense and it seems to be a violation of a citizen's constitutional property rights. This is WRONG, WRONG, WRONG! At this point, our family almost feels lucky that we do not have land that would be coveted by SGR.

Another concern is the safety of our only source of water which happened to be the Edwards Underground Aquifer. The proposed quarry and a portion of the SGR are directly over the recharge zone of this aquifer. The water level at the quarry's material and rail loading site is extremely shallow---at times less than 200 feet from the ground surface. This is a karst type reservoir and any fuel or chemical spill will immediately be introduced into the aquifer. At this time we will not cover our concerns about what we definitely believe to be a connected action quarry and what it will do to all the water wells on adjacent property to this project with blasting.

Safety at all the effected rail and road crossing sites is a big concern. Our vehicular traffic is increasing everyday and grade level crossings are extremely dangerous. SGR has planned for all crossings to be grade level. This isn't safe and definitely is not the right thing to do.

If this project is approved and Vulcan Materials proceeds with the operation of the rail road and quarry---one cannot be profitable or necessary with the other---our property values will surely decline. The simple fact is that it will be very hard to find anyone who would want to own property anywhere in this area should we decide to get away from the proximity of this project and place our property up for sale. Is this just a sacrifice all effected little citizens must make so that a giant corporation and a few families can make a tremendous profit? If so, it isn't right.

Thank you for allowing us to voice some of our concerns and opinions and we await your reply.

Sincerely,

Scott Conrad
Jacque Conrad
Scott and Jacque Conrad

cc: Henry Bonilla, U. S. Representative
John Cornyn, Senator
Kay Bailey Hutchison, Senator
Frank Madla, Texas Senator

780 CR 354
Hondo, Texas 78861
January 9, 2005

EI-1338

Surface Transportation Board
Case Control Unit
1925 K Street, N.W.
Washington, D.C. 20423-0001

Attn: Rini Ghosh
Re: Finance Docket #32484

received
1/11/05

Dear Ms. Ghosh:

This is our second letter to you concerning the proposed limestone quarry and Southwest Gulf Railroad by Vulcan Materials.

The very first point we would like to bring to your attention is the proposed 1700 acre quarry is directly over the Edwards Underground Water Recharge Zone, where at this area the water table comes up to 200 feet from the surface. A quarry over this area should not be allowed! Edwards Aquifer serves a very large area. Many people, towns and industries would be affected.

Secondly, if the railroad is permitted, some of the land will have to be condemned. The railroad would have to be granted common carrier status; we know this is not feasible.

If the quarry and railroad are permitted many lives in this area will be seriously affected. The proposed railroad route will go through the flood plain, causing much more flooding, which we already have after heavy rains.

Along with the rail line there will be many trucks on our roads which will be a huge problem for this rural community. Farmers and ranchers use these same roads for hauling livestock and moving their farm machinery. E.M.S. and fire protection is another concern as they will have to cross the railroad to have access to many of us.

We are very concerned as to the effect the blasting the quarry will have on our water wells. Our wells are our only source of water for many of us.

There are fault lines going through the quarry site directly to the Medina Lake Dam. We feel the blasting will surely follow these fault lines and pose a dangerous risk to Medina Lake Dam.

In closing, we feel your studies did not adequately cover many of our concerns. We sincerely hope the STB will call for a more extensive study on all of these issues. We would appreciate an answer from you regarding our concerns.

Sincerely,

Joe Balzen
Erna Balzen
Joe and Erna Balzen

cc: Henry Bonilla, U. S. Representative
John Cornyn, Senator
Kay Bailey Hutchison, Senator
Frank Madla, Texas Senator

received
11/11/05

Dear Members of the Surface Transportation Board

I'm writing to give my concern about the proposed rail road that Vulcan is planning to build in our little community of Quiki.

Historic

Quiki was established over 100 years ago and has been a peaceful wonderful community in which many families raised their children.

My husband and I bought acreage and moved to Quiki 36 years ago. Our land is only 1 mile from the proposed quarry and runs along CR 351. This is the road the gravel trucks plan to run down.

It is also only 1/2 mile from the proposed rail road. The railroad will interfere with our cattle and wildlife. My husband has asthma and the dust from the trucks and blasting will affect his breathing. The blasting will also affect our water well.

Needless to say our land will depreciate in value because of this quarry.

It seems unfair a big corporation can come in and destroy our wonderful community.

The proposed railroad would also block

our roads to San Antonio, Hondo, Castroville. With all the congestion in San Antonio rail road depot, we feel our roads will be blocked with railroad cars. This also will give the railroad crew the possibilities of derailment.

Please review your study and think how a rail road and quarry would ruin our lovely community of Quiki and the hundreds of people that live there.

Very truly yours
Grace R Reed
741 CR 351
Hondo, TX 78861

cc: Henry Bonilla - Congressman
cc: John Cornyn - U.S. Senator
cc: Kay Bailey Hutchison U.S. Senator
cc: Frank Madla - Texas Senator

2

1-7-05

to: Surface Transportation Board
Case Control Unit
Washington, DC. 20423
Attn: Rini Ghosh
STB Docket No. FD 34284

EI-1340

received
11/11/05

I have followed the proposals and actions pertaining to the proposal of Vulcan Industries (Southwest Bell Railroad Company) to construct a railroad through the Quiki area of Medina County because it may have severe adverse impacts on this, my residence area. I have attended both meetings conducted by your office on this subject in Medina County.

At the most recent meeting on Dec. 2, 2004 I voiced my concerns about:

1. Noise that will be caused by train operation, a possible 20 to 32 times a day horn will sound for road crossings.
2. Noise emitting from the sidetrack operations which will flow over much of the Quiki/Nav Fountain area.
3. Increased danger from flooding which will result from railroad berm construction.
4. Road safety caused by at-grade crossings proposed for the railway at several

County / state roads.

5. The validity of the S&R Company claim that it will have functions as a common carrier and thus gain approval to exercise eminent domain authority to build a one-purpose railroad - that being to connect a yet-to-be built gravel quarry to the Union Pacific main line.
6. S&R's questionable commitment to conduct hydrological and engineering studies of the area before beginning construction and not before STB approval, as it should be.

This will probably be my final input to this decision process and I sincerely hope you will consider my recommendations and that the members of the STB are made fully aware of their decision on this area. Surely the STB members must know that Vulcan/S&R will not collapse in bankruptcy if this decision is delayed until all possible facts are before them for their consideration.

Therefore I recommend:

1. Require Completed hydrological and engineering studies to be completed and that all facts pertaining to the studies be provided before the STB renders a final decision.
2. Require completed noise studies as they pertain to the entire Quihi area be completed prior to STB board decision.
3. Require completed safety and state/county road impact studies prior to the STB decision.

I submit that if these studies are done fairly and the results are made known to all those affected, the STB board members will be in a much better position to make their decision on this proposal. However, if the board members issue a decision before the studies are done -- these will always be questioned about its validity.

Sincerely
 Carl A. Kelly
 3055 FM 2676
 Hondo, Texas 78861 PH 830-426-5159

January 6, 2005
 3980 FM 2676
 Hondo, Texas 78861

EI-1341

Surface Transportation Board
 Case Control Unit
 1925 K Street, NW
 Washington, DC 20423-0001

Attention: Rini Ghosh

Re: Finance Docket No. 34284

Dear Ms. Ghosh:

received
1/11/05

I believe Vulcan's proposed quarry and the proposed SGR rail line, regardless of where the railroad is constructed, are connected actions, and should be studied in the same Environmental Impact Statement. The rail study has already been completed but the earlier quarry study was so incomplete it seemed no one even put foot on the ground. There must be a broader study of the quarry area to learn of the true environmental impacts the quarry will have.

I, Judy Dittmar, as a concerned landowner along with my husband and son, and a Director of Medina County Environmental Action Association, would like to voice my fears of the Vulcan Materials proposed quarry and rail construction.

We would like to say first that it is beyond us how someone, for their own personal gain-no one else's, has planned to break up one or possibly both our plots of land without so much as speaking to us. We have never, at any time, been spoken to by a Vulcan representative regarding their plan to create such destruction to our property and it's use.

This proposed quarry and rail aims to destroy our peaceful community, as it is now, through air and water pollution and creating a deadly traffic situation. Many generations have been enjoying a peaceful rural life; and, new people have come here to escape just such environmental issues as we are now facing.

Our major concern is the possible contamination of the Edwards Aquifer. This is everyone's source of water including one of the largest cities in Texas, San Antonio. The proposed quarry sight is on the Aquifer and the possible

contamination from the rail cars is much too close to the Aquifer. There are caves, sink holes, fault line veins, etc., which can carry this contamination right into our water source.

I speak of my own farm where land use is concerned. We have a small farm. Our son, wife, and new baby, soon to be two, live on the farm in the approximately 70 year old home (I feel this is one of the two homes they mentioned being in path area of their proposed rail). We have tried to set up somewhat of a grass and grazing pattern, and, even installed a pipeline for better distribution of grazing, as an attempt to prevent soil erosion and provide cleaner air. Our farm is very near the proposed quarry site (on CR 353, south and west of the intersection of CR 353 and 354) and the beginning of the proposed rail which will cut right through the best part of the farm and within a few hundred feet of the house, water well (our only source of water), and pipeline. Cutting the farm as it does will mean starting over with our erosion control practices and this is far too expensive. Our son, James and his wife Donna have also purchased the adjoining (on west side) 50 acres. A few hundred feet on the other side of the house is County Road 353, a gravel road which will carry the traffic, including, possibly over a hundred trucks a day to and from the proposed quarry loading area, headquarters, and designated delivery points. This will create a dangerous air pollution situation and also a dangerous entrance situation, not to mention the children's play area will be diminished to nothing. The same will be the case wherever this proposed railroad goes.

There is mass travel on the two larger roadways to be crossed by the proposed surface rail (State Highway 2676 and County Road 4516). This proposed rail will detain all concerned—fire trucks, ambulances, emergency law officers, school buses, and many, many people going to work to and from San Antonio and other area points. Contrary to what news people have reported (taken from people who do not live here), there is a tremendous amount of traffic on these roads. We must be assured that we will have above grade crossings so our emergency and bus travel will not be interrupted. Again, how can someone just take our land and not even assure our safety because it costs too much? Is Vulcan saying our lives are not worth their dollars?

Flooding is a huge concern since my husband and I live in Quihi where two of the larger creeks meet. If the rail, which runs almost entirely through the flood plain, is not constructed correctly, or the quarry is not designed correctly, we, about 35 historical sites and homes, church, cemeteries—all will be severely damaged by flood waters. We do not feel this is a chance that should be taken. In recent years we have been trapped in our home by floodwater-the first time in the 40 years we live here. You can see what would happen if water was diverted from the quarry or blocked by the rail.

Wildlife must be protected. This is one of the reasons for living in a rural area, and, hunting has also become, in many cases, a necessary form of income. We have the farm on CR353 and use of hunting property on FM2676.

Who am I to stop progress? This is one company's progress. To us it is disaster—a danger threat to the whole area. Why put a railroad through creeks and through the flood zone and historical area? If the quarry is built, just move the railroad so as to not threaten so many lives, homes, and history.

I do hope that our concerns will show the need for a broader study of the quarry as a connected action to the rail and result in an environmentally and physically safe area for us to live.

Judy Dittmar
 Melvin Dittmar
 Donna Dittmar
 Melvin and Judy Dittmar, Landowners
 Judy Dittmar, Director, MCEAA
 James and Donna Dittmar, Landowners

cc: U.S. Congressman Henry Bonilla
 U.S. Senator John Cornyn
 Texas Senator Frank Madla
 Medina County Judge Jim Barden
 Senator Kay Bailey Hutchison

To: Surface Transportation Board EI-1342
Case Control Unit
Washington D.C. 20423

received
1/11/05

ATTENTION TO: Rini Ghosh

For: STB Docket No. FD 34284

In regards to the quarry in Medina County, TX. Me & my wife moved to the county 3 ~~thru~~ years ago for the hills and peace and quiet of the country.

When we found out Vulcan wanted to put in a quarry right down the road from us. This being the case we decided it was time to join those other good people of Quihi.

Now is the time to ask why Vulcan wants to mess with this area.

① Can Vulcan guarantee us the access to water on our land at a reasonable cost and will be there for us.

①

② We moved from Bexar County to be away from the trucks and traffic of the city, especially those "flowing dust" all over the road.

③ Will Vulcan put in the grade ~~separation~~ on 2676 like they first said they would?

④ also think of the historic value of the ~~area~~ area around Avila's Ditch make it be lost under flood waters from the railroad terms.

Sincerely,
PAUL & JOYCE E Boubel
3255 CR 265
Mico, TX. 78056

Paul E. Boubel
Joyce Boubel

②

EI-1343

January 8, 2005

Surface Transportation Board
Case control Unit
Washington, D.C. 20432

Attention: Rini Ghosh
STB Docket No. FD 34284

received
1/11/05

Dear Ms. Ghosh:

We are writing this letter through our Congressman, Henry Bonilla. The community of Quihi is in his jurisdiction and we believe he needs to be informed on all aspects of this major project in Medina County.

The quarry and railroad must be studied as a connected action. There will be no railroad without this quarry. They both affect the same geographical area; they both impact the flooding and contribute to the possible groundwater contamination and or loss of our precious water supply.

Medina County water allocations to its' communities are already stressed and Vulcan's projected heavy use of our Edwards Aquifer water will create a larger problem for future growth.

These are connected actions and the quarry and railroad must be studied as one. To do otherwise would be a tremendous injustice to Medina County. If this railroad is approved, we must feel that our federal authorities have carefully considered all environmental impacts this project is creating.

Vulcan keeps stating that they are talking with the people about this project in Quihi. Just who are they talking to? The people of Quihi that will be most affected have never been contacted by Vulcan. The owners' of the properties that will be taken by eminent domain are still waiting for Vulcan to talk to them. Is this how big business works? Is this how STB gives powers of eminent domain to a paper railroad? Studying the issues involved should take both sides into account.

Page 2

We all know that the Medina Valley Times came out just before the December STB meeting in Hondo, saying that the railroad had been approved. Only Vulcan could have released this news. That meeting and this opportunity to write a final response is all a governmental farce unless some of the problems are answered before railroad authorization is given instead of mitigation afterwards.

Let's see Vulcan give real answers to the flooding and traffic safety and our inadequate county roads and just how much this will cost Medina County as they destroy this area.

We are particularly concerned about the flooding issues since we live on Elm Creek and have been through several floods since 1995 when we purchased this property. We want clarification about the letter in volume II, C-39 of the draft EIS. This URS inter office memo regarding the Medina County flood plain standards, states that Pat Brawner, the Medina County FEMA Coordinator, confirmed that Medina County has development standards demonstrating that the proposed construction does not cause more than a 12 inch rise in the 100 year flood plain.

The memos' last sentence is, and I quote "This allows for the study to be preformed in the future, and a finding of "no significant impact" based on SGR's necessary compliance with Medina County code is appropriate."

The finding of "no significant impact" in the DEIS is a slap in the face to all the residents in Quihi who's live's are affected during the floods. Many residents are home bound because of the flooded roads and numerous overflowing creeks in the area.

This area has already had a 500 year flood, according to Mr. Brawner, in 1997. Imagine the flooding issues if a rail line changes the flow of water in the area during another excessive rainfall.

Before any railroad permit is issued, the residents in Quihi need to know how the 12 inch rise would change our flood plain and what structures could be affected. Any flooding caused by the quarry and railroad cannot be mitigated away.

The final route approved by the STB board must be the best route for this area, not just the preferred route that Vulcan wants. More serious consideration needs to be given to the old Medina Dam railroad route as this will take the rail line out of the Quihi flood plain.

We are asking that before the STB Board makes their final decision to give SGR the right of eminent domain by granting this railroad, that the transcript of the public hearing held at Medina County fairgrounds on December 2, 2004 is read by the decision making Board and they can confidently say that our questions have been addressed and the approval of the railroad does not do an injustice to the citizens of Quihi.

Respectfully yours,

Thomas W. Walpole
Mary F. Walpole

Thomas W. Walpole
Mary F. Walpole
5201 FM 2676
Hondo, TX. 78861

- cc: US Congressman Henry Bonilla
- cc: US Senator John Cornyn
- cc: US Senator Kay Hutchison
- cc: Texas State Senator Frank Madla

flooding. Is the water going to be diverted and cause more problems that we have had in the recent past? How fast will the roads deteriorate after the gravel trucks are run on them?

The Draft Environmental Impact Study quoted Vulcan many times as " using normal management practices" to solve any problems. That does not satisfy any rational concern. What are the resources they will apply to these problems, both monetary and manpower? What will they do to alleviate flooding? What will they do if the Medina Dam starts cracking? They have to outline these possible problems and not just gloss over them.

Thank you for the chance to respond to the draft EIS. I trust the STB will give this situation a great deal of thought and stop this project before it is too late.

Sincerely,

M. Baxter
Morris Baxter

- Cc: Sen. Kay Bailey Hutchison
- Sen. John Cornyn
- Rep. Henry Bonilla
- State Sen. Frank Madla
- State Rep. Tracy King

222 County Road 363
Hondo, Texas 78861
January 8, 2005

EI-1344

received
1/11/05

Surface Transportation Board
Case Control Unit
Washington, DC 20423

Attention: Rini Ghosh
STB Docket No. FD 34284

Dear Ms. Ghosh:

My view of the proposed railroad and quarry is one interconnected action. If there is no quarry, then there is no need for a railroad. If there is no railroad, then possibly there is no need for a quarry.

My concern is mainly with safety. The first concern involves the Medina Lake Dam. It is over ninety years old and many have questioned its continued safety. During the flood of 2002 the Bexar County Judge caused a near panic for residents living downstream from the dam in the Castroville and LaCoste areas as he was afraid the dam would not hold the overflow of water. Since there many faults radiating in a northeast direction from the quarry toward Medina Lake, no one knows for sure what effects blasting will have on the dam. It is too large a problem to ignore. If that dam were to give way, it would cause hundreds of deaths and untold property damage. Vulcan and its insurance carriers would not be able to pay the damages that could be caused. (Note: geologic reference for the faults is found in Edwards Aquifer Outcrops, Medina County, Ted A. Small and Allan K. Clark, Water Resources Investigative Report 00-4195, 2000).

The second safety concern is the construction of the proposed railroad. During this construction utilities could be cut off such as electricity, water, and telephone, traffic will be interrupted for commuters and emergency vehicles such as fire trucks, ambulances, and sheriff's deputies. School buses will be impacted and delayed. Also, grade-separated crossings must be constructed especially on FM2676 and CR4516.

The third concern is traffic after the proposed railroad is constructed. There will be four trains per day, numerous gravel trucks at about 78,000 pounds each, workers commuting to and from the quarry. All of this extra traffic will create havoc for the commuter, and especially school buses. When trains are crossing FM2676 and the various county roads, there will be the delays for commuters, school buses, and emergency vehicles.

Additional safety concerns are: What will the blasting will do to shallow and Edwards wells? What will the resultant dust from blasting and the railroad cars do to the lungs of local residents? We already have a seasonal respiratory problem with mountain cedar(juniper). Also, what are the railroad berms and trestles going to do when we have

222 County Road 363
Hondo, Texas 78861
January 8, 2005

EI-1345

received
1/11/05

Surface Transportation Board
Case Control Unit
Washington, D.C. 20423

Attention: Rini Ghosh
STB Docket No. FD 34284

Dear Ms. Ghosh:

As a homeowner and landowner in the Quihi area, I have many serious concerns about the proposed Vulcan quarry in our area and the proposed railroad to the quarry.

The Draft Environmental Impact Study report contained a number of statements that were not true --- and also downplayed every potential problem in Vulcan's favor. There were a number of conflicting statements. While the DEIS reported that a quarry and railroad would pose little or no impact to our area, those of us who live here know differently.

First of all, I question how land can be condemned by a private company for their own use. Some of the land the proposed railroad would cross is Heritage Land --- land that has belonged to a family for 100 years or more. Many of the landowners in the Quihi area have signed legal covenants stating that their land is not to be used for a railroad. Will these legal covenants be ignored if Vulcan condemns land for their own use?

Second, if a railroad is built, the number of gravel trucks on our farm-to-market road will increase tremendously. Many gravel trucks already travel FM 2676. Because of their weight and speed they are a danger to others. Four of our close neighbors --- a family --- father, mother, and two children--- were killed just a few years ago on FM 2676 by a gravel truck. The potential for more tragic accidents increases greatly with more truck traffic on country roads.

If a railroad is built without grade separation crossings, emergency vehicles will be delayed. Ambulances, law enforcement officers, and firefighters will be stopped if trains cross at grade level. Out here in a rural area alternative routes are simply not possible. Four or five minute delays can mean lives and/or homes lost.

During times of prolonged heavy rainfall, flooding becomes a serious problem in our area. Many homes are isolated by flooding. The proposed railroad crosses the floodplain in many places. If a railroad is built the topography of the land will be altered. More serious flooding is a definite concern.

Damage to water wells at homes in our area is another concern. Quarry blasting could damage our wells. Also, a quarry would use huge amounts of Edwards Aquifer water. Homeowners may be forced to deepen wells if Vulcan uses massive amounts of water. The Edwards water is already needed by our town and irrigated farms. We cannot understand using it for the profit of an Alabama corporation (Vulcan).

January 8, 2005

Finally, the quarry and the railroad are connected actions. A broader study than the DEIS is needed. A study that is more accurate in every detail --- a study that is not obviously slanted in favor of Vulcan --- a study that seriously and fairly addresses the concerns of residents of the Quihi area.

Surface Transportation Board
Case Control Unit
Washington, D.C. 20423

EI-1346

*received
1/11/05*

Attention: Rini Ghosh
STB Docket No. FD34284

Katherine Baxter
Katherine Baxter
222 County Road 363
Hondo, Texas 78861

cc: Sen. Kay Bailey Hutchison
Sen. John Cornyn
Rep. Henry Bonilla
State Sen. Frank Madla

Dear Ms Ghosh;

I am concerned about the proposed Vulcan quarry and railroad project and I feel that both are connected and deserve further study.

The Quihi area of Medina County is a beautiful farming and ranch community. The residents are kind and friendly. My husband and I moved here 3 years ago because we wanted to be a part of this special area. We brought our business with us. Our jobs don't offend the people, take their land, endanger water sources or create flooding issues. We want to contribute by being a good neighbor.

Also, our land is in a flood plain that was created by the railroad berm at the Highway 90 railroad. 3 creeks come together just before the railroad tracks. In the last big flood in our area the water backed up to with in a foot of the house until the berm gave way, and the water immediately left. Any new railroad berms in this area will create more of the same problems.

Finally, I feel that it is wrong for a private business to take easements through Heritage farms and divide ranch land for its own benefit. Please do not let an industrial business take over and ruin this great place.

Sincerely,
Aural E. Allen
Aural E. Allen
141 CR 454, Hondo, TX 78861

cc: Congressman Henry Bonilla
cc: US Senator John Cornyn
cc: US Congresswoman Kay Bailey Hutchison
cc: Texas Senator Frank Madla

*Surface Transportation Board
Case Control Unit
Washington, D.C. 20423*

EI-1347

*Attention: Rini Ghosh
STB Docket No. FD 34284*

*received
1/11/05*

Dear Ms. Puckton

I am a landowner (who has not been contacted by STB) upon which all proposed routes would originate, &

I have many concerns, one of which is ruining the real estate value of the land. No one wants to buy land with a railroad track through the middle of the land. Besides ruining the hunting, additional fences & stock tanks would have to be built. Moving livestock from one pasture to another is another problem. This is a lifetime problem.

STB can make commercial property near an existing city. This is rural land in a flood plain. We can not afford flooding and water contamination. The railroad does not stop along the way, it stops in the major cities.

The only people who will benefit by the railroad are the quarry landowners and Vulcan. All the rest of the landowners in between will have problems (pollution, safety, flooding, ruining historical homesteads). One of the routes would come within a few feet of our home.

Many of these issues have been downplayed in order to achieve Vulcan's selfish interests. Once the

plans would be implemented, it would be too late to look back and go back to the way it was before.

Hundreds of angry residents would have to pay for the inconvenience of a forever in order to satisfy Vulcan and the quarry landowners.

The quarry is in a recharge area of the Edwards Aquifer. If contamination occurs (which is a very real possibility) in our water supply, think of the millions of people who would be affected.

If blasting of the explosives caused tremors, which would affect and weaken the structure of Medina Lake Dam. A tremendous catastrophe ~~is~~ will occur, to Castroville and all points in between.

If Vulcan and STB have any concern for safety and human lives, the quarry and railroad would not be built.

*Very extremely angry & concerned landowner,
Clark Wurzbach
CLARK WURZBACH*

Lynn Haly
890 PR 3810
San Antonio, TX 78253

EI-1348

1-8-05

Surface Transportation Board
Case Control Unit
Washington, D.C. 20423

received
1/11/05

Dear Sir,

I own ranch land about 1 1/2 miles N.W. of this 1800 acres for Chalko's Quarry.

I know in the years to come they will finish the 1800 acres and widen it some more. This is all over the Edwards Recharge and will affect San Antonio and all the surrounding area for drinking water and irrigation use.

It will take 200 ft off the top of the Edwards aquifer formation and make it acceptable contamination for drinking water. There are 8-10 of these plants in Medina County all over the aquifer. I think if anybody with common sense should know what is happening to the Edwards Aquifer.

May God bless you.

Lynn W Haly

swells will have no water to drink or use.

I hope you all will do a better study or just where this is located. In your Appendix A. Vol. 2, most of them are captioned with incorrect locations.

Please consider not putting a railroad thru Elm Creek. That's where some Indians were buried.

Thank you.

Nancy Schutte

received
1/11/05

EI-1349

1-8-05

Surface Transportation Board
Case Control Unit
Washington, D.C. 20423

Dear Sir:

I am writing this letter to you to let you know that I am very interested in keeping our history and cultural landscape like it has been at least 100 years in Guile. I do hope you all will check this out. We have submitted 65 important sites to the State office.

The flooding will be a severe problem on CR 4512 and CR 365 they have been under water. We have had 6 such rains this year, the last one fell in November 17th 22, 2014 and it flooded because it is the lowest part of the route, cars cannot get across.

The quarry will cause damage to the water if they are too close to the fault lines. Also some wells that are used now and are shallow

Surface Transportation Board January, 09, 2005

Case Control Unit
Washington, D.C. 20423

RE: FD # 34284

Attn: Rini Ghosh,

EI-1351

received
1/11/05

My husband and I were at the STB meeting on Dec. 2nd. and I spoke out on a couple of my concerns with my allowed 3 min. There wasn't time enough to address all of them.

My husband wasn't able to talk due to a chronic cough and raspy voice

Somehow, the study DEIS has neglected or did not receive very important information

Many things have either been deliberately ignored or casually discounted.

These items are

critical and significant to the people that live in line of the proposed rail line and the Quihi community at large

Please consider these problem areas. Our Edwards Aquifer recharge,

very fragile,

(we've been told for years) will be right under the area designated for

storage of materials

needed to operate the quarry. Any spill, flood, (by the rains and

flashfloods that occur with

regularity) accumulated dust from blasting/blasting powder, diesel

fuel, will directly recharge

right into our ONLY SOURCE of water.

We have lived in this area for 76 years and believe me, it does flood.

Any berms or filling along

railroad beds will create major problems for the residents both below

and above the rail lines.

This is a very old historical community and a railroad right through

the center of it will ruin fragile

old buildings as well as destroy artifacts. There are many families

here because we love the

peace and quiet tranquility of this old settlement. The spokesman for

Vulcan spoke of the financial

benefits of having a quarry here and it was proven that the county

really wouldn't benefit at all from it.
(I think he was thinking of Vulcan and their financial benefits.)

Lets look at this, HMMMMMM, threaten our only source of water,...
create more flooding problems
for humans and livestock than already exists,... take private property
{by imminent domain} from
families that have lived there for generations,... create a hazard by
adding many trucks on a FM road
that was not designed for them {even with a RRline}... endanger
environmentally sensitive wetlands,...
destroy Indian artifacts,... to create a rail line that serves only to
enrich a fortune 500 company with a
commodity that is easily obtained west of here.
I hope you will respect the community of Quihi and study the truth of
the situation. We are a
community being sacrificed for profit and need your help.

Sincerely,
/s/
Leonard G and Marian Wernette
1090 County Rd. 445

Medina County Judge
James E. Barden

1100 16th Street
Room 101
Hondo, Texas 78861
(830) 741-6021 Fax (830) 741-6025



EI-1353

January 7, 2005

Surface Transportation Board
Case Control Unit
Washington, DC 20423

Attn: Rini Ghosh

Re: STB Docket No. FD34284

Received
1/12/05

Since the beginning of this proceeding, Medina County has expressed two principal concerns:

- Safety of road crossings by the railroad
- Protection of water flow in a flood-prone area

To an extent, the Section on Environmental Analysis (SEA) report addresses these concerns. The primary purpose of these comments is to ask that the recommendations, if adopted, be strengthened to allow local government some leverage as we seek to negotiate agreements with the railroad. It has been my unfortunate experience while Mayor to seek some safety agreements from the railroad, which passed through our town and be told that the railroad didn't have to deal with local government because it was answerable only at the federal level. Even our much larger neighbor (San Antonio) is finding out how little local government can do to protect citizens from an existing railroad. Thus, I'd like to see some help up front from the federal regulators

In the area of safe crossings of existing public roads (see SEA's Recommended Mitigation, p. 5.3) the recommendation #3 under Transportation and Traffic Safety calls for the railroad to consult with the State of Texas (TXDOT) "prior to beginning construction" regarding the crossing of FM 2676 and "shall adhere" to reasonable recommendations of TXDOT. No similar language appears regarding any of the crossings of County Roads. I urge that similar language as used for the state road crossings also be used for the crossing of county roads. Medina County is included in the recommended mitigation for warning devices at crossings but there is nothing that mentions the crossing itself.

Closely related to the above comments is the No. 8 Recommended Mitigation of SEA, which calls for developing a plan to address post construction maintenance and repair of grade crossing warning devices and crossings themselves. I urge that it be made expressly clear that the primary responsibility for any such maintenance and repair of crossings of existing roads lies

Page 2
STB Docket No. FD 34284
January 7, 2005

with the railroad and not with the County or State. That understanding should be the beginning point for any joint development of any such plan.

On the subject of creek and other water flow crossings, it has been emphasized on prior occasions that the area to be traversed by the proposed railroad is subject to flash- or sudden flooding. Any impediment to the natural flow of such heavy run off is of great concern. SEA's Recommended Mitigation No. 30 (p. 5-7 of the report) calls for Engineering "across creek channel" to minimize impacts to wetlands and aquatic resources. I urge the Board to go a step or two further and include "and other water flow or flood prone areas" in addition to creek channels. Also the design should minimize impacts not only to "wetlands and aquatic resources" but also to "homes, buildings and agricultural resources" (e.g. crops, orchards, etc).

Finally, a word about the impact on the historical preservation issue. The County is concerned with preserving of its heritage. To that end it appoints members of the Medina County historical Commission which is charged with helping to preserve what is important to our citizens now and to future generations. With the possible exception of a reference to "Cultural Resources" (p. 5-9), the Recommended Mitigations do not appear to address this significant area of concern. I urge the Board to require, as a minimum that the proposed railroad consult with our Historical Commission in order to avoid adverse impacts on structures and areas of significant historical value.

Your consideration of the above concerns and suggestions is appreciated. As stated the outset, it is important that we address and button down as much as possible at these early stages because experience has shown us that once railroads are sanctioned to operate there is no leverage on the part of local government to correct problems or adjust concerns that may arise from its operation. This last point is prompted by the possibility suggested in footnote 4 of the Executive Summary that "an existing carrier, such as (Union Pacific)" may be operating the proposed line.

Sincerely,

JEB/jaa

The Medina County Environmental Action Association, Inc.
202 CR 450, HONDO, TX 78861 Phone 830 741 5040
www.dontmesswithquihi.com Fax 830-426-2060

January 9, 2005

Ms. Victoria Rutson,
Chief, SEA Section
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423-0001

Received
1/11/05

Re: Subject Finance Docket 324 84 Southwest Gulf Railroad

EI-1353

Dear Ms Rutson:

I was very disappointed in the quality and accuracy of this DEIS. In almost every instance, SEA concludes that there is little or no impact, when we who live here and are familiar with the terrain can see that there would be a tremendous impact from the various issues surrounding this project. I could go on and on about the error in this DEIS that are obvious even to a lay person like myself. Virtually every finding is in favor of VMC/SGR, and minimizes the real impacts to the area. When the DEIS does acknowledge a problem, it leaves the solution up to SGR to handle during construction or operation of the project. This is unacceptable. I became very angry as I read through this DEIS. There were many things that I saw wrong every time I turned another page that I just could not list them all here.

- Some of the most flagrant and noticeable errors and omissions are:
- The effect on the human environment has not been given adequate study.
 - The socioeconomic factor of changing the land use of the area from historic/agricultural/residential to commercial/industrial as Vulcan proposes to do did not get ANY consideration.
 - The financial effect of loss of hunting in the area did not get any consideration.
 - The cost of lost opportunities from the economy due to being replaced by the VMC/SGR project did not get any consideration.
 - The effect of this project on the flooding situation in the Quihi floodplain did not get covered.
 - Vol I page 4-109, 4.17 Cumulative impacts. The actions that will be taken are definitely not "individually minor" in our estimation. Please list in the EIS these actions that you are referring to as "individually minor"
 - Vol I page 4-102, SGR says that "the entire quarry site has been used primarily for cattle grazing with small areas used for hay and other crop production". SGR omitted the fact that this area, like the surrounding area, has been and is being used for hunting, which is a major economic activity in this area. Many landowners and ranchers depend on the income from hunting leases
 - Please inform us what Vulcan's 400 foot buffer zone will protect us from (page 4-102). This seems like an awfully small buffer zone compared to the size of the quarry.
 - page 4-105, Transportation to Local Markets: SEA states that SGR informed them that there would be 24 round trips per day by trucks for local markets in addition to the rail transport of product. That is not true. Vulcan said that there would be 850 trucks per day if there were no rail. Vulcan told us many times that there would be 10 to 20 percent of product sold to local markets and not transported by rail. That would be 85 to 170 trucks per day, not 24. Now, what is the truth? Thus the figures SEA used for their comparison chart of accidents, injuries, and fatalities in Table 4.17.2 are all wrong. Moreover, Vulcan said there would be 125 to 150 employees when they told us how good it would be

to have all these jobs in Medina County. Yet, when it comes to figuring the impact on traffic they say there will be 100 employees. Now, which is it - 100, or 125 to 150? And what about the 24 railroad employees? What about supervisory and contract personnel? What about the increase in population from the new and planned subdivisions? Also, you are using year 2000 figures, which are out-dated and based on all highways in Texas (and presumably includes highways where little risk is encountered). It appears to me that SEA's computations are drastically wrong about the traffic impacts. Using the correct figures will show that there will be many more accidents injuries, and deaths. SGR is trying to get out of building overpasses over the affected roads. By the way, where is CR 364?

- Vol 1, page 4-107, 108 Water Resources "SEA preliminarily concludes that the cumulative impacts to water resources, including surface water and groundwater, would not be significant." Apparently, SEA is not aware of the fact, even though many people have told them repeatedly in their letters, that landowners in the quarry area and surrounding area have very shallow Edwards Aquifer water wells. These wells are their only source of water. There is no public water supply system in this area. To place and maintain a public water supply in those rugged hills would be very difficult. Some of these wells are within 1/4 mile or less from Vulcan's first quarrying area! These wells range from approximately 180 to 350 feet deep, with water levels as high as 140 feet from the surface of the land. Vulcan plans to mine approximately 250 feet. And yet SEA concludes that impacts "would not be significant"?
- Regarding TCEQ's regulations that are supposed to protect the aquifer, there really aren't any. Fines do not undo the pollution damage to the aquifer.
- Vol 1, page 4-42, 4.6.1 Methodology. SEA used aerial photography maps that were nine years old to evaluate the vegetative cover of the proposed and alternate routes. The vegetative cover has changed in the past nine years.
- Vol 1 pictures. Captions are incorrect and do not go with the pictures. For example, Creekwood, a subdivision of 125 plus homes, is shown as a water tank with brush around it. Is this an attempt to minimize the effect on Creekwood? My home is shown as "Lakefront Property". Is this someone's sick idea of a joke?
- Vol 1, page 4-99, 4.16 Socioeconomic Impacts. How nice to be able to treat this most important issue in one and one-half pages. (This study should have covered the effects on the HUMAN environment, but instead only mentioned that in passing, somewhere in the beginning of this DEIS. In this section, SEA offhandedly concludes that there would be no significant socioeconomic impacts as a result of the proposed action.
- Regarding property values. SEA avoids addressing the issue by declaring that "the impacts to property values cannot be predicted accurately at this time". How about predicting them anyway. We already know what will happen to property values. They will fall.

The issue of Vulcan, a private company, taking our land for their own use by condemnation was not covered. As I mentioned in the beginning, I am not satisfied with this DEIS, and I could write much more. I thank you very much for allowing us to submit our comments on this proposed project.

Sincerely

Alyne Fitzgerald

Alyne Fitzgerald

January 7, 2005

Victoria Ruston, Chief SEA Section
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423-001

*received
1/11/05*

EI-1354

Re: Finance Document 34284
Vulcan Materials/Southwest Gulf Railroad
Medina County, Texas

Dear Ms. Ruston:

Ms. Ruston, I have been requested by the Medina County Environmental Action Committee to voice my concerns about the proposed routes being studied for the SGR rail lines. As the Medina County Floodplain Administrator, I am especially concerned about any development within the flood plain. However this is not my only concern. Even areas outside the mapped Floodplain can cause adverse effects if not developed with the overall drainage picture in mind.

Most of the County residents are very aware of flooding problems along the Cherry, Quihi, and Elm Creeks. We have had and will continue to have periods of high rainfall which will inundate areas along and adjacent to these creeks. We must not allow any development within these areas that would increase flooding. This is of up-most importance.

With this in mind I would ask that all information provided by both sides of the issue be diligently studied and used in the final determination of the route to be used by the SGR. While I have not physically traveled each of the routes I am familiar with approximate locations where the routes cross County and State roads and have a general idea of the routes. I have been given information by the MCEAC in the form of an USGS TOPO map and elevations which would indicate that another route used to build the Medina Lake Dam might be a better alternative than those submitted by SGR. I would ask that all information be given diligent consideration.

Thank you.

Sincerely,

Pat E. Brawner

Pat E. Brawner
Medina County Floodplain Administrator CFM 0545-03

CC: The Honorable James E. Barden, Medina County Judge

The Medina County Environmental Action Association, Inc.
202 CR 450, HONDO, TX 78861
www.dontmesswithquihi.com
Phone 830-741-5040
Fax 830-426-2060

January 10, 2005

Ms. Victoria Ruston, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street N W
Washington, D. C. 20423-0001

Re: STB Finance Docket 34284
Vulcan Materials/Southwest Gulf Railroad
Medina County, Texas

Dear Ms. Ruston:

The accompanying map shows the location of homes in area of the proposed Vulcan/SGR quarry railroad project.

The area is not sparsely populated as Vulcan has stated.

The only road out of the area is FM 2676. All other roads feed into FM 2676. Any disruption of traffic is very dangerous. Detours through narrow, unpaved and periodically flooded roads are not feasible.

The area is growing, as evidenced by the subdivisions which are developing and planned in the area.

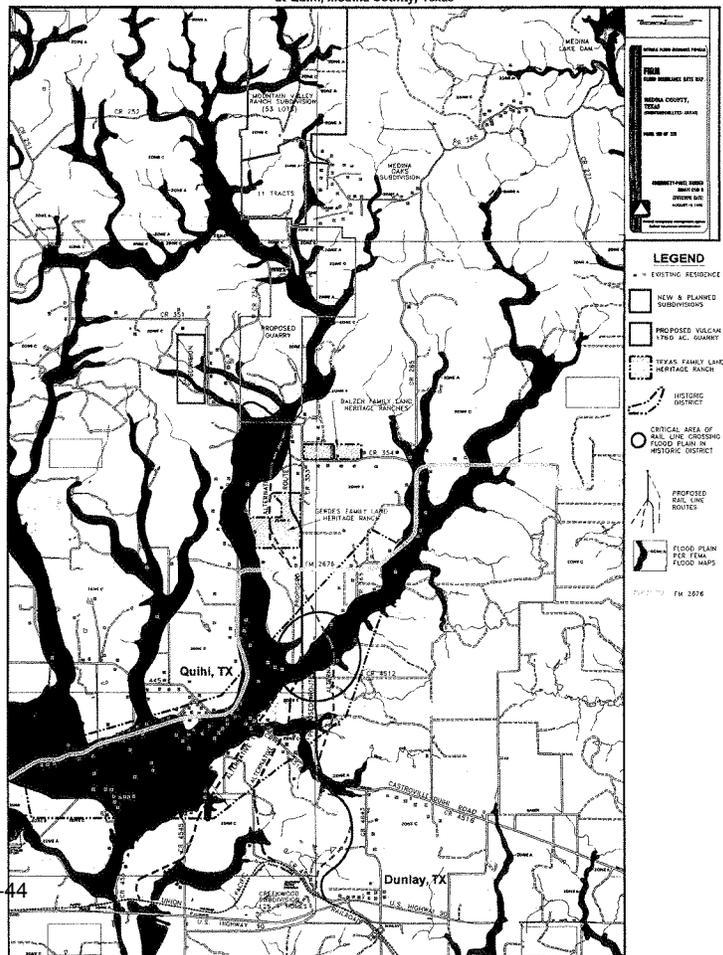
The concentration of the most historic features is noted with the district outlined. There are also three heritage farms noted. Applications for more are in the process of being submitted.

*Sincerely
Dr. Bob Fitzgerald*

MB&A, Inc., for your Home, Health, and Heritage

original of map attachment submitted in color Page B-44
Please contact the Section of Environmental Analysis
to view a color copy.

PROPOSED VULCAN MATERIALS QUARRY AND SOUTHWEST GULF RAILROAD RAIL LINE PROJECT
at Quihi, Medina County, Texas



January 5, 2005

Surface Transportation Board
Case Control Unit
Washington, DC 20423
Attn: Rini Ghosh
STB Docket No. FD 34284

Received 1/12/05
EI-1356

I was able to attend the public hearing held on December 2, 2004 at the Medina County Fair Hall in Hondo, Texas regarding the draft Environmental Impact Statement, and offer my written comments.

I am a 5th generation descendant of Texas German immigrants, and was born in the Texas Hill Country. I have a full appreciation of its natural beauty, and therefore have a strong inclination to support preservation of rural Texas in its pristine condition whenever practical.

I am also a strong supporter of the American free-enterprise system, and believe that the most citizens are best served by allowing our businesses to flourish. I believe we must not hamstring our country with unnecessary and expensive stumbling blocks for our people and our businesses.

I am a civil engineer with fifty years experience in general construction, both as an employee and owner. We completed many Corp of Engineer projects, schools, historical restorations, and even some railroad work. The many advantages to all our citizens of a free, unencumbered business environment is deeply understood and appreciated by me.

Heinrich and Johanna Schweers are my great great grandparents. They were married in 1858, and had the "Henry Schweers House" shown on your maps constructed that same year. My grandfather, Henry Schweers, was born and reared in this home along with his thirteen (13) siblings.

Some of my 1st cousins and I first learned of the existence of these historic homes after a family reunion on June 4, 1995. We decided that we should attempt to acquire and restore the Henry Schweers Home then owned by William Schweers. He died unexpectedly in 1998. Shortly afterward, Vulcan Material Company purchased the property, which included the Henry Schweers and the William Schweers Historic Homes, for a proposed railroad right-of-way to a proposed rock quarry.

In early 2001, we met with representatives of Vulcan Material Company about the possibility of purchasing the Henry Schweers home. To our delight, they were very supportive of our interest. Subsequently, they have helped us create our non-profit Schweers Historical Foundation, Inc., and are donating both the Henry and the William Schweers homes, including some acreage. They did all this and more, yet not knowing that the railroad track would be approved for construction. Obviously, we hold this fine company in highest esteem. They are a strong community-oriented firm, and would prove to be an important asset to Medina County.

I provide the above information so you can better know my background, and the opinions I express herein. Hopefully they are constructive and unbiased.

After perusal of your supporting documents, I have the following comments regarding the routes:

- 1. **Alternate 1** skirts along the Quihi Creek quite a distance, which is not good for wildlife habitat. It then crosses the creek near large ponds and marshes teeming with wildlife, and then passes within 125 feet of the historic William Schweers Home and between the historic Heyo Schweers Home (noted as ruins). It is also two (2) miles longer than the Proposed Route. This is not a good route!
- 2. **Alternate 2** likewise cross the Quihi Creek at the small, spring-fed ponds and marshes, then passes between the Schweers family cemetery, and the Henry Schweers Home (within 250 feet). It also crosses an area near the Saathoff Historic Home and their family cemetery located south of the Quihi

and tracks and the trains as they pass any given point in five minutes at 20 mph. This is in a remote area on country roads with light traffic!

- 6. **Vibration:** With reference to the letter dated October 23, 2003, a copy of a study by SEA was enclosed regarding potential vibration impacts to cultural resources in the area of the proposed project. This was provided to assist in review of the report requested in the October 10, 2003 letter which included the Preliminary Cultural Resources Assessment Report for the proposed rail and construction operation. Para. 1.2.1.1 Construction: The last sentence concludes, "Based on the distance from the source of the proposed construction to known cultural resources, there would be no significant impact to known cultural resources as a result of ground-borne vibration. Para. 1.2.1.2 Operation: The last sentence concludes, "The closest historic structure to the proposed route would be at least 250 feet from the tracks. No cultural resource would be located within the 45-foot impact distance from the tracks. Thus, there would be no ground-borne vibration impacts to known cultural resources as a result of proposed railroad operations. This professional study regarding vibrations from construction and operations of the trains, etc. clearly show that vibrations will not adversely affect the various structures along the Proposed Route.
- 7. **Dust:** It is my judgment that four train trips per day with railroad cars rolling on steel rails transporting recently washed limestone aggregate creates a lot less dust than 1800 truck trips per day driving down the highways and county roads. Vulcan has the option to use trucks if they cannot ship by rail. Shipping by rail is the superior means of shipping their limestone products.
- 8. **Cultural Resources.** On paragraph 3.1, page 28 is stated, "SEA's cultural resources assessment preliminarily concludes that the proposed construction and operation of SGR's rail line would not directly impact or affect any known significant cultural resources.
- 9. **Cumulative Impacts:** The positive impacts will be the new jobs, added tax money for the schools, roads, etc. and the support of a strong community-oriented company in the area (why do you think San Antonio was so pleased to have Toyota build their new plant in the area?). These are important benefits for the young folks, the working people, and the tax paying public! Only the rich that have the "I've got mine, you get yours" mentality would not appreciate these beneficial facts! All of the reasonable objections can be mitigated, and Vulcan appears willing to resolve legitimate issues. There will be negligible negative impact for traffic, safety, water resources, vibration, cultural resources, land use, and quarry noise. For very few people, train noise initially might be a problem, but in time they will become accustomed, and give it little notice. I think the positives outweigh the negatives. Quihi and Medina County will experience considerable growth soon, and that is good as long as they plan for it to happen in the right way.

This concludes my written comments. I appreciate the time and professional approach the STB, the SEA, the URS Corporation of Austin and the Vulcan Material Company and the SGR have taken to protect the interests of the Quihi community, the preservation of our history, etc., and at the same time make some progress in providing important materials for our industries.

Thank you!

Donald S. Schoch

Donald S. Schoch

Creek on the Pichot property. This area has lots of historic and archaeological locations. I consider this not a good Alternate route. This route is noted as 1000 feet longer than the Proposed Route.

- 3. **Alternate 3** passes within 250 feet of the Oefinger Cottage, and between the two (2) Saathoff Cottages, and the Cottage Ruins noted. It is 2500 linear feet longer than the Proposed Route. This is a better route than Alternates 1 and 2 in my opinion, but not the preferred.
- 4. **The No-Build Alternative** would be a horrible selection from the viewpoint of public safety, truck road traffic, noise, public nuisance, unsightliness, dust, environment, and economy.
- 5. **The Proposed Route** is by far the superior, in my opinion. It crosses the Quihi Creek at a location that often is dry, and has no marshes, or significant ponds. It appears to take advantage of the existing pipe line right-of-way. It is 250 linear feet from the Henry Schweers Historic Home, but otherwise avoids close proximity of other historic structures and environmentally sensitive areas. I also think it will prove to be the most economically feasible option to cross the Quihi Creek, and will have minimal effect on wildlife. It will be screened somewhat by existing trees.

Regarding Environmental Impact issues, I offer the following:

- 1. **Transportation and Traffic Safety:** Vulcan Material Company anticipates two loaded 100-car trains and two empty 100-car trains to and from the quarry in a 24 hour period. Each rail car is equivalent to about five (5) truck loads. Thus it would require approximately 2000 truck trips per day (loaded and empty). This many trucks would create huge traffic and safety problems on the roads and highways, not to mention high road wear & tear, and heavy dust creation. Shipping by rail is the logical, pragmatic and best means of shipping their products.
- 2. **Water Resources:** Vulcan will be using state-of-the-art plant equipment which recycles their water. Hence, they will not be using large amounts of water. Limestone is an essential commodity throughout our land, and it will take some water consumption to ship it in a clean state as required by our environmental laws. All our industries, businesses, residences, and farms & ranches need and consume water. This is normal, and expected!
- 3. **Noise:** I live in busy New Braunfels, Texas which has two railroad tracks and several rock quarries within the city limits. I have lived here about 15 years, and don't recall hearing the blasts at the quarries one time! I lived within several blocks from a railroad track crossing the Guadalupe River. I seldom was aware of a train passing through town. However now I live high on a hill about four miles from the tracks, and I can now hear the trains tooting their whistles in a distance, but it is not objectionable and they do not wake me up at nights. I live about 1/2 miles from IH 35, and I can always hear the noise of the trucks and cars! Trees and hills muffle noise, and you can get so accustomed to it that you are not even aware of the noise. Noise from the trains and quarries in New Braunfels is not an issue, and we are a very politically minded town. Noise is a part of progress, and Quihi and Medina County will be progressing more and more as time goes by. They will get used to it, and it will become a non-issue!
- 4. **Land Use:** Some folks have argued that their land will lose value because of the railroad tracks. I think it is likely that land values will increase as the area grows and demand for shipment by rail grows. I doubt that the farm and ranch values will decrease at all. Several homes might possibly lose value initially, but then stabilize after people realize their life hasn't changed because of the tracks and trains.
- 5. **Aesthetics:** I do not personally find a train working its way across the countryside a problem regarding aesthetics. In fact, I think they are rather interesting. This is happening every day across the cities, towns, and countryside in America, and allows us to develop power, economic strength, and vitality. It is absolutely necessary to our well being. The quarry is in a very remote area, and will not affect aesthetics from neighbors or roadways. People build these things totally out of proportion to reality because it's something new. Once the novelty wears off, they will hardly notice the bridge

January 5, 2005

Surface Transportation Board
Case Control Unit
Washington D.C. 20423
Attn: Rini Ghosh
STB Docket No. FD 34284

EI-1357



I am Archie Gerdes. My land is being divided in two by the rail line between Dunlay and the quarry site. This land has been in my family since 1891.

Will I be compensated for the loss of deer, hog and other game hunting? This is a big economic factor for Medina County and myself. All my improvements are on the West side of the ranch. Will Vulcan pay for a water well, pens, barn and utilities? Will Vulcan keep up easement fence and keep noxious weeds out?

Will Vulcan be responsible for clean-up of de-railment and/or chemical spill? Also, will I be compensated for devaluation of my property also flood damage due to trestle or Bridges over Elm and Quihi creeks; who will pay for this?

Who will pay me for forced sale of livestock?

The four mile water hole is the only source of water I have in this one pasture. It is spring fed and has never gone dry. Indian Scouts watered their horses there in the early days. If it goes dry will Vulcan drill me a well?

Archie Gerdes
Archie Gerdes
450 CR 351
Hondo, TX 78861

P.S. Although Vulcan has not notified me as to what route they will take, MCEAA, Inc. has shown me a map with their top choices. Either one will be devastating to my hunting, ranching and farming operation. I hear now they want a 2,000 foot easement so they can build a road and houses for their employees along the tracks. What a mess that would be.

Attn. S.A. Express article - Lucrative Game, 11-23-04

Cattle ranchers are making some bucks on deer

CONTINUED FROM 1E

ary under special permits. "This is not livestock country," Garrison said.

A statement of near heresy to generations of rural Texans, that claim is gaining wider acceptance throughout South Texas, the Hill Country and beyond.

Though no precise number is available statewide showing how many ranches have dropped cattle in favor of deer or other game, most observers say the trend toward hunting is strong.

"The hunting industry in Texas is worth \$3.7 billion," said Mike Berger, wildlife director for the Texas Parks and Wildlife Department. "It's what keeps many ranches together today."

The numbers tell the story. A buck with antlers that rank at the top level of a nationally recognized scoring system draws more than \$4,000, and \$10,000 for a smaller trophy deer isn't uncommon.

Productive deer and quail leases in South Texas can produce \$10 to \$15 an acre for landowners, which can exceed grazing lease prices by 50 percent, said Neal Wilkins, extension wildlife specialist at Texas A&M University.

Profits per acre from cattle operations may be as strong as deer lease profits in some areas of the state because the cattle market has been up for the past few years. But officials said cattle raising takes more time and normally more upfront costs than wildlife management. And the market for beef has been subject to more cycles than the hunting industry.

Karl Kinsel, a South Texas cattle rancher and hunting lease operator, said that, typically, three years out of every decade, rainfall levels and cattle prices allow a cattle rancher to do as well or better than lease operators. That's not been an acceptable ratio for most landowners.

Kinsel estimates that 35 percent of the cattle ranches in South Texas and the Hill Country have moved exclusively to wildlife — meaning deer management.

"Without a doubt, 75 percent of leases" are involved in a combination of cattle raising and deer hunting, Kinsel said.

"In the cattle business, in a down year, you can lose money in deer leasing, you don't do that. There's not as much risk involved," said Kinsel, executive director of the Texas Deer Association.

The amount of money paid for hunting rights has escalated so rapidly that it has fueled a related land sales trend that allows a hunter to own a smaller tract than he or she formerly staked under lease. Habitat experts worry about the effect that fragmentation may have on wildlife, but the activity clearly has driven up land prices.

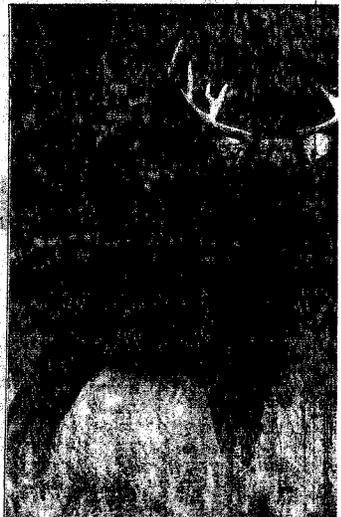
Kinsel, who also sells rural tracts, said property that was going for \$700 an acre five years ago is now selling for \$1,000 an acre. It can move closer to \$1,200 an acre if the property has a lodge or some other hunting-related improvement.

"People don't pay \$1,000 an acre to run cattle. They do it for hunting," he said.

Barry Dunn, director of the King Ranch Institute for Ranch Management, doesn't deny that hunting operations are taking up more land that was devoted to cattle. And he agrees that the money generated by hunting has brought much-needed revenue to rural America.

But he also believes hunting and cattle raising can and should co-exist because of the benefits each draws from the other.

A ranch that runs fewer cattle because it is making money off hunting leases is good for the rancher and for the habitat, Dunn said.



RENTY LABASTRE

A barasingha buck looks on at the Garrison Ranch west of Medina on Sunday. Paul Garrison III estimates that about 90 percent of the region's cattle ranches are in the hunting leasing business.



Hunters and guides load up deer after a hunt at the Garrison Ranch west of Medina on Sunday. PHOTOS BY JERRY LABASTRE

Lucrative GAME

Cattle ranchers find bonanza in leasing to deer hunters.

By WILLIAM PACK
EXPRESS-NEWS BUSINESS WRITER

A fifth-generation Bandera County rancher, Paul Garrison III had little trouble moving out of the cattle business in the early '90s to join the growing wave of landowners who lease their acreage to trophy-hungry hunters.

"The land is better suited for deer production," Garrison said of a 7,200-acre spread that features rugged hillsides but little lush bottomland. "It became obvious over time that's what needed to be done."

"It was a business decision." That leasing business has been great for Garrison and

scores of other ranchers who have decided that best production is not their best or most dependable source of income.

Having rented land to hunters since 1987, the Garrison family saw its lease income grow from about a third of the year's take to about half in the early 1990s. The ranch moved completely to selling hunting rights for deer and exotic animals in the early '90s and through strict management practices has developed what Garrison acknowledged is a lucrative operation.

He makes about three times more today on hunting rights than he did before as a cattle rancher, he said.

Garrison estimates that about 90 percent of the ranches in the region have made the same move to hunting leases. Most are in their busiest time of year now, with whitetail deer season lasting into January and into February.

See CATTLE/6E



ABOVE: Hunting guides Michael Felts (left) and Mickie Harvey dress the morning kill at the ranch. LEFT: Paul Garrison III photographs a successful hunt. Garrison's family has rented land to hunters since 1987 and has seen its lease income grow through the years.



TO: Members of the Surface Transportation Board of the U. S. Department of Transportation
Section of Environmental Analysis

Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

Public Meetings
December 2, 2004

Received 11/21/05
EI-1358

We have followed with great interest the efforts made by Vulcan Construction Materials to develop an aggregate quarry in northeast Medina County, Texas. To transport the crushed limestone from the quarry site, Southwest Gulf Railroad (SGR) has proposed building a seven-mile rail line to connect with a major rail line for further distribution of the product. We want your board to know that we favor this project and support the construction of this railroad which is to operate with a minimum impact on the environment and population within this area.

On December 2, 2004, we attended two public meetings in Hondo, Texas, which were to address the Draft Environmental Impact Statement (EIS) for the SGR.

We heard the presentations of your staff and the comments of interested parties who wished to speak. Staff members reviewed the duties of the Surface Transportation Board (STB). They commented on major issues of the Draft EIS to assure us that all environmental effects of the proposed railroad were being addressed by this report. We commend them for the thorough evaluation of all environmental impacts which may result. Most speakers from the audience presented negative input regarding the railroad and the quarry with many comments based on speculation rather than statistics and facts.

Following are our comments we wish you to consider in your further assessment of this project:

Transportation / Traffic Safety - As owners of rural land in northeast Medina County, we travel extensively on roads to be crossed by the proposed rail line and observe a minimal amount of traffic. We trust the SGR can be required to install appropriate warnings and the Texas

Department of Transportation (TexDOT) to be experts in planning for complete safety for all persons who travel these routes. Citizens of Medina County and surrounding areas have become accustomed to warning signals at railroad tracks since 1861 and are capable of observing warning devices which precede railroad crossings. Medina County residents continue to travel in cities where railroad tracks must be crossed to attend church services, conduct business, visit family and friends, receive medical services, attend school functions, etc. The crossings of SGR shouldn't cause any greater problems than others throughout the United States. To move the expected amount of material by truck would create tremendous adverse impacts on traffic safety.

Water Resources - We believe the rail line offers a better alternative than trucking to protect the groundwater and aquifer. Experienced SGR personnel will comply with all federal and local requirements during construction, operation, and maintenance to prevent significant impact on water resources. U. S. Army Corps of Engineers will address any issues of flooding and erosion during approved construction policies. Lands located in the local flood plain will flood again after significant rainfall whether there is a rail line or not.

Biological Resources - Any effects of the railroad can be remedied with additional plantings and reseeding of native vegetation.

Air Quality - We feel the rail line must comply with Clean Air Act requirements and produce fewer adverse effects on air quality than the option of truck transportation.

Land Use - Enforcement of conditions imposed by the Board can ensure landowners access and the continued appearance of the natural surroundings.

Noise - Since 1861 railroads have operated in Medina County. Throughout the years homes, businesses, schools, etc. continue to locate quite close to railroads here and across America without negative noise impact on the citizenry. Train horns are heard as many as 20 - 24 times a day in Hondo, the county seat. However, people within one block from the tracks or at the city limits continue to relax or carry on business during the day and rest well at night. Very few persons avoid Hondo because they object to the train whistles.

3.

Vibration - There are many historical buildings over a hundred years old and early wells in our county. They have existed within close range of busy railroads with no significant damages due to vibration. One neighborhood home used an old well 2 blocks from a major rail route for garden irrigation until the 1950's. Monitoring rail design and construction could eliminate vibration impact.

Cultural Resources - Several old homes set in the area of the proposed railroad; two of them stand near the proposed rail route and are in poor condition. However, historical architects are presently assisting with plans to restore them with little concern that passing trains will damage or destroy them. If early artifacts had been sought on all surrounding lands in the Quihi area, little or no construction or improvements would have been allowed to the persons who wish to prevent the rail line.

Cumulative Impacts - We agree that no significant cumulative impacts would result from a seven-mile rail line operating from a quarry to the UP rail line in eastern Medina County.

To question or provoke further insight into matters of concern stated by some of those with negative comments during the hearing, please consider the following:

(All comments using quotation marks were taken from the December 9, 2004, issue of the Hondo Anvil Herald.)

1. "...so the quarry would also require an environmental study." Didn't the quarry project already undergo an additional three-year environmental study?

2. Did the Draft EIS actually "fail(ed) to take into consideration submission of impacts from the community and MCEAA"? It doesn't seem that SGR would have received the number of mitigations listed in the Draft EIS if they only considered information submitted by Vulcan.

3. Is the "rail totally dependent on the quarry"? If the next fifty years brings progress equal to the past fifty years, we might speculate that this will not be true in 2055.

5.

campuses of O'Connor High School and Clark High School in the NISD nor the northwest (S.A.) baseball park which contains multiple diamonds for all ages. Vulcan is their next-door neighbor, was there first, and provided high fences to secure the areas.

13. Those who spoke about devaluation of their land need to see another realtor. Across our fence is a new development; the prospective landowner was told he would see a quarry if he built on the high point of his acreage. He felt it wouldn't bother him at all, bought the land, and is clearing the hill for his home. Acreage on FM 2676 east of Quihi was recently sold for a nice profit to a family for their homesite.

14. "... was concerned about an emergency occurring on the other side of the railroad tracks," is not an uncommon feeling. It is addressed and lived with by many thousands of people all over the world.

15. Why did no one ask for archeological experts in Native or non-Native American groups to come into the Quihi area when one resident used excavation and earth-moving equipment to redesign the terrain of his property? This work produced a series of ponds which capture water normally flowing into the Quihi Creek during rainfall.

We appreciate your dedication and efforts during your months of assessing the environmental impact of the proposed SGR rail line. Your Draft Environmental Impact Statement is evidence that you were extremely thorough in addressing any and all concerns of the community involved. Your explanations of the purposes and duties of the STB and the SEA were very helpful also.

Ms. Zyman-Ponebshek and Ms. Rutson were correct when they stated they did not hear anything new in the meetings of December 2. We regret that many speakers consistently chose to unite the Vulcan proposed quarry with the SGR project when they had been asked to address only items found in the Draft EIS. Thank you again for giving us the opportunity to hear the many points of view during the public meeting.

FROM: Glenn R. Schweers - Mary Jo Schweers
Glenn R. Schweers, Sr. Mary Jo Schweers
2602 Avenue K
Hondo, Texas 78861

4.

4. Was a proper flood study done by the speaker who said, "The area is already a flood hazard and the rail line will only increase that"?

5. If Congress created the STB and charged it with economic regulation of freight railroads construction, mergers, and abandonments while complying with the National Environmental Protection Act, or NEPA, why should they also be called on now "to consider the environmental impacts of the quarry before approving the railroad"?

6. Is it true that "the best defense is a good offense"? Too many speakers chose to offend the Draft FIS staffers and denounce the revealed information which the speakers opposed. Some psychologists teach that persons with poor self image belittle others to make themselves appear greater.

7. Was there ever any proof cited to verify that Vulcan Construction Material's submissions of environmental impacts were the sole source of results for the Draft EIS?

8. "You can turn this all around if you can represent the public good and not Vulcan." How many of "the public good" prefer to drive on two-lane asphalt roads with a weak road base?

9. "...he is to be commended for recommending Vulcan build none of the proposed rail routes and that the Dunlay to Medina Lake route be reexamined." Has Vulcan now discovered a high-quality limestone site at Medina Lake and wishes to have SGR reclaim an old 1912 route to build even more miles of railroad track in other persons' backyards?

10. The "significant difference between quarries and railroads in San Antonio and the quarry and railroad proposed in Quihi," is the people chose to live near the quarries after they were built in San Antonio and were able to function, progress, contribute and produce in spite of them.

11. Someone who "lives less than one hundred feet away from the proposed site for the rock crusher," must have been misquoted or misinformed. Any such residence would be inside the fence line of someone who favors the project.

12. "If you are going to allow Vulcan to ruin this community, like they have San Antonio and Helotes," indicates the speaker has not visited the

received 11/11/05

EI-1359

SURFACE TRANSPORTATION BOARD
CASE CONTROL UNIT
WASHINGTON, DC 20423
ATTN: Rini Ghosh
STB DOCKET NO. FD 34284

DEAR MEMBERS
I AM A LAND OWNER IN QUIHI AND I AM CONCERNED ABOUT THE NEW PROPOSED RAILROAD. I FEAR THE PROPOSED RAILROAD WILL CAUSE SEVERE FLOODING IN THE AREA. THERE ARE MANY CREEKS IN THE FLOOD PLAIN AND BY INSTALLING A RAILROAD TRACK WILL CAUSE A DAMPING EFFECT AND IT WILL CAUSE SEVERE FLOODING. I OWN A HISTORICAL HOME IN QUIHI AND BELIEVE THIS QUARRY AND RAILROAD TRACK WILL CAUSE MORE TROUBLE IN THIS COMMUNITY THAN IT IS WORTH.
I AM ALSO CONCERNED ABOUT MY NEIGHBORS LOSING THEIR LAND. I BELIEVE THIS DAY AND TIME IT IS UNFAIR FOR A PRIVATE COMPANY TAKING PROPERTY FOR PRIVATE USE. I HOPE YOU ALL TAKE THIS INTO CONSIDERATION WHEN YOU ALL MAKE YOUR DECISION. PEOPLES LIVES ARE AT STAKE.

I AM NOT AGAINST PROGRESS
 but there many more locations
 in TEXAS where they can
 put in a Quarry and not impact
 so many people. I do not
 think it is not 1860 where
 the Railroad can take your
 land away from you. The eminent
 domain clause in the law should
 not be used. This law is not
 fair to the AVERAGE LAND OWNER
 AND CITIZENS OF THE UNITED STATES
 This should be a FREE COUNTRY
 in which you HAVE THE RIGHT TO
 SELL your land OR KEEP it
 for your own USE. I pray
 the U.S. GOVERNMENT will NOT
 help the proposed R.R. to take
 this land from U.S. citizens.
 This property has BEEN in
 the same family for hundreds
 of years. This will BREAK UP
 the harmony of this quiet
 community. This Quarry will
 also benefit only a few
 people. At the last meeting
 the people have spoken. When
 you make your decision I hope
 you will make it with common
 sense and not be fooled by his
 company power.

Thank you for your time and
 our opportunity to voice our opinions
 and feelings. God Bless you all
 Just vote with your heart.

Thank you
 Jimmy K. Wald

Dear Sirs -

EI-1360
 received
 1/11/05

My wife and I live in Quind' on FM 351 - just about a
 mile from the proposed Vulcan Quarry. - We moved to Quind'
 in 1978 and have had 26 years of good living here.

If Vulcan comes the trucks will come down our road loaded
 with gravel - some dust & potential rocks flying into windows. We
 would have to wait on trains to cross the road - also could hinder EMS
 & fire fighters. -

One of the main things is we are in a flood plain which
 with railroad bed would dam up water & cause extreme flooding - we
 have plenty without train. San Antonio has had many train
 derailments so the train from Quind' - going to Houston mainly will
 certainly potentially cause more derailments

We have a nice amount of deer - with truck & train this
 will reduce the deer population which is very helpful to people who
 lease their land for hunting purposes.

We would have railroad down blaring - disturbing us all
 day & night. -

One big concern for me is our water well, my backhoe had out
 to bleed. Our well is all we have for drinking & water for our cows.

We would pay more taxes with 18000 lb trucks on roads
 made for 28000 max trucks. We would see our property values
 decrease due to the rail & trucks.

Vulcan would use a lot of water which we need for our
 towns, farms and irrigated land.

All in all - my wife and I do not want Vulcan to come
 to Quind'. It will be a mess & the quality of life will decline.
 Respectfully,
 Robert M. Reed 2005

EI-1361

The Medina County Environmental Action Association, Inc.
 202 CR 450, HONDO, TX 78861
 www.dontmesswithquihi.com

Phone 830 741 5040
 Fax 830 426 2060

January 9, 2005

Ms. Victoria Rutson,
 Chief, SEA Section
 Surface Transportation Board
 1925 K Street NW
 Washington, D.C. 20423-0001

received
 1/11/05

Re: Subject Finance Docket 324 84 Southwest Gulf Railroad

Dear Ms. Rutson:

After reviewing the three volume DEIS and attending the public meeting held in Hondo,
 TX, on December 2, 2004, I am convinced the people in Medina County have not
 communicated with the STB. After submitting scoping comments, some of which the
 STB described as valid environmental concerns, we expected to have definitive answers
 to these comments and questions. What we obtained was disappointment and
 frustration. We hope the final EIS will be amended and address our concerns more
 definitively.

Our biggest disappointment concerns the STB's decision to not consider the quarry and
 railroad as connected action. STB need only ask Vulcan if the railroad would exist
 without the quarry. Vulcan knows, as does its board of directors and stockholders,
 Vulcan would not develop a quarry and haul aggregate ten miles to Union Pacific
 Railroad if it meant operating at a loss. It appears STB supports Vulcan's preposterous
 claim that it could operate an all-truck facility, which would take 90% of its output to a
 distant railroad. It does this without any supporting data or proof. No cost figures for the
 special loading and unloading facilities, special trucks required, no cost for fuel,
 insurance, driver's wages or road construction are given even though MCEAA has
 requested them. Yet, cost estimates are given for the railroad. Is this being fair?
 STB must see that the all-truck route is a ruse. SBC must consider our request to make
 the railroad and quarry connected actions.

On specific issues many of our questions are unanswered. Environmental issues
 concerning surface water and traffic issues as well as air pollution are unanswered and
 are dealt with phrases such as "will be managed by best management practices" or

"environmental impact is not significant." Worse yet, STB appears to let Vulcan decide how these environmental impacts will be managed. We have received no data

concerning such important issues such as bridge designs, berm and culvert dimensions other than to say it would be adequate. We deserve and expect unbiased answers based on data that can be verified, not undocumented statements by SGR.

We have noted that Vulcan has voluntarily only submitted five paltry voluntary mitigation's. While STB e submitted forty-seven valid mitigation proposals, there is no assurance Vulcan will accept these proposals. Worse yet, STB has qualified many of its mitigation statements with terms such as "reasonable" and "minimal". We would like to note that STB has made a glaring omission. There is not one word in either of these sections concerning mitigation for the so-called no-build or all-truck route. Could the reason for this be that both STB and Vulcan know that this option is an absurd ruse? We have learned through bitter experience that Vulcan's word cannot be trusted. It is a devious and powerful company that must be required to abide by a written agreement before a permit is given. If not required to do so, they will do anything possible to circumvent what is required all for the sake of gaining a larger profit. If STB doubts this, please review the previously submitted correspondence between TxDOT, Medina County Commissioners Court and SGR regarding grade separations over FM 2676 and CR 4516. STB must state firm mitigation requirements. MCEAA insists that STB require grade separation crossings for the above roads.

MCEAA requests further consideration is given to the alternate route of a variation to Medina Lake. We believe the Galveston-Houston-San Antonio route has not received proper consideration. SGR has done its best, for whatever reasons, to make this route appear unacceptable, thus misleading the STB. We would like to set the record straight. We believe the SGR statements concerning the cuts and fills required for this railroad are incorrect. We will submit data to support this argument. We also wish to point out that SGR has failed to provide data requested by the URS Corporation in regard to the cut and fills on this proposed or any alternative routes and the no build alternative. (See memorandum dated February 12, 2003—page G10, Vol 3 from the URS Corporation) Our accompanying maps and graphs show that this route would bypass the Cherry Creek and most of the Quihi Creek flood plains, which have to be traversed by the proposed and alternate #3. As previously noted, the G-H-SA route would have many advantages, which will be subsequently enumerated. These are as follows:
#1. Removes flooding dangers in the Quihi and Cherry Creek Flood Plains,
#2. Crosses fewer county roads—four instead of five to seven-
#3 Crosses all roads at safer locations.
#4. There would be less construction costs for bridges, culverts and berms
#5. This alternative would bypass and thus sparing historic and archeological areas,
#6. It traverses property of five landowners known to favor the quarry.
#7. Contrary to SGR's claim, there would be less disruption of environmental features such as flood plains, wetlands and hydraulic features.
#8. The upkeep costs, therefore, would be less on level plateau-type terrain than a railroad traversing flood plains.

#1. Transportation and Safety Section A, page ES10 (Section 1, Vol. 1) STB, without justification, comment, or consideration of all of the previously submitted testimony and reasons why grade separations are needed on county and state roads states that at grade road crossings for its' preferred and three alternate routes with their appropriate warning devices which gives the impression that this type of crossing is appropriate. What does it take to make the STB understand that county and state government officials want the safest road-railroad crossings? **This means grade separations.** Vulcan has agreed to install these crossings when told to do so. There must be a requirement in the mitigation section for grade separation crossings. If not done initially, it will not be accomplished and lives will be lost because of STB's failure to protect the human environment as has been repeatedly requested by the public and local government officials.

#2. Section P-Socio-Economics ES-17. We ask the STB, what is their basis for concluding that there would be no significant socioeconomic impacts as a result of the proposed action or no-action alternative? Doesn't STB realize that these actions will potentially change Medina County from an agricultural-residential to a commercial-industrial economy, with total disruption of people's property, vocation and livelihood? How will people accommodate this? What are the impacts? No answers have been provided.

#3. Section Q, Page ES 17—Cumulative Impacts. STB has gone to great lengths to deny the quarry as a connected action to the railroad designating it as a cumulative impact to the railroad, yet this section ignores the quarry all together. STB should either acknowledge the quarry is a connected action or else fully define the environmental impacts of this cumulative effect. STB has allowed SGR to hold itself out as a common carrier, while at the same time it allows SGR to say it is unlikely to have any other enterprises ship goods on this line. SGR has a duty and responsibility to either define the environmental impact or other businesses or else deny common carrier status to SGR. Which will they choose?

#4 Section A, Page ES11—Traffic Safety. In regards to local traffic impact, the two major arteries that would be crossed by a proposed railroad FM 2576 and CR 4516—General Woll's Road—the statement is made that proposed construction would take twelve months, but the traffic impact would not be significant, however, no alternative routes through these areas exist and none has been designated. How will traffic continue to flow during any construction period? No coordination with local officials has been done which is also a stated requirement. STB has already been advised that at grade crossings at these locations are unsafe even with warning devices, because of the type of traffic which include heavy gravel trucks, farm machinery, fertilizer and diesel trucks. The safest type of crossing, i.e. grade separation, should be required by STB in the mitigation section. Page 4-108 the southern half of the rail loop within the quarry exists in the flood plains of the Pole Cat and Elm Creeks with an elevation difference of thirty feet below the northern loop. The statement is made that there are potentially no

The added length (estimated 2 ½ miles) of such an alternative should not disqualify it particularly if it's advantages outweigh the other routes. Likewise, this route should not be disqualified because of any agreements between quarry owners, their heirs or employees' and Vulcan providing that their land should not be traversed by a railroad. And owners of the quarry site should not be permitted to make an agreement with Vulcan prohibiting a railroad being placed on their property, thus requiring Vulcan to route the railroad on other peoples land who do not want such a nuisance. We believe it is STB's duty to ascertain if such an agreement exists and consider it before making a final decision to disqualify the variation of the G-H-SA railroad. MCEAA requests careful review of the maps, graphs and data of this alternative and compare them to the proposed and all alternate routes. We believe the advantages of this route will be recognized and will cause less adverse environmental impacts than the SGR routes.

Before concluding, there are other matters we wish to bring to STB's attention, which have only recently transpired. These include:

#1. SGR's statements concerning the management of its' proposed rail line by the Union Pacific and

#2. The impact of an additional 1000 railroad cars a week traversing San Antonio's congested rail traffic in route to Houston's congested rail traffic
Both of these issues need careful consideration and evaluation by STB and bring up many additional questions. MCEAA believes that further explanation and information concerning SGR's decision should be made available to the public. Is SGR incapable of managing the railroad? Is it able to get personnel to manage the railroad? Why does it wish to turn it over to a railroad that is already admittedly understaffed, over-burdened and years behind in getting necessary construction of new track and up-grading of current lines? Is this what STB condones? Why would a newly created railroad which presents itself as a common carrier with eminent domain power to condemn land and thus build a railroad, then seek to have another railroad company, which had previously been unwilling to build the railroad, assume management of this railroad? The answer to MCEAA is obvious. This is the only way this railroad can be built. MCEAA repeats its belief that a private company should not be allowed to masquerade as a common carrier railroad, and be allowed to condemn property to build a railroad if it only transports its only product.

As STB should be aware rail traffic in the San Antonio area has been the site of six train accidents in the last half of 2004, with five deaths and untold property damage. Vulcan's desire to send an additional five million tons of aggregate per year through the San Antonio area will further tax this already over-burdened Union Pacific system. The details of this additional railroad traffic will be given separate discussion. I mention it here only to emphasize our concern about the environmental impact this project will have.

Simple questions on environmental impact:

significant adverse cumulative effects to the surface water in this region caused by the southern rail loop. We believe this statement is untrue. Other questions and comments concerning railroad location, construction and operation follow. On page 2-6, vol 1 SGR anticipates entering into an agreement with the Union Pacific regarding the connection with the UP line, the details would be determined at a later date. This statement needs thorough investigation by STB. It opens the door to numerous questions, particularly in light of Union Pacific's present operating difficulties. Questions follow:

1. What is the current and future availability of shipping of Vulcan's products?
 2. How long will the loaded rail cars stand idle?
 3. How many cars will accumulate before shipment? Maximum number?
 4. Where will these unattended, loaded cars be parked?
 5. How will air pollution from dust be controlled in this area?
- These questions and their environmental impacts must be answered in the final EIS. To MCEAA's observation the absence of these questions and answers from the DEIS show Vulcan's lack of preparation.

SGR states its' trains would have the capacity of traveling 40 MPH presumably while unloaded) but will operate at 12 to 25 MPH for the foreseeable future. These statements raise the following questions:

Barring a runaway accident, why does SGR make statements that track design (curves) must be for speeds of 40 MPH? Is it so that it can use this argument to try and mislead STB concerning the design of the variation of the G-H-SA route? If the SGR can use speeds of 12 MPH going up one-degree grades shouldn't this same speed be used around curves? Please answer these questions in the final EIS.

On page 2-10, Vol 1, SGR attempts to mislead the STB by stating that the G-H-SA line is several miles east of the quarry site. However, a variation of the G-H-SA route could be designed so that it would only be 2.2 miles after crossing FM 2676 in a north-south orientation. SGR continues to attempt to mislead STB by stating that there is a steep fall at the northern end of the G-H-SA route which is true according to their designs, however, a variation of the G-H-SA route could be designed so that a steep decline would not be necessary.

SGR continues its tirade with weak suppositions and statements that it appears the Medina Dam route was intended to haul lighter trains and to be used for only a short time. These statements are easily challenged. One needs only to look at the massive loads of heavy construction material hauled over the upper two-thirds of this line, up much steeper grades with much less powerful steam engines as compared with the powerful diesel engines of today. Pictorial proof of this is available in a book entitled "Ripples from Medina Lake" written by Rev. Cyril Matthew Kuehne, S.M. Additionally, how does SGR know how long the SGR would have lasted? It can only guess. STB must not base its decisions on SGR's guesswork. SGR is left with one last point, a variation of the G-H-SA railroad would be longer., why will SGR not realize it is also

better and more environmentally sound? We have previously stated the reasons and hope to have dispelled and unproven SGR's untrue statements. Now STB must decide MCEAA again urges the STB to make an on-sight evaluation of this alternative and compare it with all SGR's suggested routes. In this way, STB can see for them which is best. We are assured that SGR does not want this, but we believe one look is worth ten thousand words.

In conclusion, the STB has been given ample comments and information to correct errors and omission appearing in the Draft EIS. We hope that the information supplied will help to set the record straight. STB should not need to be reminded of its' responsibility to protect all phases of the environment which includes the people effected by the SGR. MCEAA and Medina County await your decision. Thank you for your time.

Sincerely,

Dr. Bob Fitzgerald, President

CC: U.S. Congressman Henry Bonilla
Senator John Cornyn
Senator Kay Bailey Hutchinson
Texas Senator Frank Madla
Texas Representative Tracy King

Oversized map too large to scan.
Please contact the Section of Environmental Analysis to view a copy.

MCEAA, Inc., for your Home, Health, and Heritage

The Medina County Environmental Action Association, Inc.
202 CR 450, HONDO, TX 78861 Phone 830-741-5040
www.dontmesswithquihi.com Fax 830-426-2060

January 10, 2005

Ms. Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street N W
Washington, D. C. 20423-0001

ET-1362

Received
1/11/05

Re: STB Finance Docket 34284
Vulcan Materials/Southwest Gulf Railroad
Medina County, Texas

Dear Ms. Rutson:

The accompanying map shows the location of homes in area of the proposed Vulcan/SGR quarry railroad project.

The area is not sparsely populated as Vulcan has stated.

The only road out of the area is FM 2676. All other roads feed into FM 2676. Any disruption of traffic is very dangerous. Detours through narrow, unpaved and periodically flooded roads are not feasible.

The area is growing, as evidenced by the subdivisions which are developing and planned in the area.

The concentration of the most historic features is noted with the district outlined. There are also three heritage farms noted. Applications for more are in the process of being submitted.

Sincerely,
Dr. Bob Fitzgerald

MCEAA, Inc., for your Home, Health, and Heritage

Oversized map too large to scan.
Please contact the Section of Environmental Analysis to view a copy.

#E1-1367
RJ

The Medina County Environmental Action Association, Inc.
202 CR 450, HONDO, TX 78861
www.dontmesswithquihi.com
Phone 830-741-5040
Fax 830-426-2060

January 19, 2005

Victoria Rutson
Chief, SEA
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Rc: Finance Docket 34284
Proposed Vulcan Materials/Southwest Gulf Railroad Rail Line
Medina County Texas

Dear Ms. Rutson:

We are requesting that the STB require a Supplemental DEIS and Public Meeting on FD #34284. After considering the comments on the DEIS made at the December 2, 2004, meeting and the subsequent comments submitted to your agency before the January 10, 2005 deadline, this request is justified

This request is justified due to the following deficiencies in the DEIS:

1. The DEIS lacked adequate and credible data on many environmental issues.
2. Because of erroneous and insufficiently detailed data, commentors were not able to make meaningful comments to the STB.
3. Many issues were not addressed at all, as noted in previous correspondence dated December 8, 2004.
4. Failure to fairly compare all of the alternatives including the variation of the old GH&SA route.
5. Not all of the pertinent data possessed by the STB was made available in the DEIS for public review.

6. STB, despite information and questions submitted during the scoping period, failed to respond to these remarks. This gives the impression STB is prejudiced in favor of SGR. This prejudice must not occur. STB can erase this impression by providing a Supplemental DEIS that is thorough, factual, includes all the data, and one that covers all of the environmental impacts the previous DEIS omitted.

In reality, the public has not been granted a DEIS. We have not been given what the law provides. The DEIS phase of the process was, in effect, a farce used to Vulcan/SGR's advantage.

Your prompt response to this request is appreciated

Sincerely,

Dr Robert T Fitzgerald

Dr. Robert T Fitzgerald, President
MCEAA, Inc.

CC:
Mr. Roger Nober, Chairman, Surface Transportation Board
U.S. Representative Henry Bonilla
U.S. Senator John Cornyn
U.S. Senator Kay Bailey Hutchison
Texas Senator Frank Madia
Texas Representative Tracy King
Mr. Larry Oaks, Texas Historical Commission
Ms. Hope Andrade, Texas Department of Transportation
Dawn Whitehead, U. S. Fish and Wildlife Service
David Barton, The Gardner Law Firm
Dr. Lynn Kitchen, Adams Environmental, Inc.

MCEAA, Inc., for your Home, Health, and Heritage

#E1-1368
RJ

January 6, 2005

Elizabeth Wood
671 County Road 252
Hondo, Texas 78861

Surface Transportation Board
Case Control Unit
Washington, D.C. 20423
Attn: Rini Ghosh
STB Docket No. FD 34284

Dear Sirs:

This letter is to comment on the Draft Environmental Impact Study (DEIS) concerning the proposed Southwest Gulf Railroad line from Vulcan's proposed limestone quarry north of Quihi, Texas to Dunlay, Texas. The information in the DEIS was insufficient for determining the impact of the rail line on the area. The proposed railway will have great and long-lasting impact on my family, our neighbors, our community, and our local environment. Of most concern is increased flooding, traffic, noise, dust, and vibration.

All of the proposed rail line routes cross several creeks and floodplains. After only a few days' worth of rain, current flooding to these areas already interrupt travel to and from employment for myself, my husband and most other residents in Quihi. To me personally, this means reduced income for my family because when I don't work, I don't get paid. Any increase in flooding, as a railroad is certain to cause, will compound this problem and threaten our livelihood.

Another major issue is the obstruction of county and farm roads during train function and malfunction. In more urban areas, where alternate roads are available, a railroad would still be a loud, unpleasant eyesore. But, the traffic issue would probably be less disruptive than it will be to our community. In our beautiful rural area, the many current residents (and any future residents of subdivisions under development) rely on their one county road to access Farm Road 2676. And this farm road is the only exit for nearly everyone in the Quihi area. Normal train function will result in daily delays and risk of collisions as high-speed commuting vehicles approach passing trains, not to mention the potential for prolonged interruption with train malfunction. An even more damaging consequence will be in the event of a passing train delaying needed emergency vehicles, i.e. EMS or fire department. Within the last year, my own family experienced an out-of-control brush fire. If the volunteer fire personnel had been hindered, tragedy could have occurred.

The creation of noise, dust and vibration will threaten our multiple local historic sites and will destroy the peaceful environment for our families and wildlife. My husband and I chose to purchase land and build a home in this most serene and remote area for precisely the reason of raising our two preschool children where the only sounds are birds singing



and the wind blowing through the cedars. We value our seclusion and greatly resent being deprived of this most precious asset.

As troubling as I am sure you find these consequences to be, they are mere inconveniences compared to the one most severe issue at stake. Namely, this will be the appalling violation of so many American citizens' property rights if Vulcan and SGR use the excuse of "eminent domain" to seize and condemn land and homes. The only reason for the railroad to exist is the proposed quarry. And as only the few people who are contributing to the actual quarry site stand to benefit from this project, it seems evident that the welfare of the majority—who don't want a railroad on their land—is in danger of being trampled for the sake of the few who will receive a large financial boost from this project.

Being federal employees, the commissioners of the Surface Transportation Board are employees of the United States taxpayers and are responsible to protect the rights of United States citizens, including property rights. As a citizen and taxpayer, I call upon you to do the right thing and submit to the will of the people of Quihi and not to the will of those who wish to trade their neighbors' rights to fatten their own bank accounts. Protect our community and our environment from the threat of this looming and lasting scar that will severely alter our present tranquility and will devastate our piece of Americana.

Very sincerely yours,

Elizabeth Wood

Elizabeth Wood
Landowner and Quihi resident

#E1-1369

FD 34284

SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS
SOUTHWEST GULF RAILROAD COMPANY
CONSTRUCTION AND OPERATION EXEMPTION

Medina County, Texas
Public Meeting I
2 December 2004

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MS. GATES: All right. We're going to get started. So thanks very much for taking your seats.

Hello. On behalf of the Surface Transportation Board Section of Environmental Analysis I'd like to welcome you to today's public meeting. We're here today to hear your comments on the Draft Environmental Impact Statement for Southwest Gulf Railroad's proposed rail line here in Medina County. The goal of our meeting today is to provide a safe and open environment so that all of you can give -- can give us your comments as you would like to do.

Let me tell you a little bit about today's agenda. It's very simple. You've already come and signed in. We're going to have a brief presentation from the Surface Transportation Board on the process that was used to develop the environmental document, and then also we're going to hear a little bit about some of the highlights of the document itself.

First, I would like though to do some brief introductions. I would like to introduce Victoria Rutson who is Chief of the Surface Transportation Board Section of Environmental

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Analysis. Next to her is Rini Ghosh. Some of you may already have met or spoken with her. She's Attorney Advisor for this project from the Surface Transportation Board. At the end is Jaya Zyman-Ponebshek. Jaya is the Technical Manager for development of the Draft Environmental Impact Statement. She works for URS Corporation, which is under the direction control and supervision of the Surface Transportation Board in preparing this EIS. And we also have Phil Ponebshek right here who is a Technical Advisor who works for URS who's a technical advisor in development of the EIS. And I am Nancy Gates also with the URS, and I'm going to be your moderator today.

So let's get started. Victoria.

MS. RUTSON: Thank you, Nancy. Can every one hear me? Please raise your hand if you can't. I know it's a bit dark right now. We will be turning the lights back on so you'll be able to see us. We're not hiding here in the dark. We just want to make sure you can see the slides.

So welcome to the public meeting. We're pleased that there's such a strong showing, although we're not surprised. We understand that there is a lot of feeling and commitment to voice concerns, so

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we're very happy to be here to listen to you today. Before we turn the microphones over to you, I'd like to spend a few minutes telling you what the Surface Transportation Board is.

The Surface Transportation Board is a small agency of 140 people located in Washington, D.C. The Board itself will be the decision maker on Southwest Gulf's proposal. Southwest Gulf will be referred to also as SGR in our presentation. The Board consists of three members. It's a bipartisan board. Which means we have a Republican Chairman, a Democratic Vice Chairman and a Republican Board Member. Those three board members will be deciding whether to approve SGR's proposal, whether to deny SGR's proposal, or whether to approve the proposal but only with certain mitigating conditions.

Congress created the Surface Transportation Board in 1996. And the function that Congress has charged the Board with is economic regulation of freight railroads.

Now, that doesn't mean a lot to most people in our everyday lives. But railroads when they choose to build a new rail line, when they want to merge with other railroads or when they want to abandon a stretch of line, in each of those

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1 circumstances the railroad must get a permit from the
 2 Surface Transportation Board. The Board is
 3 organizationally housed as part of the Department of
 4 Transportation but decisionally independent. Which
 5 is a lot of gobbledegook that means the three members
 6 of the board are the decision makers on rail
 7 constructions, rail mergers and rail abandonment
 8 cases. Now, not only does the Board need to look at
 9 rail proposals on a merits stand point under Board's
 10 governing statute, which is the Interstate Commerce
 11 Act. Any time a railroad seeks to build a new line
 12 or abandon an old line or merge with another carrier,
 13 the board must also comply with another statute. And
 14 that's the National Environmental Policy Act or NEPA.
 15 And that's what my section is responsible for doing;
 16 making sure that the Board understands completely the
 17 environmental implications of a proposal before
 18 issuing a final decision.

19 The Section of Environmental Analysis,
 20 which is what I'm the Chief of is also known as
 21 S.E.A. or SEA. So if you hear SEA or S.E.A. referred
 22 to during our presentation, we're talking about the
 23 Section of Environmental Analysis. We do the NEPA
 24 analysis, National Environmental Policy Act and also
 25 insure that the Board complies with the number of

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1 other environmental statutes. And that includes the
 2 National Historic Preservation Act, which we all
 3 understand is a big concern in this case, also the
 4 Clean Air Act, the Clean Water Act, the Endangered
 5 Species Act and a number of other environmental
 6 statutes and permits.

7 Our environmental rules for those of you
 8 who are interested in doing legal research are in the
 9 Code of Federal Regulations at 110549 CFR 1105. We
 10 also have to comply with President's Council on
 11 Environmental Quality Regulations. And those are
 12 very important too. They dictate how to do an
 13 Environmental Impact Statement.

14 What have we done so far to insure
 15 National Environmental Policy Act compliance for this
 16 process, the Southwest Gulf or SGR's proposal to
 17 build the rail line? Well, back in June of 2003 we
 18 had an open house meeting in which a number of you
 19 might have met Rini and Nancy and Jaya. In that
 20 meeting we heard comments about what the scope of the
 21 environment analysis should be. Since then, we've
 22 also talked to a number of federal, state and local
 23 agencies and received a number of comments from the
 24 public. We have now drafted an Environmental Impact
 25 Statement or Draft EIS which we issued on November

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1 5th, 2004.

2 We're in the public comment period.
 3 This is our opportunity to listen to what you all
 4 think of our draft EIS and the SGR's proposal. So
 5 we're very anxious to -- to listen to you. And I
 6 will quickly sum up.

7 What are the next steps in the proposal?
 8 Well, we've done the Draft EIS. Now we need to get
 9 your comments. All comments will be treated with
 10 equal care and consideration, whether they be your
 11 oral comments here today, written comments that you
 12 may submit later by the January 10th deadline or
 13 written comments that you drop off with us today, as
 14 well as the transcripts. We do have a court reporter
 15 here with us today carefully recording everything
 16 that is said. So we'll go back to Washington,
 17 carefully consider everything that you have said or
 18 written to us and we'll prepare a final Environmental
 19 Impact Statement. Then that document will contain
 20 our final recommendations to those three decision
 21 makers that I talked about earlier, the Board before
 22 making any final decision on this proposal will look
 23 at the Draft EIS, all the written and oral comments
 24 received and the final EIS. Only then will the Board
 25 issue a final decision after having taken a hard look

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1 at the environmental implications of this proposal.
 2 And the board will make one of three decisions: To
 3 approve, to deny, or to approve but only with
 4 conditions.

5 So with that, I'm going to turn the
 6 microphone over to Rini Ghosh who will talk in more
 7 detail about the environmental review for this
 8 particular proceeding.

9 MS. GHOSH: Thank you, Vickie. Hi,
 10 everyone. My name is Rini Ghosh and I'm Attorney
 11 Advisor in the Section of Environmental Analysis at
 12 the Surface Transportation Board.

13 I think I might have met some of you at
 14 the open house last year that we had in Hondo. I'm
 15 really glad to have the opportunity to be back here
 16 again today. As Vickie said, we're here today to
 17 listen to you. So, I don't want to take up too much
 18 of your time but I do want to tell you a little bit
 19 about our draft Environmental Impact Statement and
 20 our study of cultural resources.

21 As most or all of you may know,
 22 Southwest Gulf Railroad Company has proposed to
 23 construct an approximately seven-mile rail line that
 24 would connect Vulcan Construction Materials new
 25 limestone quarry to the Union Pacific Company rail

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1 line near Dunlay, Texas. They propose to move four
 2 trains per day over this new rail line; two empty
 3 trains going up to the proposed new quarry and two
 4 loaded trains coming back down to the UP rail line.
 5 They would also construct a loading track on the
 6 quarry property that would connect to the new rail
 7 line.

8 Based on all of the comments that you've
 9 submitted to us we realize that this proposal is
 10 highly controversial, which is why we decided to
 11 prepare an Environmental Impact Statement type of
 12 document to make sure that we were taking a really
 13 hard look at all the environmental consequences to
 14 give information to the Surface Transportation Board
 15 before it makes its decision. We also wanted to give
 16 you as much opportunity as we could to participate in
 17 the environmental review process. Our draft
 18 Environmental Impact Statement identifies and
 19 evaluates potential environmental consequences from
 20 the rail line construction proposal and sets forth
 21 our preliminary analysis and our preliminary
 22 conclusions as well as our preliminary
 23 recommendations for mitigation. We also compare four
 24 different potential rail alignments in this document
 25 . We request your comments on every single aspect of

1 this document. While preparing the draft
 2 Environmental Impact Statement we received many
 3 comments regarding cultural resources in the area.
 4 Our study of cultural resources sources is governed
 5 by what is known as the Section 106 process of the
 6 National Historic Preservation Act. This Section 106
 7 process sets forth certain steps that Federal
 8 agencies must take to examine impacts on cultural
 9 resources before making a decision. These steps
 10 include identifying appropriate consulting parties,
 11 identifying cultural resources in the project area,
 12 assessing impacts on cultural resources, and
 13 developing appropriate mitigation measures. We began
 14 the Section 106 process by consulting with the Texas
 15 Historical Commission and identifying other
 16 appropriate consulting parties. We then prepared a
 17 preliminary cultural resources assessment report
 18 which we submitted to the Texas Historical Commission
 19 and other consulting parties for review and comment.
 20 Based on all the comments we received we conducted
 21 additional studies and research. And to date we have
 22 identified thirty above-ground resources that could
 23 potentially be affected by the proposed project as
 24 well as one potential historic district. The entire
 25 Quihi, Texas area is within a potential rural

1 historic landscape because the land use has remained
 2 unchanged for a great number of years. This means
 3 that the Quihi, Texas area is potentially eligible
 4 for the National Register of Historic Places as a
 5 historic district. Based on our research and the
 6 recommendations of the Texas Historical Commission in
 7 consultation with the Texas Historical Commission we
 8 developed a document called a programmatic agreement
 9 which sets forth the remaining steps for completion
 10 of this Section 106 process. Our cultural resource
 11 studies as well as a draft version of the
 12 programmatic agreement are included in Appendix I of
 13 the Draft Environmental Impact Statement for your
 14 review and comment.

15 Now I'm going to give the microphone to
 16 Jaya Zyman-Ponebshek, our Technical Project Manager,
 17 to talk to you a little bit about some of the other
 18 resource areas that we studied.

19 MS. ZYMAN-PONEBSHEK: Thank you very
 20 much, Rini. For change of scenery I'm going to move
 21 on this side.

22 Good afternoon everyone. My name is
 23 Jaya Zyman-Ponebshek with URS Corporation. I've been
 24 given the technical aspects of the Draft
 25 Environmental Impact Statement. I'm here today to

1 summarize our study -- the results of our study and
 2 primarily to seek comments on our results and our
 3 conclusions because everything is preliminary at this
 4 point. The study covers several resource areas as
 5 listed in this screen. And I'll just give you a few
 6 seconds to read it. As far as cultural resources
 7 Rini already gave you an overview. So I'm going to
 8 now concentrate on the other resource areas.

9 In general what we identified as far as
 10 impacts is the following. Basically the impacts can
 11 be boiled down to the following impacts: Traffic
 12 delays at grade crossings, safety concerns, noise and
 13 vibration, air and water contaminants, land use
 14 changes, including clearing, fill placed in flood
 15 plains or wetlands. And in the interest of time
 16 rather than going through every single resource area
 17 and taking all your comment period out of -- away
 18 from you I'm just going to concentrate on those areas
 19 where we have found impacts. Transportation and
 20 traffic safety - the rail line could cause impacts to
 21 local transportation and traffic safety when the rail
 22 line crosses area roadways using at-grade crossings.
 23 At this point, traffic delays and car-train accidents
 24 have the potential to occur. Delays could result
 25 from three reasons basically: While the crossings

1 are temporarily blocked during train -- during rail
2 construction. During normal operations when at-grade
3 crossings is closed for trains to pass, including the
4 time approaching the intersection and the time that
5 the train needs to clear the intersection. And then
6 thirdly, during track repair of if a train
7 malfunctions at that specific grade crossing.

8 In the draft EIS we have provided
9 preliminary recommended mitigations. And we welcome
10 your comments on both, the impacts and the
11 mitigations.

12 As far as water resources we analyze
13 impacts on surface water, ground water and wetlands.
14 Impacts to surface waters may result from
15 construction and operation. Basically either from
16 flood plains and stream stability or contamination.
17 As far as flood plains and stream stability SEA
18 consulted with the Army Corps of Engineers, the
19 Federal Emergency Management Agency and the Medina
20 County Floodplain Administrator regarding potential
21 impacts to flood plains and streams caused by the
22 proposed rail line. This impacts depending on final
23 crossing design may include localized increases to
24 the width of the flood plains and changes to stream
25 hydraulics. Cut and fill operations at stream

1 crossings could have impacts -- adverse impacts to
2 bank stability as well.

3 Once again we have provided
4 recommendation and mitigation for this resource area
5 and we welcome your comments. Now as far as ground
6 water the primary concern to ground water resources
7 is the possibility of contamination.

8 Oh, I'm sorry. Can you go back to
9 surface water I forgot to tell you about
10 contamination. Now contaminants could be released
11 during construction and operation and could adversely
12 impact surface water quality. SEA or S.E.A.
13 assessed the potential for impacts for range of
14 contaminants all the way from silt and debris to fuel
15 spills.

16 During construction of the rail line and
17 during future repair activities ground clearing and
18 heavy equipment would cause a potential for silt and
19 debris runoff to enter surface waters during a major
20 rainfall event. The release of petroleum products
21 from construction equipment or locomotive fuel spills
22 could also impact water quality.

23 Now, I'm ready to go back to ground
24 water. The primary concern to ground water resources
25 is the possibility of contamination. And as I just

1 noted construction and operation could potentially
2 result in runoff of contaminants.

3 Local streams provide recharge for the
4 Leona Gravel Aquifer and the northern most one-half
5 mile of the proposed rail line crosses streams in the
6 recharge zone of the Edwards Aquifer as you all know.

7 The contaminants of concern would be
8 similar to those for surface water, including silt
9 and debris from construction or line repair and
10 locomotive fuels. Contamination of the rail line
11 could end up in the water which recharges this
12 aquifers.

13 And once again we welcome your comments
14 on both the mitigation and the results of this study
15 presented in the draft EIS.

16 Now as far as wetlands. There is little
17 natural opportunity for significant wetland resources
18 to form in Medina County. According to the National
19 Wetland Inventory Elm Creek and portions of Cherry
20 Creek and Quihi Creek form Riparian Wetlands. And
21 all of the local creeks have small pools classified
22 as Palustrine Wetlands. These classifications only
23 deal with the type of vegetation supported by the
24 feature. And I'm not going to get into the details
25 on that right now. There is a potential for

1 permanent loss of wetland functions where the rail
2 line crosses these creeks and places fill or
3 structures within the creeks. When such placement is
4 necessary authorization from the U.S. Corps of
5 Engineers would be required under Section 404 of the
6 Clean Water Act. Corps authorization is also needed
7 where there would be temporary impacts to streams
8 from access roads needed to transport the equipment
9 and personnel during construction. During rail
10 operations wetland resources could also be affected
11 due to contaminated runoff following an incident that
12 results in a diesel fuel spill. And again, we
13 welcome your comments.

14 Biological resources - The railroad
15 would require a construction right-of-way where all
16 vegetation would be temporarily cleared and then a
17 narrower strip where vegetation would be permanently
18 cleared where the rail bed would be. Since this
19 vegetation represents wildlife habitat any clearing
20 of these vegetation represents loss of this habitat
21 and impacts to biological resources, whether it's
22 temporary or permanent.

23 Construction, maintenance and operation
24 of the rail line could pose a more direct risk to
25 biological resources as there is a potential for

1 collisions between the train and wildlife. And also
2 mechanical mowing and shredding along the
3 right-of-way could harm smaller animals.

4 And then once again, we welcome your
5 comments. I'm not going to say that anymore.

6 Okay. Land use - As every one here
7 knows the permanent rail line right-of-way will
8 require acquisition of land for the construction and
9 permanent right-of-way and would have impacts to
10 property adjacent to the right-of-way. Most of the
11 right-of-way for the proposed route would be located
12 along or near fence lines. However, some properties
13 would be severed.

14 Given current land use SEA preliminarily
15 concludes -- again S.E.A. preliminarily concludes
16 that the proposed alignment would cause a reduction
17 in the amount of land including prime farmland
18 available for agricultural. Adverse impacts on land
19 use could not be fully mitigated.

20 Noise - The proposed action resulting
21 both construction and operation related noise
22 impacts. Construction of the rail line would proceed
23 at about 140 to 150 feet per day along the corridor
24 creating a temporary noise impact to nearby
25 residences.

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1 During operation noise would result from
2 the operation of the train on the line as well as
3 from the sounding of horns prior to entering any
4 upgrade crossing. S.E.A. performed an analysis on
5 operation on noise caused by engine noise and the
6 wheel/rail interaction and determined that operations
7 over Alternative 1 would result in greater noise
8 impact than any of the other alternatives.

9 As far as horn noise the maximum sound
10 level from the horn would have an adverse effect on
11 residences closest to the grade crossings.

12 And then finally I'll discuss the
13 vibration impacts. Vibration impacts result both
14 during construction and operation of the rail line.
15 Because of the nature of activities, different
16 activities would cause vibrational impacts at
17 different distances from the rail line. Of primary
18 concern are vibrational impacts to sensitive
19 structures such as historic structures and wells or
20 any other fragile structure. For example, most
21 construction activities would create a vibration
22 impact to structures within 25 feet of the activity.
23 Structures that are further than that probably
24 wouldn't be affected at all. But for pile driving
25 adverse vibration activities -- I'm sorry. For pile

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1 driving adverse vibration impacts could occur to
2 extremely fragile historic structures up to 200 feet
3 away. S.E.A.'s preliminarily -- preliminary studies
4 indicate that vibration impacts from operation of the
5 rail line would not impact sensitive structures more
6 than 45 feet from the tracks.

7 And again, these numbers are
8 conservative numbers. To get a more detailed number
9 that would be probably less conservative of the real
10 you would need to do an actual vibration by vibration
11 study accounting for the soil conditions between the
12 source and the receptor.

13 And then now I'll turn this over back to
14 Nancy so we can begin the comment session.

15 MS. GATES: Now, we're ready to begin
16 the most important part of the meeting which is the
17 comment period. And to insure that we have and we
18 maintain a safe and comfortable environment in which
19 everybody gets a fair chance to submit and give their
20 comments we have established a few ground rules. If
21 you picked up the fact sheet when you came in you
22 probably saw those ground rules. But I wanted to
23 briefly go over them. First of all, you received --
24 When you signed up to speak you -- we had you sign in
25 on numbered cards. And we will call your name in the

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1 order in which you signed in. When you hear your
2 name called, you should approach one of the two aisle
3 microphones on either side. And if you are unable to
4 go to the microphone, that's okay. We will bring a
5 microphone to your seat. Just raise your hand when
6 we call your name. If there are any Spanish speakers
7 in the audience who would like to help with
8 translation, Jaya is bilingual in Spanish and English
9 and she's available to help you if you need that
10 assistance. You each have three minutes to speak.
11 And the reason for this is because we want to give as
12 many people an opportunity to speak as we possibly
13 can. To help you figure out where you are in your
14 three minutes, our timer will hold this up when you
15 have 30 seconds left so that you know it's time to
16 start wrapping up. And then when your time is up,
17 you'll see this. This is just to give you some
18 assistance so you don't have to be looking at your
19 watch. If you wish to make a comment but you do not
20 want to speak yourself you may fill out a comment
21 card and we will read the comment for you. That's
22 not a problem. Or you may submit a written comment.
23 We want to have a chance for all speakers who've
24 signed up to speak one time. And then if we go
25 through the whole sequence and you would like to

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1 speak again, you may speak again. But we want to
2 give everybody a chance to speak at least once before
3 we take people for the second time.

4 And finally we are recording this
5 meeting. We have a court reporter and we are also
6 audio taping it. And so we ask your courtesy when
7 other people are speaking to try not to talk, and
8 that way we can record the most accurate words
9 possible and make sure we get into our record.

10 And finally, I overlooked introducing s
11 somebody at the beginning of the meeting. Gabriel
12 Lozano from Congressman Henry Bonilla's office is
13 with us today. And we say welcome to you, Gabriel.

14 So let's go ahead and get started. Any
15 questions?

16 (No questions).

17 Okay. I'm going to turn of my -- Okay.
18 Thank you for your patience.

19 First of all our first speaker is David
20 Barton.

21 MR. BARTON: I'm David Barton. I'm an
22 attorney representing the Medina County Environmental
23 Action Association. My interest is that after you
24 listen to the comments today you will see the
25 necessity to do the right thing. Is it worth to do

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1 otherwise. The right thing is significantly
2 different than what is presented in the DEIS which
3 seems to ignore the most obvious fact that but for
4 the quarry the rail would not exist. The lack of
5 depth of the DEIS is both appalling and
6 disappointing. It merely reflects Vulcan Materials
7 submissions. And that is just the beginning of the
8 road. Vulcan Materials is the driving force behind
9 the activity that brings us here today. A private
10 company with apparent plans to operate a rock quarry
11 and create a private rail company which would not
12 exist without the quarry and which has no purpose but
13 to support the quarry. Yet the small private
14 railroad which is so interdependent on the quarry
15 with no reasonably foreseeable purpose to serve
16 anyone else attempts to be anointed as a sovereign
17 with the ability to condemn and confiscate property
18 for its private purposes under the guise of a common
19 carrier. A common carrier for what? Nothing but a
20 privately held rock quarry. It is clear this is
21 marched by Vulcan to get common carrier status. It's
22 being done purely to thwart the will of the majority
23 of the local community. It didn't start this process
24 until it became clear it would unable to purchase or
25 lease the land it needed. STB should separate itself

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1 from this charade. But it has not at this stage.
2 The DEIS fails in not addressing important water shed
3 issues but chooses to evaluate trucking issues for a
4 non-existent quarry while not addressing the direct
5 impact of businesses building along the rail route.
6 That is not the right thing. The rail is totally
7 interdependent with the quarry with no separate
8 utility. It should be classified as a connected
9 action within that meaning of the need for the CEQ
10 regs and case president. The area where the rail
11 will traverse is already a flood hazard. The rail
12 will increase that hazard. The D -- DEIS does not
13 even address the impact OF the diversion of two water
14 sheds which run into the quarry will have on the
15 flooding problems created by the rail. That is not
16 the right thing. Is it worth it to ignore these
17 issues. Who will enforce the mitigation factors
18 mentioned in the DEIS? Not the STB. No, it will be
19 the people in the community who will have to come
20 forward to go to court to address the issues the STB
21 would not take care of before it issued a permit or
22 just bend over and take it. That is not the right
23 thing. If the rail is designed to be a common
24 carrier to encourage growth then there is no doubt
25 the quarry is part of that growth corridor and must

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1 be stayed. Area growth is not addressed. Failure to
2 do so makes STB's decision arbitrary and capricious.
3 Did you forget that -- Is it worth it to take a
4 chance on the consequences of your actions? Do the
5 right thing. Vulcan has dug its hole before it has
6 dug its quarry and it is response -- it is the
7 responsibility of the STB to fill the hole rather
8 than facilitate its existence. It is most compelling
9 that the DEIS ignores the obvious fact that there
10 would be no rail if there was no quarry. And that
11 makes the quarry and the rail connected actions.
12 Please review the briefings I have submitted
13 previously and will present with -- in the future and
14 do the right thing. Finally, remember is it worth it
15 to ignore the conclusions I reached in the
16 submissions I've made? Thank you.

17 MS. GATES: Thank you, Mr. Barton.

18 Dr. Bob Fitzgerald.

19 MR. FITZGERALD: I want to thank the
20 MCAA before I begin for this opportunity to express
21 the opinions and impressions that we have by the DIS.
22 "We" being Medina County Environmental action
23 association. That is a grass roots organization that
24 most of you know composes of about 150 families and
25 350 some odd members. So thank you for this

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1 opportunity.

2 I would like to address the connected
3 action issue. It seems that STB's primary reason
4 not recognizing the quarry as a connected action is
5 based on the supreme court's decision and the public
6 citizen's case. First, we believe the STB has not
7 carefully considered the detailed information
8 submitted concerning significant environmental
9 impacts. Second, we see little or no evidence in the
10 DEIS that the STB has made available relevant
11 information to the larger audience. And I presume
12 that means to other agencies involved in the
13 permitting process where they have to issue permits.
14 No -- no evidence in the DEIS of that. But yet these
15 are the two points that you have based the decision
16 not to recognize the quarry as a connected action.
17 Conversely STB has relied only on information given
18 by Vulcan and has not carefully considered data
19 submitted to it during the scoping comments and other
20 pertinent correspondence. In judging the quarry and
21 the railroad are not connection actions STB has
22 failed to look closely at the history of both the
23 quarry and the railroad. From the very beginning,
24 Vulcan planned the quarry and the railroad together,
25 researched both at the same time, informed the public

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1 about both projects at the same time and even told
2 the public "if we don't get the railroad, we won't
3 open the quarry." If this were not true, why
4 wouldn't Vulcan obtain appropriate permits, open a
5 quarry, operate it with trucks in a local area just
6 as it has done in many other of its quarried, if not
7 all. Then it could use justification of the demand
8 in Houston and the Southeast Gulf Coast is
9 justification to seek a permit. We all know Vulcan
10 has not done this. Vulcan gambled that there would
11 be no opposition to its connected projects. That no
12 one would object. Vulcan has lost. Vulcan has put
13 the STB in an awkward position. STB is left with the
14 task to justify Vulcan's bad decision. STB is trying
15 to save Vulcan by allowing Vulcan to evade doing what
16 is required by law by stating the quarry is a
17 cumulative effect and not a connected one. STB makes
18 a poor excuse that other agencies have the
19 responsibility to evaluate the environmental impact
20 of the quarry. STB has no jurisdiction over this
21 quarry or its environmental impacts. MCAA, Inc.
22 relies -- replies that Vulcan is failing to do its
23 job. It should know better.

24 I will continue this at the end of the
25 other discussions. Thank you.

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1 MS. GATES: Thank you, Dr. Fitzgerald.
2 Lynn Kitchen.

3 MR. KITCHEN: Thank you. As you may
4 know, I serve as the technical advisor for MCEAA.
5 And it's been an honor and privilege to work with
6 this group. It's a group of real folks, farmers,
7 ranchers, businessman, wives, children. They're all
8 concerned about this project's impact on their
9 property rights, environment and the health and
10 welfare of the community. These folks are good folks
11 with real concerns about this project.

12 I'm here today to talk to you about the
13 philosophy behind NEPA and not really the technical
14 issues. I'll be addressing those in a nice long
15 document for y'all later that will be in written
16 format.

17 First, I want you to know that I've been
18 involved in various NEPA related projects from
19 permits to EI -- EA's to EIS's for over 14 years,
20 taught courses on NEPA at UTSA. One of the most
21 important aspects of NEPA that I've always emphasized
22 to my students in my courses was public involvement.
23 I'm a staunch supporter of the scoping process and
24 involving the public in this process putting the
25 opposition on the team that develops, designs. And

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1 the DEIS is very important and allows you to develop
2 a plan that works. You need to show the public the
3 respect they deserve. I'm telling you this to ask
4 you for your consideration for the people here.
5 Treat the public with respect you treat Vulcan.
6 That's all I ask.

7 With all due respect you have not
8 started out well. You blatantly ignore and disregard
9 comments and concerns expressed during scoping. We
10 -- I would beg to differ that you didn't listen to
11 those comments. You only had them written to you.
12 You did not allow public meetings or workshops during
13 the time of scoping, which is a common thing used in
14 most of the scoping processes. You allowed comments
15 but basically gave them lip service with standard
16 replies and impersonal letters. Most of the comments
17 were addressed poorly in the Draft EIS as if to state
18 that the public's opinion will not impact this
19 decision. NEPA was based on disclosure of public
20 information to the public and yet you have not been
21 helpful in providing information to these citizens.
22 You hide behind the bureaucracy of the Freedom of
23 Information Act to prevent these citizens from
24 obtaining information in a timely manner. I'm asking
25 you to listen to the comments today and carefully

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1 read the written comments. These are from concerned
 2 citizens who have properties and families at stake.
 3 Please take them serious. Write individual personal
 4 letters back to the commenters showing them respect.
 5 The EIS has many flaws and has shown a blatant
 6 disregard for the public. Overall the EIS is based
 7 only on general information on the project area
 8 although it alludes to field studies no actual data
 9 is furnished. It is only summarized as field studies
 10 were conducted and indicate that. The lack of detail
 11 and analysis is obvious and demonstrates SEA and
 12 SCG's, whatever, lack of respect for the community.
 13 Right now you can turn this all around. You can
 14 represent the public good and not Vulcan. It's time
 15 to step up to the table and act the part. Thank you.

16 MS. GATES: Thank you, Mr. Kitchen.
 17 Necey Schulte.

18 MS. SCHULTE: I'm Necey Schulte
 19 president of the Quihi, New Fountain Historical
 20 Society. I'm the fourth generation of Quihi land
 21 owners. I was born and raised in Quihi and have
 22 property there.

23 I'm directing my comments and questions
 24 to you through my Congressman Henry Bonilla. And I
 25 request that you please respond to my comments and

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1 questions back through him.

2 The Quihi area is an irrigated -- excuse
 3 me an important part of the history, the earlier
 4 settlers of Texas and much it in tact -- still in
 5 tact. We have identified over 65 important sites and
 6 have submitted that in the data to Texas Historical
 7 Commission. We are in the process of attending state
 8 and Federal designation for the Quihi area as an
 9 official historical district. The proposed and
 10 alternative railroad line routes submitted by Vulcan,
 11 Southwest Gulf Railroad all across through the heart
 12 of the historical district and divides the district.

13 Also flooding is a severe problem of all
 14 the submitted crossings at the intersection of County
 15 Road 365 and County Road 4512 at the old Henry
 16 Schweers' house. This is at the lowest part of the
 17 route. It is under water every time we get a few
 18 inches of rain. Cars can't go through there. We
 19 have already had six inches of rain this year. The
 20 last two being November 17th and November 22nd. I
 21 believe there are pictures in the next room of the
 22 flooding at this area -- at this location. The
 23 railroad crossing at this point at County Road 365
 24 will certainly worsen the situation. The draft EIS
 25 does not study this. You must study this fully in

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1 the final EIS.

2 In my letter to you dated November 1st,
 3 2004 I pointed out that having all of Vulcan's rail
 4 activity the rail activity of other industries they
 5 hope to bring into Quihi will ruin the historical
 6 appearance and culture landscape of Quihi. The
 7 visual impact of those hundreds of uncovered ganola
 8 -- ganolo (sic) train cars every day of dusty crushed
 9 limestone crossing through the heart of this historic
 10 district for fifty years will certainly destroys --
 11 destroy the historic nature of this area.

12 You mention that Vulcan's railroad will
 13 plant grass along the side of the rails so the rail
 14 would not be visible. But how are you going to
 15 disguise the view of 400 train cars crossing through
 16 the area many times during the day, plus all the
 17 trains from other businesses.

18 Also you have not done a good study on
 19 the dust, noise and vibration impacts. It is the
 20 good study -- If a good study were done, it would
 21 clear that these problems are unsolvable. The only
 22 solution is to find a route -- to find a route out of
 23 the floodplain and out of the district. We
 24 understand that Vulcan has given the Willie Schweers
 25 historic home on County Road 365 to the Schweers

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1 Foundation. Why has Vulcan not given the adjacent --
 2 adjacent Henry Schweers' home to them? It is the
 3 original home of this family and is even older. It
 4 is very near the proposed route. Does Vulcan intend
 5 to sacrifice this structure?

6 As an added note, the proposed quarry is
 7 very much a connected part of this project. The
 8 railroad would not even be built if there was not to
 9 be a quarry. The impacts of both the railroad and
 10 quarry should be studied fully as a connected area.

11 I wanted to comment also on the pictures
 12 of the area on Appendix "A" of Volume II. Much of
 13 them are captioned with the incorrect location. This
 14 is a very interest -- very misleading.

15 MS. GATES: Thank you. Your three
 16 minutes are up. Can you -- You can speak again
 17 later. Okay?

18 MS. SCHULTE: Thank you.

19 MS. GATES: Okay. Thank you so much.
 20 Mr. Morris Baxter.

21 MR. BAXTER: Good afternoon. My wife
 22 and I have several concerns about this project, but
 23 since we only have three minutes I'll just have to
 24 address a few.

25 We live three miles from the proposed

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1 quarry and a half -- one and a half miles from the
2 nearest proposed rail line. We're greatly concerned
3 about traffic safety. Vulcan has stated they will
4 employ about 125 people and 100 vehicles a day will
5 commute to work -- to and from work. That's based on
6 the STB summary. We've got increased traffic already
7 out here. And another 100 vehicles a day I'm
8 concerned about the school bus runs. There's at
9 least Hondo bus runs on 2676 and one from Medina
10 Valley on 2676, plus several Medina Valley runs on FM
11 471. And the railroad of course is another problem
12 if that crosses several of those runs.

13 A few years ago our closest neighbor a
14 family of four was wiped out by a gravel truck on
15 2676 a half mile from their home. And I'm really
16 concerned about this kind of safety. As I understand
17 it, I don't know about Vulcan's own drivers, but
18 contracted drivers they usually get paid by the load
19 or the mile and not by the hour. And that's a --
20 that's bad safety practice.

21 Mayor Hancock from Castroville has come
22 out in favor of the quarry and the rail line. A
23 little over 100 years ago the City of Castroville
24 didn't want any part of the Southern Pacific
25 Railroad. That's why it goes around to the south

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1 today. And I would imagine if this rail line --
2 proposed rail line was proposed through Castroville
3 they would be fighting it. I really don't know why
4 they're approving this project. Do they think it's
5 going to be an economic boom to the -- this area, to
6 the cities? The only people that I see it's going to
7 be an economic boom or -- is Vulcan and a few land
8 owners. And based on the -- the local prison's
9 workforce as far as what -- where their people live
10 about half of them live in Medina County and half
11 out. And they're -- half of the Medina -- half of
12 the Vulcan employees are not going to pay a lot of
13 taxes. Neither is Vulcan based on what their FM 1283
14 operation paid in 2002. They paid \$1557 in county
15 and 3792 in Medina Valley ISD taxes based on a
16 valuation of 244,000. They say their taxes are going
17 to be 600,000 in their proposed operation. That
18 would equate to \$28,000,000 in taxable value at least
19 in 2003. And it takes \$6700 a year to educate a
20 child at Hondo and Medina Valley. So their taxes are
21 not going to pay for their education and service such
22 as police, fire, EMS protection, and pay for the road
23 upkeep after the trucks destroy the roads. We've
24 lived here 18 years and we have great neighbors,
25 quiet living, beautiful surroundings. And this area

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1 is given back to us more than we've -- we've put back
2 into the area.

3 All Vulcan will do is give us a big
4 eyesore, degrade our standard of living, put us at
5 risk for all kinds of health and traffic hazards and
6 destroy our way of life.

7 Thank you.

8 MS. GATES: Thank you Mr. Baxter.

9 Robert Dyle.

10 MR. DYLE: I don't live anywhere over
11 near Quihi, but I do have an interest in it. I'm a
12 native American. And when I came -- when I -- my
13 people came over here we didn't have all this
14 destruction, contamination or anything else. Now why
15 in the heck can't you people learn how to live with
16 nature and get your -- and let the politicians up in
17 Washington get their hands out of the pockets of the
18 big pe -- the big industrial's people? Now once you
19 get that done, then maybe we can get along with
20 everything. But as far as I'm concerned, this nation
21 is going to hell in a hand basket. Pardon my French.
22 But that's just exactly the way I feel.

23 Thank you.

24 MS. GATES: Thank you, Mr. Dyle.

25 Steve Lapp.

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1 MR. LAPP: My name is Steve Lapp. I
2 live on 106 acres in Quihi. The southern boundary is
3 the Quihi Creek. I read all three bound volumes of
4 the EIS and I also was appalled at the quality of the
5 report. One main objection is that throughout the
6 report you have compared the environmental impact
7 that the railroad would have compared to some
8 possible future situation where there was massive
9 trucking. That trucking does not exist today. And
10 it seems -- I've never heard of an impact report that
11 voices what might happen in the future. I think that
12 the impact report needs to be revised at the least to
13 determine the impact on the status quo, not on some
14 future condition that might exist.

15 And as far as mitigating circumstances
16 their -- Vulcan has a national reputation of not
17 keeping its promises, not keeping its mitigation
18 agreements. You certainly need to consider that if
19 you're going to include mitigation as part of your
20 process of granting the railway. They will get away
21 with everything they can. This is a fight on a
22 national level of the people in communities all over
23 America versus this corporation which does not meet
24 its community responsibilities.

25 Just yesterday the Daily Times of

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1 Maribel, Tennessee printed an article December 1st,
 2 2004 "Residence voice opposition to Vulcan. Cracked
 3 windows, heavy trucking, cracked foundations such
 4 were the grievances aired against Vulcan Tuesday at a
 5 community meeting called by three city neighborhood
 6 associations in the vicinity of the Duncan Road
 7 Quarry. The Mayor --" quote -- "No single operation
 8 inside this city of Maribel creates the problems and
 9 complaints that the quarry does. The city has taken
 10 steps to control dust and noise generated by quarry
 11 traffic but is largely ham strung in its regulatory
 12 approach by state laws Swann said. And now it faces
 13 a lawsuit filed by Vulcan recently moved to Federal
 14 court that would essentially allow Vulcan to expand
 15 its operations in coming years." And quote the mayor
 16 again: "We are aggressive -- aggressively defending
 17 this lawsuit. The suit alleges violations of the
 18 14th and 15th Amendments and seeks to overturn the
 19 current zoning of the property and alleges that
 20 Vulcan is entitled to a quarry of the entire property
 21 it originally leased in 1957." Basically anything
 22 that happens now will affect the future of this
 23 community for hundreds of years into the future.
 24 This was from a lease back in 1957, and Vulcan unlike
 25 the rest of us will not ever die. They will probably

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1 last for a long time past the lifetimes of everyone
 2 here. So it will be our grandchildren, our great
 3 grandchildren that'll still be suffering from Vulcan.
 4 MS. GATES: Thank you, Mr. Lapp.
 5 Thomas Hester.
 6 MR. HESTER: Yes, my name is Tom Hester.
 7 I'm a professional archeologist and I -- my comments
 8 are much more extensive than three minutes. And I'll
 9 submit those in writing.

10 I find a lot of problems in the draft
 11 EIS involving statements made about cultural
 12 resources and statements made about what will be done
 13 to examine these. As I understand it from the slides
 14 and handouts in the draft EIS the URS Corporation
 15 which has a contractual agreement with STB claims to
 16 have completed impact studies on historic sites
 17 within the rail corridors. I can't see how this
 18 could be true. Their preliminary cultural resources
 19 report was a joke. They either wasted the money or
 20 they didn't get enough money from the STB to do a
 21 decent level. I mean it's called reconnaissance.
 22 I've been doing archeology for 40 years. I've never
 23 seen anybody claim to have done reconnaissance and
 24 come up with such a mess.

25 They recently sat for two or three days

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1 in the middle of a rainstorm Dr. Cassidy URS who has
 2 the courtesy to call me and other people that know
 3 something about the archeology and the history. His
 4 report is much better. It has some technical errors
 5 that I will correct. And he is to be commended for
 6 recommending that Vulcan build none of the proposed
 7 rail routes and that they re-examine the old
 8 Dunlay/Medina Lake route.

9 It's a -- It seems to be implied in the
 10 draft EIS, as vague as these sections are, that there
 11 are very few archeological and historic sites other
 12 than those that have been photographed and mislabeled
 13 in the draft EIS and so forth. But from doing very
 14 limited work in the area this past summer on a
 15 private research project of my own and with the
 16 people working with me just within a couple of days
 17 and no funding they recorded ten archeological sites
 18 along Elm Creek and other areas. Some of these
 19 within -- And that's just going to these sites
 20 because the landowner told them the sites were there.
 21 URS didn't even ask landowners, except Dr. Cassidy
 22 did, if there were sites around. And there's a
 23 massive stone wall reported by Dr. Cassidy that's
 24 being mapped on the Lindsey property and which will
 25 be included in the National Register of Historic

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1 Places designation for the Schuele/Saathoff houses
 2 and their property.

3 In the towns along Highway 90 the towns
 4 grew up with the railroad in the 19th century except
 5 Castroville which got them to go in through southern
 6 Bexar County. However a 21st century limestone
 7 hauling railroad to be put through the middle of this
 8 major historical site further contributes to the
 9 destruction of the Texas historic landscape. While
 10 Union Pacific trains continue to derail in Bexar
 11 County, you don't see the rail lines running through
 12 the historic districts of San Antonio or Castroville.
 13 The --

14 Also I'll have a number of comments on
 15 the draft programmatic agreement. This looks like an
 16 after-the-permit exercise that leaves out many
 17 critical aspects of cultural resource studies. And I
 18 can't believe that my colleagues at the Texas
 19 Historical Commission actually entered into this
 20 program -- programmatic agreement in good faith.
 21 Their deputy director will be here tonight. Maybe
 22 somebody can ask him what they think they're doing.

23 MS. GATES: Thank you.

24 Tom Walpole.

25 MR. WALPOLE: My name is Tom Walpole. I

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1 live in Quihi on 2676 at Elm Creek. This locates me
2 2.5 miles south of the quarry and approximately 1,000
3 feet west of the SGR rail line.

4 The railroad and quarry must be studied
5 as a connected action. Without the quarry the
6 railroad serves no purpose. When are the
7 environmental impacts of the quarry going to be
8 studied? The draft EIS has provided no details that
9 suggest the actions are not connected. A majority of
10 the EIS is spent on remarks of how trucking aggregate
11 would be more of an impact than transporting it by
12 rail. This is more a Vulcan sword rattling, a series
13 threat to Medina County considering the conditions of
14 our roads. No mention of the improvements required
15 to accommodate 1700 truck trips have been made.
16 Aggregate will still be hauled locally. Even with a
17 rail line, there will still be approximately 125
18 trucks per day on our roads. If trucking was a
19 viable option, Vulcan would be trucking gravel now.

20 In Hondo the newspaper -- In the Hondo
21 newspaper on 19 February 2004 Tom Ramsdale was quoted
22 as saying, "I should also state this project does not
23 yet have the approval of Vulcan's Board of
24 Directors." This reinforces my belief that Vulcan's
25 position is no railroad, no quarry.

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1 In the earlier stages of Vulcan's
2 railroad planning it appeared that they did not
3 realize they were planning a railroad through a
4 floodplain. If the railroad is built to provide
5 their proposed one percent maximum grade incline the
6 line will turn out to be made of almost continuous
7 berms and trestles. Approved agencies should make
8 more realistic studies before awarding approval of
9 the railroad construction.

10 I have several structures on my
11 property. There location has been dictated by past
12 fluids, flood history and neighbors input on how high
13 the water has been in their lifetime and of their a
14 ancestor's lifetime. None of these buildings were
15 flooded in the 500 year flood of 1997. If the
16 floodplain Elm Creek changes due to quarry and
17 rail-line activities it will be disastrous for all of
18 Quihi. So far no real flood studies have been
19 completed for the EIS, only remarks like "best
20 engineering prac -- practices in the design of stream
21 crossings will be made to avoid increasing floodplain
22 width." The flooding on Elm Creek has been so
23 frequent in past few years that TxDOT has not
24 bothered to remove the flood barriers from both sides
25 of 2676 bridge crossing. Medina County is worth it?

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1 MS. GATES: Thank you.

2 Archie Gerds.

3 MR. GERDS: I am Archie Gerds. My land
4 is being divided into by the rail line being Dunlay
5 and the quarry site. This land has been in my family
6 since 1891. Will I be compensated for the loss of
7 deer, hog and other game hunting? This is a big
8 economic factor for Medina and -- County and myself.
9 All my improvements are on the west side of the
10 range. Will Vulcan pay for the water well, pens,
11 barns and utilities? Will Vulcan keep up easements,
12 fences, and keep noxious weeds out? Will Vulcan be
13 responsible for the cleanup of derailments and/or
14 chemical spills? Also, will I be compensated for the
15 devaluation of my property and when flood -- due to
16 -- when flood damages due to trestles or bridges near
17 -- over Quihi and Elm Creek? Who will pay for this?
18 Who will pay for the wrecker -- for the fore sale of
19 livestock? Before -- My water hole is the only
20 source of water I have in this one pasture. It is
21 spring fed and has never gone dry. Indian scouts
22 watered their horses here in the early days. If it
23 goes dry will Vulcan build me a new well?

24 MS. GATES: Thank you.

25 Carl Kelley.

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1 MR. KELLEY: My name is Carl Kelley. I
2 live about one mile west of downtown Quihi.

3 I'd like to address just a couple of
4 factors, noise and safety and water.

5 First of all, I'd like to comment that
6 you folks as you well know have an awesome
7 responsibility because you're going -- if you approve
8 this, you're going to approve the ability for these
9 people to exercise eminent domain over priv --
10 private property. I hope you're taking that as
11 seriously as we are.

12 Noise - Where I live the noise from the
13 horns on UP now really -- in the right kind of
14 weather, and it happens fairly often, it's almost
15 like those guys are in your bedroom. And as I
16 counted this up here the proposed route I would hear
17 horns about 28 times a day. The others go from 32 to
18 20 to 24 times a day assuming that they have to hit
19 the horn every time they cross a crossing. And
20 that's based on the crossings that you've given.
21 That's really going to be a noisy problem even down
22 where I live. The other thing about noise is -- I
23 didn't see anything and maybe there's something
24 there, about the side track marshalling area
25 whichever route you take down by UP. I think

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1 especially an alternating one and two that the noise
2 back this way is -- is really going to verbate (sic)
3 reverberate in the -- in the area down there. I wish
4 that you would do some sampling or some modeling or
5 something. You need to really look at that.

6 With regard to safety, it's already been
7 mentioned and it should be mentioned over and over
8 again. The railroad crossings are always a risk.
9 You know that. And I believe that the statistics
10 quoted in the study kind of compared national
11 statistics to what's going on here. I think you'll
12 find that Texas statistics are a whole lot worse as
13 far as railroad accidents at crossings. You need to
14 look at that. We've had -- Thank God not too many
15 lately. But in the past we've had some bad ones.

16 Water and flood control - As a guy who
17 as gone through a flood and had his house washed out,
18 not here but in another area, any time that I see
19 something about flood and water my -- my antenna go
20 up. And the STR commits to mitigation prior to
21 construction with regard to how -- how things would
22 be constructed to try to control the flood control
23 business. But I think -- I can't emphasize enough
24 not before construction do you need to get the -- the
25 factors on this straight, but before approval you

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1 need to do that before the STB approves this thing.
2 Let us see what's going to happen before you -- it's
3 approved. If it -- if it goes against what we would
4 like, you know at least we will have had that.

5 And finally, I have to say that this
6 railroad's commitment to hold itself out as a common
7 carrier really is curious to me. I can't imagine
8 even in fifty years how -- what would come about to
9 cause them to be needed as a common carrier in that
10 area.

11 Thank you.

12 MS. GATES: Thank you, Mr. Kelley.

13 Darrell Brownlow.

14 MR. BROWNLOW: My name is Darrell
15 Brownlow. I'm a technical advisor for Vulcan
16 Materials Company and Southwest Gulf Railroad.

17 Vulcan Materials Company and Southwest
18 Gulf Railroad thanks the SEA for it's hard work in
19 preparing a very comprehensive and objective Draft
20 Environmental Impact Statement that addresses each of
21 the matters relevant to the environmental review of
22 the proposed project.

23 While Southwest Gulf Railroad is likely
24 to offer the SEA some more detailed comments in
25 writing on the proposed mitigation measures before

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1 January the 10th, in general we concur with SEA's
2 assessment of the impacts of the proposed rail line.
3 The Draft Environmental Impact Statement finds that
4 with the proposed mitigations the line could be built
5 along the preferred route or two other alternative
6 routes. Southwest Gulf Railroad will of course await
7 the outcome of the environmental review and the
8 entire STB process. Assuming there is no change in
9 this result, Southwest Gulf Railroad continues to
10 believe that its preferred route is the best
11 alternative. In addition to SEA's generally positive
12 conclusions about the preferred route, it is also the
13 shortest route and impacts the fewest landowners.
14 Southwest Gulf Railroad believes that the mitigation
15 proposed by the SEA is generally acceptable.
16 Although it will offer some comments on certain
17 mitigations measures.

18 The SEA has done a good thorough job in
19 taking into account the views of the people and
20 groups in the area of the proposed line. Southwest
21 Gulf Railroad believes that the proposed mitigation
22 measures should address the cause of those concerns.
23 As directed by the proposed mitigation measures
24 Southwest Gulf Railroad intends to work with the
25 appropriate local, state and federal agencies to

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1 insure that the public interest is protected on
2 matters such as flooding concerns, traffic safety and
3 cultural resources among other issues identified in
4 the Draft Environmental Impact Statement. Southwest
5 Gulf Railroad and Vulcan continue to stand ready to
6 consult with persons or groups interested in
7 constructive dialogue on the rail line as the process
8 moves forward.

9 Thank you.

10 MS. GATES: Thank you, Mr. Brownlow.

11 Scott Conrad.

12 MR. CONRAD: I'm Scott Conrad. And my
13 wife and I have property probably less than a mile
14 west of the proposed quarry site. And I just want to
15 go on the record as being totally opposed to Vulcan
16 Materials proposed quarry and railroad. I want
17 everybody to know that in my mind not to consider the
18 quarry and the railroad a connected action just
19 absolute nonsense.

20 I have many concerns. But my main
21 concerns have to do with air quality and water
22 problems that could arise from this operation.

23 On the air problems - Due to all the
24 unpaved roads in this part of Medina County we have
25 just about all the dust we can tolerate. In this

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1 normally starts about two or three days after any
2 rain we happen to receive stops.

3 My property being located about
4 three-quarters of a mile to the west and slightly
5 north of the quarry and rail site the prevailing
6 southeast breezes should supply me with more dust
7 than we should have to live with. My long horn
8 cattle and the rest of God's creatures that live in
9 this area shouldn't need any calcium supplements.
10 Perhaps we should consider this to be an economic
11 plus.

12 The second, on the water problems: To
13 the small livestock operation, which is what I have,
14 along with the most of my neighbors, water is our
15 prime concern. We are totally dependent on the water
16 we can pump from our wells. In our area of Medina
17 County there's no rural water system. We are located
18 on the Edwards Aquifer recharge zone. It is almost
19 impossible to contain water in anything other than a
20 sealed vessel. If our wells are damaged by continual
21 blasting or our water polluted by chemicals or fuels
22 we're out of business. We got to have water and it's
23 got to be pure.

24 Some of my neighbors located south of
25 the quarry would even have more problems to consider

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1 as there is a good chance that their property could
2 be divided by a rail line. And they've got no easy
3 task of moving livestock and water in them in a
4 divided pasture.

5 Seems that the only folks without these
6 problems or concern are those that are connected with
7 Vulcan. It seems to me that as good industrial
8 neighbor Vulcan should agree to do a professional
9 environmental impact study at the quarry site. Right
10 now Vulcan's good neighbor policy has struck out in
11 this area. I have a feeling that Vulcan is going to
12 get away by screwing up an environmentally sensitive
13 area beyond repair without this study.

14 Thank you.

15 MS. GATES: Thank you, Mr. Conrad.

16 Dianne Pipes.

17 MS. PIPES: Hi. I'm Dianne. I'm here
18 to -- on behalf of my father Clovis Boehm and myself.
19 My father who is one of the landowners is also a
20 life-time resident of the area. Let me reassure you
21 that his -- that the well being of this community is
22 a very important matter for him and for our family.

23 To demonstrate his sincerity for the
24 community let me just tell you a little bit about --
25 a little bit about him and what he's done for the

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1 community. He has served on many boards throughout
2 his years, boards that include preserving historical
3 structures in the community. He served as a
4 volunteer firefighter. He has served on committees
5 that have helped rebuild flooded areas. He has even
6 just last weekend cooked turkey dinner for families
7 that were in need. His -- his sincerity -- his
8 commitment to the community is sincere.

9 When Vulcan initially contacted my
10 parents about mining rock on their ranch, they didn't
11 just say yes. Instead they asked a lot of questions.
12 They wanted to know about the company. They wanted
13 to know about what this kind of project could do for
14 this community. And let me tell you what they have
15 learned. They were very impressed to hear everywhere
16 Vulcan resides the company and their employees are
17 engaged in those communities supporting local
18 projects and initiatives. Even though the quarry is
19 not yet in operation Medina County has already
20 benefitted from their civic mindedness and
21 generosity. In addition they have supported doing
22 the necessary environmental study -- studies because
23 they care about preserving the nature of the history
24 and quality of life here. He still lives here.
25 Unfortunately my mother recently passed away.

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1 Understanding that the quarry is not a popular
2 project among a few, the benefits will -- really will
3 help many. Vulcan will bring new jobs to the county
4 and much needed revenue as well as improve roads and
5 increased land values.

6 Coexisting with the railroad I know is a
7 concern. I live -- For the past 15 years I live in
8 San Antonio. And I live near the Vulcan quarry on
9 Huebner Road. I have lived near that quarry for a
10 long time. The quarry borders the high school in
11 which my oldest son attended. My grand -- His
12 grandfather sat with him one day and said: "What are
13 the affects of the quarry?" And my son had no idea
14 there was a quarry next door. The -- the railroad
15 runs along some very expensive homes in that area. I
16 have many friends who live in those homes. They have
17 never complained about the things you're talking
18 about here. There's no flooding. There are no train
19 delays, no noise. They've never brought those things
20 up.

21 Truly know that the project will help
22 revitalize and bring greater prosperity to the county
23 while not jeopardizing the quality of life or the
24 cultural resources. Thank you.

25 MS. GATES: Thank you.

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1 Joe Balzen.

2 MR. BALZEN: I'm Joe Balzen. I live on
3 the property that has been in my family since 1861
4 and is registered with the Texas Land Heritage
5 Program. My home was built in 1911 by my grandfather
6 and is located three-quarters of a mile from the
7 proposed quarry site and railroad. The rail line
8 will go across State Road 2676 and the County Road
9 353 which I have to travel to have access to my home.
10 If fire protection or EMS is needed, this could be a
11 serious problem. We are told there will be two
12 trains pulling a hundred cars a day going and
13 returning. And how do we know in the future there
14 will not be more trains each day?

15 Another big concern is my water well
16 which is 350 feet into the Edwards Aquifer. It is my
17 only source of water for my home and my livestock.
18 Yancey water supply doesn't reach that area. So this
19 is not an option. Is blasting at the quarry going to
20 damage my well? Where and how deep is Vulcan going
21 to drill their well? What will they -- What will
22 this do to the water table. In dry years this has
23 already been a problem. In the 50's our well had to
24 be drilled deeper. With the -- with the water Vulcan
25 will use this will be a serious problem.

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1 Flooding is another big issue. With
2 heavy rains we are water bound by the Quihi and Elm
3 Creek. With construction of the railroad trestles
4 and berms this is going to cause a much larger
5 problem.

6 The railroad and the quarry must be a
7 connected action. With the quarry there would be no
8 need for a railroad. There must be a complete
9 environmental study done on the 1700 acre quarry site
10 and the railroad right-of-way. And this has not been
11 done.

12 Thank you.

13 MS. GATES: Thank you, Mr. Balzen.

14 Robin Portenier.

15 MS. PORTENIER: I am Robin Portenier and
16 I live with my husband and nine month daughter less
17 than 100 yards from the proposed quarry and according
18 to the detail on the map the rock crusher.

19 I have a few comments regarding the
20 draft EIS, but first let's call it what it is. This
21 agency is enabling a private company to destroy
22 people's property, destroy people's quality of life
23 and turning a blind eye to the schemes of Vulcan
24 Materials. The draft EIS states it contains an
25 appropriate analysis of the combined affects of the

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1 quarry and the rail line. This is simply not true.
2 With regards to noise the study does not even mention
3 the impacts of the quarry. Needless to say, having a
4 rock crusher 100 yards from your front door will have
5 a major noise impact. Also the study states the
6 railroad would not trigger thresholds for analysis.
7 This must be reinvestigated. Today we hear and feel
8 the Union Pacific Railroad going around Dunlay hill
9 approximately seven miles away. That being the case,
10 this railroad will have a significant noise impact.

11 The second issue I'll address is
12 vibration. SEA states the railroad would not cause
13 significant impacts to sensitive structures. You are
14 telling us that the blasting, rock crushing and rail
15 traffic will not cause significant damage to our
16 sensitive structures, homes and private wells? It is
17 unacceptable for STB to leave this out of the study.

18 The next issue is water resources. The
19 study states the railroad would have little or no
20 impact to the aquifer. Once again, there is no
21 mention of the impacts from the quarry on the
22 aquifer. The impacts from the quarry need be
23 included in the final environmental impact study. It
24 is imperative that we know what affects the quarry
25 will have on our private wells, especially being that

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1 our well is our sole source of water. And to say the
2 quarry will have little or no impact is ludicrous.

3 The last issue named in the study that
4 needs to be addressed is land use, which is just a
5 pretty word synonymous for condemning and stealing
6 people's private property. The SEA's only recourse
7 for a private company sending a railroad down the
8 middle of 100 year old historical farm is to put up
9 native grass and shrubs and insure the land owner has
10 access to their separate property. How dare you.
11 I'm appalled and I'm outraged that this is even a
12 consideration. If Vulcan has to condemn and steal
13 citizen's private farmland against their will to make
14 a way for their own personal gain, then this project
15 should be stopped. The reality of Vulcan holding
16 themselves out as a common carrier is both a farce
17 and an insult to our intelligence. Who else in this
18 area is going to use a seven-mile track of railroad?
19 Nobody. This issue cannot be mitigated nor
20 corrected. I cannot help but wonder whose pockets
21 are being lined to do Vulcan's dirty work of
22 condemnation and right of easement.

23 In closing there is no question that if
24 this railroad and quarry come to pass there will be a
25 detrimental impact on the citizens, their children

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1 and grandchildren of this quiet country community.

2 At that time who will be held accountable?

3 MS. GATES: Thank you.

4 (Clapping.)

5 MS. GATES: Joyce Landrum.

6 MS. LANDRUM: My name is Joyce Landrum.

7 I live on County Road 354 less than a mile from the
8 railroad that will serve Vulcan's quarry idea. I
9 belong to MCEAA. And it appears the data we
10 submitted was not considered. We're being told in
11 the environmental study that our well and water
12 issues are not significant and the dust, dirt and
13 noise would be minimal. The aquifer recharge zone is
14 directly in the path of Vulcan's operation. When we
15 expressed concerns we were told that this would be
16 taken care of after the permit is approved. This
17 will never happen as evidenced by other railroad
18 sites owned by Vulcan. We have copies of newspaper
19 clippings to show this in the back room. We do not
20 want well waters polluted. We do not want the air we
21 breath filled with dust. We do not want the quality
22 of life in Quihi lessened. It appears that Vulcan is
23 able to put together their own study of these
24 concerns that we have and show it to the section on
25 environmental analysis and have it presented as true.

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1 This materials industry wants a quarry in Quihi and
2 needs a railroad. So they use words like "minimum"
3 to serve this purpose. Their are farms and ranches
4 in the seven-mile area that this industry would
5 condemn by eminent domain. Many are listed in the
6 Texas Department of Agriculture Family Land Heritage
7 Program as being in continuous agricultural
8 operations by the same family for 100 years or more.
9 Also there are some homes in the same site area that
10 are listed with the state historical commission. We
11 don't accept words like "minimal" and
12 "insignificant." We're talking about things as basic
13 as clean water and air.

14 I would ask Mrs. Rutson or Mrs. Ghosh or
15 anyone from the Surface Transportation Board if they
16 were offered a glass of cloudy tap water while in
17 Quihi would they be able to drink it. Thank you.

18 MS. GATES: Thank you, Ms. Landrum.

19 (Clapping.)

20 MS. GATES: Elizabeth Wood.

21 UNKNOWN PERSON: She will just write the
22 comments.

23 MS. GATES: Okay. Thank you.

24 Rusty Mangold.

25 MR. MANGOLD: Thank you. My name is

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1 Russell Mangold. My wife, Verlin Weimers Mangold.
2 We are owners and stewards of the Wiemer Ranch that's
3 located on CR 455 -- 4512. This ranch will be
4 directly affected by the proposed route and also
5 alternate III of the STR railroad. You have forced
6 this community to pick this -- their poison. If you
7 are going to allow Vulcan to ruin this community like
8 they have San Antonio, Helotes then go the truck
9 route. We probably all agree that nobody wants 1700
10 trucks on any of our roads. But why have you so
11 quickly dismissed this possibility? According to a
12 letter from David H. Coalburn attorney for Southwest
13 Gulf Railroad Company to the Surface Transportation
14 Board dated May 4th, 2004 he stated and I quote,
15 "Vulcan has generally negotiated agreements with
16 local county governments to upgrade and to
17 participate in maintenance these county roads." If
18 Vulcan agrees to widen, pave, install traffic control
19 devices and continual maintenance of the roads, isn't
20 this better -- a better choice? At least the
21 families, communities and culture of Quihi are not
22 permanently scarred by a railroad and are left in
23 tact.

24 Under the trucking option in your
25 comparison of fact table 2.6-1 you mention in

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1 worker's health and safety section that "peak
2 workforce would be larger." A large workforce usually
3 means more jobs. Is that such a bad thing? I do not
4 want the quarry. I do not want the railroad. And I
5 do not want 1700 trucks on the Quihi roads. But if
6 I'm forced to choose, I choose the trucks. This
7 would also eliminate Vulcan's use and abuse of an
8 antiquated law of eminent domain for their personal
9 gain. And I thank you.

10 MS. GATES: Thank you.

11 Mary Walpole.

12 MS. WALPOLE: I am Mary Walpole. My
13 husband and I live on FM 2676 at Elm Creek. We will
14 be very affected by rail road routes Alternate I, II
15 and III.

16 The issue that I wish to focus on and
17 have answered in the final EIS is the grade crossing
18 separation needed on FM 2676. I have here in my
19 hands letters that you included in the EIS regarding
20 this subject. I will only read a sentence or two
21 from each letter.

22 Number one, Carl Friezenhahn TxDOT
23 February 10th, 2000. Tommy Ramsdale President of
24 Vulcan Materials was there. "They agreed that a
25 grade separation needs to be constructed where the

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1 spur crosses 2676 and they understand that the costs
2 would be theirs."

3 Two, James Barton, Medina County Judge
4 April 24th, 2003. "Several years ago when this
5 project was first announced the proposed quarry
6 owners represented to precinct commissioner that
7 there would be elevated road or railroad crossings on
8 FM 2676 and CR 4516. I urge courteous, serious
9 consideration of having elevated road crossings at
10 these two major arteries in Medina County."

11 Three, James Randall, TxDOT April 30,
12 2003. "We are requesting that STB require SGR to
13 construct a grade separation at FM 27 -- 2676 to
14 eliminate all highway rail grade crossing conflicts.

15 Four, James Hardin, Medina County Judge
16 December 17, 2003. "The owners of the proposed
17 railroad acknowledge the need for a grade separation
18 crossing at this location in early discussions with a
19 local TxDOT engineer and some community leaders and
20 elected officials. If they are now proposing
21 otherwise, it is essential to understand what has
22 changed. I believe that a grade separation crossing
23 at this location is a must for the best interest of
24 the citizens of Medina County and the traveling
25 public."

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1 These letters clearly state that Vulcan
2 plan to put in a grade separation crossing and our
3 county officials want it for the safety the
4 community. Then things changed and we heard that
5 Vulcan on December 18, 2003 wanted to have TxDOT
6 authorize at grade level crossings.

7 In February 19, 2004 Hondo Anvil. "Tom
8 Ramsdale replied that Carl Friezenhahn was mistaken
9 and so was Commissioner Hartman. Apparently Judge
10 Barden's two letters of are no consequence. Did
11 Vulcan come to the Medina County in 2000 planning to
12 do the right thing for the community and now has
13 started to cut corners? How many other shortcuts are
14 they planning to take to get this project going?

15 Thank you.

16 MS. GATES: Thank you.

17 Cricket Mangold.

18 MS. MANGOLD: Hi. My name Verlin
19 Weimers Mangold. My land is on the path of the
20 railroad. The graves on 4512 are my relatives, the
21 Schweers, Schuele are my history. My family saved
22 and scraped by to purchase the land near the quarry.
23 My grandmother and great aunt were born in the
24 Edson/Offinger house. The great aunt told me of
25 Indians still in the area when they were young. The

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1 Indians have occupied this land for over 15,000
2 years. My brother-in-law found proof of this on our
3 ranch. Dr. Tom Hester and his anthropologist
4 verified that this year. We know Indians have been
5 in the Quihi area a long time. You want to run a
6 noisy train over the land Indians have lived and
7 played on?

8 We are selling our San Antonio home of
9 25 years. Train noises, dog noises, traffic noises
10 are all chasing us to Hondo and Colorado. We would
11 like to build on the ranch on a high hill, but you
12 will run a train to disturb us. Again, do you think
13 it's right for a private company to take our land for
14 profit for stockholders. They already destroyed our
15 hill country in San Antonio, the Medina Lake area,
16 New Braunfels, now Knippa and Quihi. Isn't this
17 being mean to our beautiful area.

18 MS. GATES: Thank you.

19 Ray Schoch.

20 MR. SCHOCH: I'm Ray Schoch. I'm fourth
21 generation direct descendant of Schweer and Deda
22 Balzen who came over in the 1850's. And the three
23 boys got their land grants along north side of Quihi
24 Creek. And the daughter married the Saathoffs on the
25 south side. All of those lots are connected. And I

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1 was born in the area also so I don't consider myself
2 an Oshlander. I'm kin to probably those four
3 families. They had forty-eight grown children.
4 Through intermarriage I guess I'm kin to almost
5 everybody in this room. We don't all see eye to eye.
6 A few years ago we decided to look at our great,
7 great grandfather's home he built in which my
8 grandfather was born. And it is the Henry Schweers'
9 home. The picture was on the screen a while ago. By
10 the time we got around to trying to acquire that
11 Vulcan had purchased the two lots that William and
12 Henry had owned and the two houses. We made
13 arrangements to talk with Vulcan and offered to buy
14 that property with the out buildings and the home,
15 the two story. To our surprise, Vulcan said if we
16 would file a 501C3 organization and promised them to
17 make it a public available project that they would
18 donate it to us, both those homes, the Williams and
19 the Henry after the rail situation is settled. They
20 have already given us the William home because it has
21 no bearing on what they plan to do. They will do the
22 other regardless of outcome; give us the Henry home.
23 I have spent along -- the last ten days studying the
24 three volumes, 1100 pages of documents. And I think
25 y'all out to be commended for the tremendous amount

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1 of work that you put into it and the recommendation
 2 that you made. It looks to me like you did a good
 3 job of it. Vulcan has been very generous to us.
 4 They not only gave us the one house and the 2.7 acres
 5 considering -- containing the out buildings therein
 6 but also helped us form out 501C3 organization. They
 7 cleared brush. They provided funds for our fencing.
 8 And they even said they will give us a \$5,000
 9 matching grant to help renovate whenever we raise our
 10 \$5,000. Which I think is very commendable. When you
 11 start studying the background of Vulcan, you find out
 12 that fortunate has listed them as number nine in
 13 social responsibility. And you don't get to do that
 14 by being the type of horns and tail that you heard
 15 from this other group. That compared with UPS,
 16 Alcoa, McDonald's. They also rank number five in
 17 financial strength. So if they decide to help you,
 18 they have the strength to do that. They operate
 19 almost 200 quarries throughout the United States.
 20 And if you inquire with those communities they all
 21 commend them for the types of projects that they
 22 support in the area.

23 I will continue later. Thank you.

24 MS. GATES: Thank you.

25 Ken Persyn.

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1 MR. PERSYN: My name is Ken Persyn. I'm
 2 a 35 year resident of the Quihi Road area. I
 3 currently live at -- one mile north of Dunlay on
 4 4643. In regards -- I'm -- And by education I'm an
 5 animal science -- animal scientist.

6 In reviewing the report I'd like to --
 7 to say that I think it's vague, incomplete, basic --
 8 and a basic rehash of proba -- probably other
 9 documents that you had that you've used current --
 10 previously in other -- other situations similar to
 11 this.

12 I'd like to know how much ground work,
 13 actual on the ground work has been done by biologists
 14 on the ground in this particular area. Seems like --

15 Property rights - As a landowner not
 16 immediately adjacent to the rail but within a -- I'd
 17 say less than half a mile area being one mile north
 18 of Dunlay I have a little experience with noise,
 19 vibration of the existing rails that come through
 20 that -- come through that particular area. These
 21 proposed lines would be less than a half a mile from
 22 my current residence and my property. I currently
 23 are (sic) involved in the real estate business and
 24 have been for about four years here in Medina County.
 25 And I can testify and we can get many other experts

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1 to testify that land along -- adjacent to the
 2 railroad and are within close proximity to the
 3 railroad is worth a whole heck of a lot less dollars
 4 than land that is now under real strong demand,
 5 especially in this immediate area. I have a list of
 6 hundreds of people commuters from San Antonio ready,
 7 willing and to buy and invest in property in this
 8 Quihi from Highway 90 north to -- all the way to
 9 Medina Lake area. They can't find that property.
 10 These people that we've heard from have had in their
 11 families for years. When it does come available, it
 12 is sold and split up within a matter of days. It's a
 13 highly sought, highly valuable commodity. The rail
 14 line coming through this property is going to be
 15 detrimental to the land values and the future land
 16 value for their families, my children my
 17 grandchildren, as well as theirs.

18 I think some strong consideration has to
 19 be given to this. And I think in the State of Texas
 20 you remove and take values and reduce quality of
 21 life, which this will do, someone is liable. Someone
 22 needs to pay. And I -- I would anticipate that when
 23 this takes place if it's not going to be prevented
 24 there's going to be large amounts of damages in
 25 regards to the value of this property. Thank you.

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1 MS. GATES: Thank you.

2 Erna Balzen. Not here. Oh.

3 MS. Balzen: I am -- I am Erna Balzen.
 4 And I was born and raised in Quihi. I live about
 5 three-fourths of a mile from the proposed quarry and
 6 the railroad. I am very disturbed about what is
 7 happening to Quihi. I am concerned about the
 8 flooding caused by the railroad going across the
 9 roads and the creeks damming up the flood water.
 10 These flood waters carry with them all the dead
 11 trees, limbs and brush from the pastures up the
 12 river. There would -- This would catch and hang up
 13 on the culverts, trestles and bridges and raised rail
 14 -- rail beds and damn up the water and flood the
 15 people above this point. Then when the cloth (sic)
 16 brakes through and all the debris and the wall of
 17 water will rush down the river and flood these
 18 people. This is exactly what happened in 1997 on the
 19 trestle bridge in the Union Pacific Line on the Hondo
 20 Creek; brush and debris caught on the trestle --
 21 trestle bridge and dammed up the water and people's
 22 homes in Quihi flooded that had never flooded before.
 23 Then the dammed up water broke loose and rushed down
 24 stream and flooded people there. Culverts, trestles,
 25 bridges and raised rail -- rail beds will cause

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1 flooding. Your draft study did not do near enough
2 study on the flooding problem. And you didn't
3 research this very well. Also you need to study the
4 quarry and the -- The quarry is a connected action
5 with the railroad.

6 Thank you.

7 MS. GATES: Thank you.

8 James Barden.

9 MR. BARDEN: Thank you. I'm Jim Barden.

10 And Mary Walpole introduced me as Medina County Judge
11 already. For those of you on the panel who are not
12 familiar with Texas local government there are some
13 judicial duties, but most of my duties have to do
14 with administrative and executive duties on behalf of
15 the county. And that is the capacity in which I'm
16 appearing today.

17 First of all, thank you for the hearing
18 and for the work that you're undertaking in this
19 difficult area.

20 We have two principle concerns that I
21 want to express and that the county is consistently
22 expressed throughout. First one having to do with
23 safety of the crossings and the desire to have the
24 safest possible crossings and -- and warning systems
25 that we can get.

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1 The second has to do with the floodplain
2 issues and specifically the crossing of the rail line
3 across the low areas and creeks in the -- in the
4 area. The concerns in the report on the safety
5 issues -- And I do intend, by the way, to submit
6 written comments in more detail. The concerns in the
7 report on the safety crossings, when you talk about
8 the crossing of the state road, Farm-to-Market 2676
9 there is language in there that says "that railroad
10 will adhere to this reasonable state requirements,"
11 but when it comes to talking about it crossing the
12 county roads the wording says that you will consult
13 and come up with agreements on who will maintain --
14 who will build the crossings that maintain them along
15 with the warning systems. I'm not sure the reasons
16 for the double standard there, but I will comment
17 more specific later on.

18 On the floodplain issue, I -- I don't
19 believe that the report has fully comprehended the
20 flood and the flash flood issues in the area. There
21 needs to be some way to keep any creek or flood area
22 as open as possible with any crossing. And we can
23 not allow an embankment or damn supporting a railroad
24 across these areas because of the -- because of the
25 flooding -- flooding issues.

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1 And finally, a major concern was raised
2 as a result of footnote four in the executive summary
3 of the report about the possibility of Union Pacific
4 operating the railroad. Having experienced -- I had
5 some experience in dealing with Union Pacific as a
6 Mayor of the City of Hondo and been subject to some
7 of its corporate arrogance. I think it's incumbent
8 that all these concerns be nailed down and resolved
9 before Union Pacific gets into the picture.

10 Thank you very much for your time.

11 MS. GATES: Thank you.

12 Nora Winkler. Nora Winkler.

13 MS. WINKLER: Soouuk, soouuk. That's

14 one of the sounds I learned to imitate after I
15 learned to speak. I'm a landowner along Elm Creek.
16 It's been in my family for four generations. It
17 borders Archie Gerdez's property. And you heard him
18 say that it had been in his family since 1891.
19 Sometimes I call and my cattle hear me and they
20 answer and come running. Sometimes the wind is the
21 wrong direction and I call a little louder and they
22 come running. And some of my neighbors know that one
23 doesn't come running. That place -- I've lived many
24 places. I've spent a lot of time in my pickup truck
25 commuting since I was six. I've lived a lot of

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1 places, but that's home. Quihi is home. It's in my
2 heart. And I think those of you who have heard most
3 of these people who have been third and fourth
4 generation citizens are the people who have come to
5 appreciate the quiet. Quihi means a lot. And I hope
6 you're listening to the views, all of them. Those
7 who have come running because it's in their heart.
8 And I believe there are a couple that are like my
9 bull BC who doesn't always hear me.

10 You heard concerns about flooding. And
11 I was at that home place in which the Elm Creek come
12 down one year. Four feet of water and then spreading
13 to where Archie sometimes drives through and
14 surrounding his house. Sometimes Archie's cattle
15 answer my call because he learned his call from his
16 mother as I learned that call from my mother. And
17 our mothers learned it from their fathers. And those
18 fathers learned it from one of those immigrants who
19 came in the 1850's. Quihi is in our heart. Okay.

20 I commuted for three decades along a
21 road where I knew it to slow down because deer
22 crossed. A decade later I was slowing down because I
23 wanted to watch the corn grow. And a decade later I
24 was slowing down because I had to watch for the
25 golfers going to a golf course.

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1 We don't know what will come. There
2 will be changes. There are changes now. But the
3 impact of the railroad going to a quarry, an
4 unsightly quarry --

5 In 1970 when I moved there briefly one
6 of my mother's brothers came and he came -- drove up
7 through the dry creek bed of the Elm Creek and he --
8 he came with a grubbing hoe and a pair of gloves and
9 he said "you can't be serious." And I watched Archie
10 with a grubbing hoe. And I've used a grubbing hoe.
11 And I carry with me brush clippers. Yes, we're
12 serious. It's home.

13 MS. GATES: Thank you very much.

14 (Clapping.)

15 Carole Romano.

16 MS. ROMANO: Good afternoon. And thank
17 you for coming. I'm Carole Romano, President of the
18 Castroville Conservation Society. I've listened to
19 the comments on both sides. And we understand
20 precisely that the owners have every right to sell
21 their property. It is hoped that those who buy that
22 property will take into consideration the incredible
23 rich history of Medina County and the irreplaceable
24 Quihi and all the other wonderful historic homes. My
25 husband and I are out -- outsiders. We came here in

1 1990. We restored a home that had been forgotten.
2 And it was a beautiful piece of property in
3 Castroville. And fortunately neighbors welcomed us.
4 We've made our home there. We've been very happy.
5 And I had hoped in my lifetime as old as I am that
6 Medina County wouldn't change too much. And that was
7 too much to hope for. Perhaps it will change. If it
8 does, please listen to these people. And please
9 let's hope that Vulcan if the proposed quarry comes
10 in with the rail or truck lines it will greatly
11 change and impact Medina County's way of life.
12 changes forever, the landscape, the air quality and
13 the endanger -- endangers the irreplaceable Quihi
14 architecture, archeological and wildlife areas.
15 Again, please listen to the people.

16 Thank you.

17 MS. GATES: Thank you.

18 (Clapping.)

19 Jack Love.

20 MS. GATES: Jack Love.

21 MR. LOVE: I'm Jack Love. I live at
22 Medina Lake. I don't really know what I'm going to
23 say, but something will come out here. The cattle
24 lady is right. There's -- there's nothing like going
25 out there and --

1 Well, I'm a real estate broker. I'm
2 also the Mico fire chief. I got 100 square miles
3 I've worked for nothing. This is my 12th year. They
4 just done it for two more years. That's one of my
5 main concerns here because I don't see anybody else,
6 law enforcement, EMS, I don't see anybody speaking
7 out. I'm concerned about something happening on the
8 other side and we need to get together with the two
9 Swedish words "mutu le" and we can't do it. I want
10 fire protection addressed. Is it being addressed? I
11 think if I put everything in a question I think it's
12 like court that's -- that's the way we got it tricked
13 up here. Okay? Also -- Let's see.

14 Medina Lake damn. Okay. It's being
15 studied. TCEQ's got it all under study. And is
16 there a conflict of interest here with URS, world
17 renowned URS studying three ways of fixing Medina
18 Lake damn one going from one million to eight million
19 if they put concrete in front of it or drilling down
20 and putting cables so Medina Lake Damn doesn't turn
21 over.

22 And as real estate broker I can tell you
23 -- And I was the first one and the only one that
24 spoke at the Quihi Gun Club. Everybody else was
25 busy. Okay. And I said what I thought it would do

1 to land values. But they were out there buying the
2 right-of-ways for Vulcan. And will Vulcan contact me
3 up there in 1283 where your pit is and give me some
4 access to water? There's a question. I need some
5 water up there.

6 I don't want something to happen to
7 Medina Lake Damn because it's being studied like
8 that. It's got a fault under it. Mr. Rice -- I wish
9 George Rice would get up because he well knows it may
10 be four miles away from this flows -- this quarry but
11 it can affect it.

12 Where my cows are on 471 down there near
13 Kenneth Haby and the other side Mabel Haby sold her
14 place. It now replaces a dirt pit. Kenneth Haby's
15 dry well dried up. Okay? And it ain't pretty. And
16 I --

17 And if the gravel trucks are a better
18 alternative huh-uh. I see it all the time, including
19 Monday, gravel truck versus SUV. State Highway 211
20 in front of Jerry Nichols' house. And when it was
21 over and I'm gone -- I heard them re-paging EMS
22 because that gravel truck driver was so traumatized
23 sitting in that DPS car with what happened that he
24 broke down and -- But I'm also saying that URS is
25 studying three things at once, this presentation --

1 Okay. I see you coming -- this presentation, the
 2 Medina Lake damn stability, okay, and also the
 3 septics up at Medina Lake polluting Medina Lake damn.
 4 But till you throw that red thing at me gravel trucks
 5 aren't good. You come out there at 4:30 and see what
 6 starts happening at 1283 and 471. And I got pictures
 7 of them. They just turn over. They do this. They
 8 do that. And the worst thing any of us people we
 9 don't want to go up there to a school bus that's been
 10 hit by a damn train. Your heart will beat faster
 11 when there's a school bus involved in something.

12 Thank you.

13 MS. GATES: Thank you.

14 (Clapping.)

15 MS. GATES: Lester Landrum.

16 MR. LANDRUM: Thank you. My name is
 17 Lester Landrum. My wife and I have been Quihi
 18 residents for the past 14 years and live in the home
 19 we built at 776 County Road 354. It includes one
 20 Edwards well. Our home is about six-tenths mile east
 21 of the proposed rail and about 1.1 mile from the
 22 proposed quarry. Our home is a registered heritage
 23 land. It's been in the family for 124 years.

24 First, I'd like to ask for a 60 day
 25 extension to the comment period. The three volumes

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1 are long and hard to read, eligible on many pages and
 2 the number of drafts distributed are not adequate. I
 3 hope STB goal is to encourage public understanding
 4 and participation.

5 The draft is riddled with data that is
 6 not controlling to the problems and comments that
 7 gloss over or ignore problems completely while other
 8 minor comments repeated many times.

9 As you know November the 12th through
 10 January 10th includes three holidays which causes
 11 loss of comment time. To study and make rationale
 12 comments will take added time. Surely 60 days is a
 13 short time as compared to the decades of life by the
 14 proposed railroad and quarry and the permanent
 15 changes to Quihi.

16 As I look around the audience today I
 17 see few if any that believe the planned quarry and
 18 railroad are not connected with common action and
 19 reaction. The quarry and railroad are connected by
 20 our environment with sun, air, water and time. The
 21 quarry and railroad will be connected with ownership,
 22 product, money, management, profit and equipment.
 23 The common carrier status with eminent domain seal
 24 the connection with the rail and quarry. The whole
 25 and complete project should be studied as one. I see

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1 the study to also include the action an reaction with
 2 the Union Pacific Rail to include safety, traffic and
 3 the environment for our neighbors to the east.

4 Important questions: If other STR rail
 5 customers are speculative, should Vulcan be a common
 6 carrier? If other STR speculative, will they be
 7 included in this study?

8 Floods has caused a greater loss of life
 9 and property and have devastated more communities in
 10 the United States than any other natural hazard. The
 11 national weather bureau compiles information on the
 12 most significant weather events of 1900 for our area.
 13 Flash flooding is common in this area -- common in
 14 this area with Texas -- and in Texas with rainfalls
 15 from 15 to 30 inches in 2 to 24 hours and yet the
 16 draft seems to postpone the real evaluation of this
 17 area. Vulcan plans to the STB offers little planning
 18 or protection to prevent more exposure to flooding in
 19 our area. Vulcan operations just east and west of us
 20 show the lack of flood concerns. Ridges, berms,
 21 piles of rubble and evacuations do alter flood waters
 22 and cause intense -- can intensify flooding. Our
 23 concern is not a delay game but an ardent effort to
 24 take the environment and our rights.

25 Thank you.

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1 MS. GATES: Thank you.
 2 Cynthia Lindsey.

3 MS. LINDSEY: Good afternoon. My name
 4 is Cynthia Lindsey, and I live on County Road 4512.
 5 The proposed route of Vulcan's railroad would divide
 6 my property in half. I'm also the Treasurer of the
 7 Quihi and New Fountain Historical Society and my -- I
 8 and my family own land and live in Quihi.

9 My first comment is that it is terrible
 10 that anyone has allowed Vulcan to call themselves a
 11 public railroad or common carrier. On the first page
 12 of your Draft Environmental Impact Statement even you
 13 know that Vulcan Materials and Southwest Gulf
 14 Railroad are the same entity. But my calling them a
 15 railroad, a public utility this allows Vulcan the
 16 right to condemn property for the public good. I
 17 know and the people gathered here today know and I
 18 believe you know that this railroad is not a public
 19 utility or common carrier and there is no public
 20 good, just the profits of Vulcan materials. By
 21 allowing them the right to condemn property just to
 22 make money for Vulcan and their shareholders is or
 23 should be illegal.

24 My second comment is the mitigation
 25 proposed for the cultural resources and the draft

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1 EIS, which is not sufficient. You state that the
 2 Programmatic Agreement will mitigate the potential
 3 impacts. This Programmatic Agreement does nothing to
 4 stop the railroad going through Quihi. All it does
 5 is require Vulcan to document any historical,
 6 cultural or archeological sites before they move or
 7 destroy them. And finally just the thought of
 8 allowing a railroad to run through Quihi and all it
 9 stands for should be unthinkable. If you approve any
 10 of these proposed railroad routes you will be
 11 approving the destruction of not only the many
 12 documented cultural and archeological sites in this
 13 unique area, you will be approving the destruction of
 14 this community, its history and the property and
 15 families and lives of everyone who lives in Quihi.
 16 Tell me, just how much profit does Vulcan have to
 17 make to make it worth destroying our community and
 18 the families that live here? What are all these
 19 people worth to you?

20 (Clapping.)

21 MS. GATES: Thank you.

22 Max Walden.

23 MR. WALDEN: What I would like to do I
 24 would like to show you where I live. By design I got
 25 a number way down the road. Everybody has done just

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1 a really good job of everything that I wanted to say.
 2 I might add to the eminent domain situation and the
 3 common carrier. There's about fifty miles of
 4 railroad track between D'Hanis and San Antonio. How
 5 many -- how many new plants have been put in there in
 6 the last 100 years? Not many.

7 So if there was demand for railroad --
 8 for plants and so forth why wouldn't they place their
 9 plants out on Highway 90 where they would also have
 10 good highway traffic? So, that's all I'm going to
 11 say on there. But what I -- I think that would be
 12 good to do in the future is to have something on the
 13 board and you could show where people live.

14 Now you see where all these come to
 15 right here, I live right there. (Indicating)
 16 Everyone of these proposed routes goes within 300
 17 yards of my property at a minimum. And you wonder
 18 why I might be against it.

19 And the only aspect of this that I can
 20 relate to the study or the report is the
 21 socioeconomic impact.

22 None. I'll be 70 years old in February.
 23 All of my assets are tied up in into my property. If
 24 the railroad goes through, my assets will be cut in
 25 half. Probably more. An sale of the property will

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1 be prohibitive for years. That's all I've got to
 2 say.

3 MS. GATES: Thank you.

4 (Clapping.)

5 George Rice you've indicated that you
 6 want me to read your comments or -- Okay.

7 MR. RICE: No. I made a mistake.

8 MS. GATES: Okay. That's fine.

9 MR. RICE: Yes, I would like to thank
 10 you for the opportunity to speak to you this
 11 afternoon. I'm a ground water hydrologist and I'm a
 12 member of the board of the Edwards Aquifer Authority.
 13 Although I'm speaking only for myself.

14 Very briefly, this rail line will result
 15 in the development of a quarry over the most
 16 sensitive portion of the Edwards Aquifer, the
 17 recharge zone. Therefore, I do not believe that this
 18 EIS should be considered to be complete until it
 19 contains a thorough evaluation of the affects of this
 20 quarry on the Edwards Aquifer.

21 Thank you.

22 MS. GATES: Thank you.

23 (Clapping.)

24 MS. GATES: Raymond Hernandez.

25 MR. HERNANDEZ: Before I start my

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1 comments I would like to know if the Comanche Nation
 2 is present, the Catto Nation.

3 UNKNOWN SPEAKER: Right here. Blood
 4 brothers.

5 MR. HERNANDEZ: No, but I mean I'm
 6 talking about the Indian Nation that represents the
 7 government.

8 UNKNOWN SPEAKER: You will not find any,
 9 brother.

10 MR. HERNANDEZ: There's no Indian
 11 Nations here.

12 UNKNOWN SPEAKER: Cherokee.

13 MR. HERNANDEZ: No, I'm talking about
 14 tribal governments. Is a representative of
 15 Councilman Bonilla here or Senator Bonilla? I want
 16 you to take note that they're in vibration of the
 17 Cultural Preservation Act of 1966.

18 In February I sent a letter to the STB
 19 saying why were we not be being notified as Indian
 20 Nations for consultation. When you start talking
 21 about our Indian burial grounds I'm eighth generation
 22 Texas Indian Cowipeko (sic) from the Missions of San
 23 Antonio, descendants from the first people. Now I
 24 stand here and I admit that I have many mixed blood
 25 from the Mission Indians. I'm a descendant of

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1 Concepcion Antonio Perez who was the adopted Comanche
2 child from Ignacio Perez the last Governor of Texas.

3 These are very serious things when you
4 come into a community and you basically destroy a
5 culture, not only an Indian culture but an old
6 culture -- a Texas culture. Our families intermixed
7 with a lot of these families to build the community
8 of which Texas has come about. I see that y'all have
9 notified a lot of Indian Nations for the record for a
10 consultation, tribes from Florida, Muskogee,
11 Oklahoma, but I don't see us Texas Indians here.
12 Now, we don't -- We're not wards of the Federal
13 Government, the Coweteka (sic) Taplan Nation but we
14 are recognized and have certain standings with the
15 Federal Government and are acknowledged as an Indian
16 tribe and have special privileges that inherent
17 rights as an Indian people. I don't see people from
18 the Catto Nation. That's Abarishanal (sic) Texas
19 Indians. They have very much rights to be out here
20 because these mounds might be their relatives. Now
21 this is Cowetekos (sic). We should be in
22 consultation because those Indian mounds I can assure
23 you that I'm almost 90 percent sure without even
24 going there that those Indian mounds go back 10,000,
25 6,000 5,000 years. We're the descendants by blood.

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1 That seed that comes from them is in our bodies
2 regardless of the add mixture of our bloods. That
3 seed was planted long ago.

4 I want to say something to the community
5 here. This thing is going to happen, and you're not
6 stopping it. I've been in consultation since 1990.
7 It's just a procedure. They send low level
8 employees, the government to put these things
9 together. But you know who really reads them. It's
10 going to happen. There's too much money involved.
11 It's going to destroy your way of life. It's going
12 to destroy your communities. And all you can hope
13 for is to hold people accountable. Hold them
14 accountable for the destruction of your water. Hold
15 them accountable for the destruction of your way of
16 life. Make them pay. It costs to do business.

17 We as tax payers should not be held
18 responsible for supporting a public corporation with
19 our tax dollars and having a Federal agency of which
20 they're public servants, they're civil servants.
21 Those agencies are supposed to be representing the
22 people of the United States, the people of Texas.
23 It's not happening.

24 I'm a retired San Antonio police
25 officer. One of the things that broke my heart as a

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1 policeman is when I saw certain individuals when they
2 -- men are crying. That probable clause was
3 established after the fact. Huh. After the fact of
4 the crime in order to justify -- to justify what they
5 had done. This is what this is a justification after
6 the fact.

7 MS. GATES: Thank you very much.

8 (Clapping.)

9 MR. HERNANDEZ: Hank you.

10 MS. GATES: Jack DeVault.

11 MR. DEVAULT: I came here today not
12 intending to speak, but I've been aroused. You
13 introduced yourselves nicely and we appreciate your
14 coming here even though it was at our expense, your
15 salaries and transportation and per diem is being
16 paid by us, the tax payers. Those people in
17 Washington who are going to make an unconstitutional
18 decision are paid by us and also probably supported
19 by bankers and stockholders in Boston, New York,
20 Atlanta. We are the peasantry and we're speaking.
21 I'm -- I'm a retired Air Force officer. I've only
22 lived in Medina County for four years. I love the
23 place. I'm in the vicinity of the proposed quarry.

24 It's not to the environment -- Although
25 I have many environmental objectives -- objections to

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1 the quarry. It's not that to which I wish to address
2 my remarks because it's -- it's unbelievable that you
3 are here doing this and we are here doing this.
4 Because our constitution, which I've studied fairly
5 carefully, has a provision for the promotion of the
6 general wel -- welfare and it provides for an
7 executive legislative and a judicial branch of the
8 government.

9 The Surface Transportation Board is
10 placing themselves in a judicial position. Upon your
11 recommendation, they will make a decision which
12 affects local people here. That ain't the way the
13 constitution was designed to operate. The sovereign
14 people are supposed to be in charge of their areas.
15 And it was designed to keep control at the local
16 area. We just don't want to have our environment
17 sacrificed for the benefit of the officers of Vulcan
18 and the stockholders and the bankers in Boston, New
19 York and Atlanta.

20 (Clapping.)

21 MS. GATES: Thank you.

22 Okay. We've gone through our initial
23 list of people who signed up to speak. So if you
24 have already spoken -- Is there anybody else who
25 would like to speak who did not sign up? Okay.

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1 Would you just approach the microphone and give us
2 your name and -- And if you don't mind if you would
3 spell your last name for the court reporter.

4 MS. MCKAY: Sure. My name is Joyce
5 McKay, M-C-K-A-Y. I live on County Road 454 which is
6 in the Alternate Route Number I. The route if it was
7 chosen would go right through my property probably
8 just a few feet from my front door. And I just have
9 a comment to one of the other comments that was made
10 by Mrs. Pipe, wherever she is. She chose to live by
11 that quarry in San Antonio. We're not choosing that.
12 If I knew there was going to be a quarry out here, we
13 would have never bought our property. We would have
14 moved somewhere else. So I would hope you would take
15 that into consideration. Those people that live in
16 that area -- That quarry has been there for a long
17 time. They chose to live there. It's not what we
18 want. Please give our thoughts some consideration
19 too.

20 Thank you.

21 (Clapping.)

22 MS. GATES: Thank you very much.

23 Would you like to speak.

24 MS. ABBOTT: My name is Mary Ann
25 Laughlin-Abbott. I have nothing prepared.

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1 MS. GATES: Can you spell your last name
2 for us, please?

3 MS. ABBOTT: A-B-B-O-T-T.

4 MS. GATES: Okay. Thank you.

5 MS. ABBOTT: I have nothing prepared.

6 MS. GATES: That's okay.

7 MS. ABBOTT: But I wanted to speak if
8 anybody would listen. I'm a very proud descendant of
9 the Brooks and the Nye families who were prominent
10 here in -- in the Quihi area in the 1840's and since.
11 I was born in San Antonio, but I got back to Medina
12 County to home as soon as I could. We live about six
13 miles west of Quihi. Okay. You're thinking well gee
14 that's a long way to be from this site. But the
15 pollution in the air and one --

16 Another thing that bothers us of course
17 is our water. A few years ago I went into my
18 bathroom and there was my water in the lavatory and
19 the commode were red. And I thought my God something
20 has happened to our well. Of course my husband
21 wasn't home at the time. When he got home I hated to
22 bet he one to tell him that we had a problem with our
23 well, our only means of water. Well, he laughed. He
24 said that there had been a small earthquake in the
25 center of Mexico that affected our well in Medina

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1 County, Texas with blasting and so on. Everybody who
2 has a well anywhere near this area is going to be
3 affected. Is Vulcan and any of the other
4 organizations are they going to build -- dig us new
5 wells? Are they going to repair our wells? Are they
6 going to pay our doctor's bills when we have to go to
7 doctors with health problems? Are they going to pay
8 for the people who are killed on the roads by these
9 drivers who cannot or do not seem to care where they
10 are going? Again, our major concern is the water.
11 I'm sorry to have rambled, but I did want to get up
12 here and say something that hopefully will bring a
13 few other thoughts to mind.

14 Thank you very much.

15 MS. GATES: Thank you.

16 (Clapping.)

17 MS. GATES: Is there anyone else who has
18 not spoken yet who would like to speak? Okay. Are
19 there people who have already spoken who would like
20 to speak again? Okay. Dr. Fitzgerald. And we'll go
21 by the same three limit -- three-minute limit again.

22 DR. FITZGERALD: Thank you. I believe I
23 was about at this point in my written comments here.

24 If I repeat myself, I'm sorry.

25 I believe I said STB makes a poor excuse

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1 that other agencies have the responsibility to
2 evaluate the environmental impact of the quarry.
3 That the STB has no jurisdiction over the
4 environmental impact of the quarry. MCAA, Inc.
5 replies that STB is failing to do its job. It should
6 know better. STB is the lead agency and the buck
7 should stop here. Not with the TCEQ. Not with the
8 Fish and Wildlife Service. Not with the Corps of
9 Engineers. Not with FEMA. And not with the Texas
10 Historical Commission. Although all these agencies
11 are definitely involved in this. We realize the STB
12 wants to keep its -- wants to issue a permit to
13 Vulcan. It wants to keep its perfect record of never
14 having denied a permit in tact. But STB can't do
15 this without shirking its responsibility. Its weak
16 excuse that we determine that the quarry is a
17 cumulative effect -- it's a funny word for a quarry
18 to me "cumulative effect." And therefore we can let
19 Vulcan get by without doing an environmental impact
20 study is dead wrong, dead wrong. STB should realize
21 that it's treading on thin ice here. It's setting a
22 precedent that will have to be defended and it's
23 going to have to live with in the future. The SEA
24 Section is responsible for determining the impacts on
25 the environment. One must not forget that this

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1 includes the people of Quihi who will be most closely
2 affected by this. People's lives as well as their
3 property, their heritage, the air they breathe, the
4 water they drink are but a few factors that are going
5 to be profoundly affected by this cumulative-effect
6 quarry. Which I think is a connected action to the
7 railroad. The people of Quihi and Medina County know
8 this. Our local, state and Federal officials know
9 this. And lastly, Tom, Vulcan knows this. We ask
10 STB to reconsider all of the facts, recognize the
11 quarry as a connected action so that a proper
12 environmental study could be done.

13 Thank you.

14 MS. GATES: Thank you.

15 (Clapping.)

16 MS. GATES: Is there anyone else who
17 wishes to speak again?

18 MR. LOVE: I'll just take a few minutes.
19 Jack Love, Mico, Texas.

20 Down there on 1283 and 471 about three
21 years ago now Vulcan waters where they enter the
22 highway. Two Sundays in a row they had like a vacuum
23 truck and they had it reversed and they were just
24 blowing dust till people were telling me there was a
25 fire. I got all the boat traffic and everything

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1 going through there. So I stopped and I talked to
2 the guy. The next Sunday he did the same thing. You
3 know it supposed to be sucking but it was just
4 blowing. Somebody had -- You know you couldn't see
5 it. And sure this was just a worker or whatever but
6 if somebody died out there in the dust. You couldn't
7 drive through it. Okay? So, you know, mistakes are
8 made and stuff does happen. And I'm just after the
9 safety again. Because if we can't get -- You know
10 Hondo has got to come from me, to there, and we got
11 to go vice versa. And I just see life and dead
12 people all the time. Airline's over me like most
13 buzzards. And this public safety thing and the
14 access I'm emphasizing it one more time. I want it
15 addressed. An is it being addressed. There's the
16 question.

17 Thank you.

18 MS. GATES: Thank you very much.

19 Yes, sir. Oh, and can you give your
20 name again, please.

21 MR. DIA: I'm Bob Dia. I'm a Native
22 American just like the one in the other room. And
23 like I said a while ago, everybody is trying to get
24 to everybody. And I know Vulcan is trying to make --
25 have all these workers and everything else. I live

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1 35 miles from Knippa. If the weather is right it
2 shakes the windows in my house when they dynamite.
3 Now, what good -- What kind of environment is that, I
4 ask you? The railroad is four miles away from me.
5 Every time a train goes through, it shakes the dishes
6 out of the cupboards. Now, what kind of impact is
7 that going to make on the rest of these people that
8 live up there right next to it? I hate to say it.
9 But y'all better get you heads out of the sand and do
10 something about it or otherwise this old country is
11 going to hell in a hand basket.

12 Thank you.

13 MS. GATES: Thank you very much.

14 (Clapping.)

15 MS. GATES: Anyone else wishing to speak
16 again that has spoken once? Okay. Oh.

17 MR. SCHOCH: My name is Don Schoch. I
18 would like to point out the fact that this is the
19 mightiest country in the whole world. And we didn't
20 get there by throwing stumbling blocks in the way of
21 our free private enterprise. We got there by
22 allowing roads to be built, bridges to be built,
23 railroads to be built, canals to be built and so on
24 and so on.

25 I think y'all have done a great job of

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1 analyzing this situation. And you -- you've got the
2 experience of years and years behind you. I think
3 you did a good job. You can carry these things to
4 the point that we can handicap America. And I don't
5 like that.

6 People talked about not having other
7 people moving in, other businesses and so on. Well,
8 Indians can't -- I don't imagine they appreciated the
9 fact that the Mexicans came in here. And I don't
10 imagine the Mexicans liked the fact that the white
11 people came in here. And I don't imagine that people
12 here -- I would imagine that people here that don't
13 want other people coming in and improving and
14 building this community. I don't think that they're
15 looking at that the right way.

16 Vulcan Material is very good company and
17 they produce a very critical commodity, limestone.
18 It's needed throughout Texas. This quarry has
19 limestone that is high quality. Otherwise, they
20 could get it at other places. So when you find a
21 high quality material, you need to take advantage of
22 it. And that's what they're doing. That's all
23 they're doing is trying to take advantage of the fact
24 that there's a high quality limestone in that
25 particular place.

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1 I don't think that the environmental --
 2 You talk about the environment. We've covered about
 3 ten different agencies that have studied this problem
 4 from "A" to "Z". And the real problem here is that a
 5 few people want to impede progress. And I think
 6 that's -- to me that's the biggest problem that we're
 7 facing. I live in New Braunfels. I live on the
 8 river about two blocks from the railroad tracks and
 9 I've never heard the train go by. I'm sure it did.
 10 I wasn't aware of it.

11 (Laughing).

12 UNKNOWN PERSON: You need a hearing aid.

13 MR. SCHOCH: I live about -- I now live
 14 about four miles from the railroad track and I can
 15 hear the train. It depends on where you live just
 16 how much noise you're going to get. But it's not all
 17 that bad. We have a quarry that's about four miles
 18 right across the valley from where I live and they
 19 dynamite all the time. And I never hear it -- And I
 20 never hear any vibration from it.

21 So I think this -- this quarry is in a
 22 very remote area, more remote than you normally can
 23 find. And I think that we're really making big
 24 issues out of -- out of this. I think we only look
 25 at the community. You should look at the fact that

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1 the taxes that will be brought into this county is
 2 very significant. People that have a lot of money
 3 and they're situated very well, yeah they don't want
 4 progress and they don't want businesses coming in.
 5 But what about the young folks that need a job? They
 6 would like to have it probably.

7 So I think that we're barking up the
 8 wrong tree. The Indians would probably, like I said,
 9 not have wanted all of us here. But we're here. And
 10 the ones that are here want to take advantage and not
 11 let any other people come in the area.

12 Thank you.

13 MS. GATES: Thank you.

14 Oh, sir. If you would state your name
 15 please.

16 MR. CUMBERLAND: My name is Hal
 17 Cumberland. And I'm not from this area. But I live
 18 in San Antonio. And I live about three good big
 19 blocks away from the railroad tracks. And every
 20 morning they're hauling coal out to the places where
 21 they makeup our electricity, the power plants and
 22 they blow the damn whistle at every corner. They
 23 have to getting through San Antonio. But they're
 24 usually dragging about 100 cars. And as far as these
 25 big trucks on the road when I travel, I'll tell you

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1 what I just come back from Medina Lake today, and the
 2 dust that they would create coming out of that quarry
 3 they have up there by the lake is something else.
 4 And if you want a filthy territory you get that
 5 railroad through here and those gravel trucks.

6 Thank you.

7 MS. GATES: Thank you.

8 UNKNOWN PERSON: May I say something?

9 MS. GATES: Yes. Yes.

10 UNKNOWN PERSON: I just wanted to
 11 comment also on the pictures of the area in Appendix
 12 of "A" of -- Appendix "A" of Volume II. Most of them
 13 are captured with an incorrect location. This is
 14 very misleading. If this an example of the precision
 15 with which you have done this study, you have failed
 16 miserably. It is clear that Vulcan has no idea of
 17 the history of this area, of its floodplain when they
 18 started planning this project in 1999. The people of
 19 Quihi and all who appreciate history should not have
 20 to pay the price of Vulcan's lack of proper decision
 21 making and wanting to have a quarry and railroad
 22 here. Thank you for your time. Mrs. Schulte.

23 MS. GATES: Thank you. Okay. Has
 24 everybody -- Oh, yes. Go ahead.

25 MS. LAUGHLIN: Thanks for hearing my

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1 voice one more time. Mary Ann Laughlin Abbott. One
 2 of the things that I forgot to mention earlier is
 3 when we start hearing about the problems with Vulcan
 4 trying to -- to move into the area my husband who is
 5 very precise, immediately went to the internet,
 6 printed out a volume of paperwork on Texas laws,
 7 Federal laws pertaining to landownership, management,
 8 who can take over and who cannot take over property.
 9 He downloaded I guess it was about two inches worth
 10 of material and left it at the Hondo Anvil Herald
 11 office for an individual to pick up, someone who was
 12 working with this group. Unfortunately I don't
 13 remember their name now. But he did all the work.
 14 If the people who picked that package up had a read
 15 it -- had read it and gone through it, highlighted
 16 what was needed, we wouldn't be having all of this
 17 right now.

18 Thank you.

19 MS. GATES: Thank you.

20 (Clapping.)

21 MS. GATES: Okay. Okay. That concludes
 22 our meeting. Thank you so much for coming and -- and
 23 giving us your comments. If you have additional
 24 written comments that you would like to drop off,
 25 please do so.

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1 And our next public meeting will begin
2 at 6 p.m. Thank you.

9 (Public meeting concluded.)

1 COUNTY OF MEDINA)
2 STATE OF TEXAS)
3 I, PATRICIA A. GADDIS, Certified
4 Shorthand Reporter, in and for the State of Texas, do
5 hereby certify that the foregoing pages represent a
6 true and correct transcription of the Surface
7 Transportation Board, Section of Environmental
8 Analysis, Southwest Gulf Railroad Company,
9 Construction and Operation Exemption, Public Meeting
10 held in Medina County, Hondo, Texas on December 2,
11 2004.

12 WITNESS my hand on this the 20th
13 day of December, 2004.

14
15
16
17
18
19 PATRICIA A. GADDIS
20 8548 Northview Pass
21 Fair Oaks Ranch, Texas 78015-4922
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9 Surface Transportation Board
10 SECTION OF ENVIRONMENTAL ANALYSIS
11 SOUTHWEST GULF RAILROAD COMPANY
12 CONSTRUCTION AND OPERATION EXEMPTION

13
14
15 Medina County, Texas
16 Public Meeting II
17 2 December 2004
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1 MS. GATES: Good evening. On behalf of
2 the Surface Transportation Board Section of
3 Environmental Analysis I'd like to welcome you to
4 tonight's public meeting.

5 We're here tonight to hear your comments
6 on the Draft Environmental Impact Statement that has
7 been prepared for Southwest Gulf Railroad's proposed
8 rail line here in Medina County, Texas.

9 The goal of our meeting tonight is to
10 provide a safe an open environment in which you can
11 express your ideas and comments to us because we're
12 very eager to hear them.

13 And I'd like to just briefly tell you
14 what our agenda is tonight. We're going to hear a
15 short presentation in which you'll find out a little
16 bit more about the environmental review process that
17 the Surface Transportation Board has used on this
18 project as well as some of the preliminary
19 conclusions in the Draft Environmental Impact
20 Statement.

21 And I'd also like to then to do a few
22 introductions. First of all, we have Victoria Rutson
23 who's the Chief of the Section of Environmental
24 Analysis with the Surface Transportation Board. Next
25 to her is Rini Ghosh, the attorney advisor for this

1 project. And she's also with the Section of
2 Environmental Analysis. And then we have Jaya
3 Zyman-Ponebshek who is with URS Corporation, the
4 company that's working under the direction, control
5 and supervision of the Surface Transportation Board
6 in preparing the Draft Environmental Impact
7 Statement. And she's with URS Corporation. And we
8 also have Phil Ponebshek who has served as a
9 technical adviser Draft EIS. He's also with URS.
10 And I'm Nancy Gates also with URS. And I'll be your
11 moderator tonight.

12 I'd like to acknowledge a few people
13 that we have in our audience. We have Will Carter
14 with the BMA Water District. And we also have Terry
15 Cauley with the Texas Historical Commission. And we
16 say welcome to all of you.

17 So let's go ahead and get started.
18 Vicky.

19 MS. Rutson: Thank you, Nancy.

20 Welcome everyone. We're happy to be
21 here with you and we're looking very forward to
22 hearing your comments tonight.

23 I'd first like to tell you a little bit
24 about the Surface Transportation Board. The Surface
25 Transportation Board is a small agency located in

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1 Washington, D.C. There are about 140 employees.
2 Congress created the Surface Transportation Board in
3 1996 for the reason that Congress wanted an agency to
4 conduct economic regulation of freight railroads.
5 The board itself is a bipartisan three member board.
6 It consists of three gentleman, a Republican
7 chairman, a democratic vice chairman and a Republican
8 member. Those three board members of the Surface
9 Transportation Board are the decision makers for this
10 project and for all rail line projects that are
11 brought before the board. The board itself doesn't
12 propose rail line projects. It doesn't engineer or
13 conceive of rail projects. Rather because it
14 conducts economic regulation of freight railroads it
15 looks at projects brought to it by railroad
16 corporations. The Surface Transportation Board is
17 part of the Department of Transportation. We're
18 administratively housed there. Which doesn't mean a
19 lot. We have separate offices and separate decision
20 making authority. Which means that the three board
21 members are the decision makers.

22 Now what kind of decisions does the
23 Surface Transportation Board make? The Board has
24 jurisdiction over new rail line constructions like
25 the one proposed by Southwest Gulf or SGR here. The

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1 Board also permits rail line consolidations and
2 mergers and rail line abandonments. Now the Board is
3 neither a proponent nor an opponent of individual
4 proposals. Rather the board looks at the proposal
5 brought before it and then makes one of three
6 decisions: It may decide to approve a rail line
7 project, to deny a rail line project, or to approve a
8 rail line project but only with certain mitigating
9 conditions.

10 Now when these railroad applications are
11 brought before the Board not only must the board use
12 its governing statute, which is the Interstate
13 Commerce Act, the board must also comply with the
14 National Environmental Policy Act or NEPA. NEPA
15 compliances the job of me and my section, the Section
16 of Environmental Analysis or SEA or S-E-A. We use
17 all three terms interchangeably. My section is
18 responsible for making sure that the Board complies
19 with NEPA, the National Environmental Policy Act as
20 well as other environmental laws and statutes. And
21 these include the National Historic Preservation Act,
22 the Endangered Species Act, the Clean Air Act, the
23 Clean Water Act and a number of other Federal
24 environmental statutes.

25 The Board's environmental rules are in

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1 the Code of Federal Regulation. And for those of you
2 who are interested they're at 49CFR1105. Now we also
3 must comply with the president's council on
4 environmental quality regulations. And those are at
5 40CFR1500.

6 Now what type of environmental review
7 have we done so far in the Southwest Gulf or SGR rail
8 line construction proposal? Back in June of 2003 my
9 staff, Rini Ghosh as well as Jaya and Nancy were here
10 to hold scoping meetings. She -- They met a number
11 of you at that time and listened to your comments on
12 what the scope of the environmental analysis should
13 be. We also consulted with a number of federal,
14 state and local agencies and also heard further
15 comments from the public. We put all this
16 information as well as other individual -- other
17 information we independently gathered into the Draft
18 Environmental Impact Statement. That's the document
19 that we issued on November 5th for your public review
20 and comment. Comments are due January 10th. We'll
21 be collecting all your oral comments and all your
22 written comments as well as reviewing the transcript
23 that our court reporter prepared this afternoon and
24 will be preparing tonight. We'll review all of those
25 comments and respond to them in a final environmental

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1 impact statement.

2 Now, what's the purpose of doing a draft
3 EIS, collecting comments and then doing a final EIS?
4 It's to inform the three decision makers on the
5 environmental implication of Southwest Gulf's
6 proposal.

7 It's only after the three decision
8 makers have reviewed the full environmental record
9 and taken a hard look at the environmental
10 consequences that they can make a truly informed
11 decision. So that's what our job is, to make sure
12 that we're communicating successfully with the three
13 decision makers so that they understand the concerns
14 and comments and our analysis before making a final
15 decision.

16 So with that, I'll be passing the
17 microphone to Rini Ghosh of my staff who'll be
18 talking about the specific analysis that we've
19 conducted to date for Southwest Gulf -- Southwest
20 Gulf's proposal.

21 MS. GHOSH: Thank you, Vicky.

22 Hi, everyone. My name is Rini Ghosh,
23 and I'm attorney advisor in the Section of the
24 Environment Analysis at the Surface Transportation
25 Board. I think I might have met some of you at the

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1 open house that we had here last June. And I'm
2 really glad to have the opportunity to be back here
3 again today.

4 As most or all of you know Southwest
5 Gulf Railroad Company has proposed to build an
6 approximately seven-mile rail line that would connect
7 Vulcan Construction Materials new limestone quarry
8 with the Union Pacific Company rail line near Dunlay,
9 Texas. They propose to move four trains per day over
10 this new rail line, two empty trains up to the quarry
11 and two loaded trains back down to the UP rail line.
12 They would also build a loading track on the quarry
13 property that would connect to the new rail line.

14 Based on all of your comments, we
15 realize that this proposal was highly controversial,
16 which is why decided to prepare an environmental
17 impact statement type of document. We decided to
18 prepare this type of document to make sure that we
19 could look at the environmental consequences really
20 hard to make sure that we were giving the Surface
21 Transportation Board sufficient information before
22 they made their decision. We also wanted to make
23 sure that we could give you as much opportunity as
24 possible to participate in the environmental review
25 process. In our Draft Environmental Impact Statement

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1 we set forth our preliminary conclusions regarding
2 our preliminary studies. We looked at four potential
3 rail alignments and compared these alternatives.
4 Every single thing in this document is set forth for
5 your review and comment. And we welcome your
6 comments on every aspect of the Draft Environmental
7 Impact Statements.

8 One of the main areas that you raised in
9 your comments to us was concerns regarding cultural
10 resources. Our review of cultural resources is
11 governed by what is known as a Section 106 process of
12 the National Historic Preservation Act. This is the
13 process by which Federal agencies must take certain
14 steps in completing their evaluation of cultural
15 resources before they make a decision on a proposal
16 such as Southwest Gulf Company's new rail line
17 construction. These steps include identifying
18 appropriate consulting parties, identifying cultural
19 resources in the project area, assessing impacts on
20 cultural resources and devising mitigation measures
21 to reduce or mitigate impacts to cultural resources.

22 We began the section 106 process by
23 consulting with the Texas Historical Commission and
24 identifying other appropriate consulting parties. We
25 then prepared a preliminary cultural resources

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1 assessment report which we submitted to the Texas
2 Historical Commission and other consulting parties
3 for review and comment. Based on the comments we
4 received, we conducted additional research and
5 studies. And we so far have identified approximately
6 30 above-ground resources in the project area that
7 could be affected by one or more of the potential
8 rail alignments as well as one potential historic
9 district. The entire Quihi, Texas area is within a
10 rural historic landscape because the land has
11 remained unchanged for a great number of years. This
12 means that the entire Quihi, Texas area is
13 potentially eligible for the National Register of
14 Historic Places as a historic district. Based on our
15 studies and in consultation and based on the
16 recommendations of the Texas Historical Commission we
17 developed a document known as a Programmatic
18 Agreement. This Programmatic Agreement sets forth
19 the steps that would be taken to complete the section
20 106 process. Our cultural resources studies as well
21 as a draft version the Programmatic Agreement are
22 included in Appendix I of the draft environmental
23 impact statement for your review and comment.

24 Now I'm going to turn the microphone
25 over to Jaya Zyman-Ponebshek our technical project

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1 manager to talk to you a little bit about the other
2 resource areas we studied.

3 MS. ZYMAN-PONEBSHEK: Thank you very
4 much, Rini.

5 Good evening everyone. My name is Jaya
6 Zyman-Ponebshek. I'm with URS Corporation. I'm
7 going to try to speak a little slower tonight.

8 I am going to summarize for you some of
9 the results that we got from our preliminary impact
10 studies. We studied several resource areas,
11 including those on the screen. I can read them for
12 you or I can just give you a few seconds for you to
13 read them.

14 Basically what kind of impacts: The
15 analysis found that the majority of impacts will be
16 due to traffic delays at grade crossings and anything
17 resulting from that. Safety concerns pretty much in
18 general. Noise and vibration. Air and water
19 contaminants. Land use changes, including clearing.
20 Fill placed in flood plains or wetlands. In the
21 interest of time and to allow you, the public, to
22 supply us with comments, because that's why we're
23 here today, I am going to briefly focus on the areas
24 where we have identified impacts and then the rest of
25 the areas you can refer back to the draft EIS.

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1 Again, I will reiterate that SEA or S-E-A welcomes
2 your comments on every aspect of the Draft EIS and in
3 all the mitigation measures recommended on a
4 preliminary basis on each resource area.

5 As far as transportation and traffic
6 safety the railing could cause impacts to local
7 transportation and traffic safety when the rail line
8 crosses area roadways using at grade crossings. At
9 these points traffic delays and car train accidents
10 have the potential to occur. For the most part
11 delays could result from three reasons: One, while
12 the crossings are temporarily blocked during
13 construction activities. Two, during normal
14 operation when at-grade crossings are closed for
15 trains to pass, including the time that it takes for
16 the train to pass and to approach and to leave the
17 intersection. And then during the track repair
18 activities. If a -- or if a train malfunctions at a
19 specific at-grade crossing.

20 And again, we welcome your comments on
21 every aspect of this resource area in the Draft EIS.

22 Water resources. As far as water
23 resources we analyze impacts on surface water, ground
24 water and wetlands. Surface water. Impacts to
25 surface water may result basically from rail

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1 construction and operation or both. First, flood
2 plains and stream stability impacts. S.E.A.
3 consulted with the Army Corps of Engineers of the
4 Federal Emergency Management Agency and the Medina
5 County Floodplain Administrator regarding potential
6 impacts to flood plains and streams crossed by the
7 proposed rail line. These impacts depending on final
8 crossing design may include localized increases to
9 the width of flood plains and changes to stream
10 hydraulics as some of you are very aware. Cut and
11 fill operations at stream crossings could have
12 adverse impacts to bank stability as well.

13 In addition, contamination.
14 Contaminants could be released during construction
15 and operations that could be adversely -- that could
16 adversely impact surface water. And S.E.A. says a
17 wide range of contaminants, anywhere from silt and
18 debris to fuel spills or diesel fuel or other kinds
19 of fuels. During construction of the rail line and
20 during future repair activities ground clearing and
21 heavy equipment would cause the potential for silt
22 and debris runoff to enter surface waters during a
23 major rainfall event. The release of petroleum
24 products from construction equipment or locomotive
25 fuel spills could also impact water quality.

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1 Ground water. The primary concern to
2 the ground water is the possibility of contamination
3 of the aquifers. Many of you have wells so I know
4 that this is a main concern for you. As I just
5 noted, construction and operation could potentially
6 result in runoff of contaminants.

7 Local streams provide recharge for the
8 Leon Gravel -- Gravel Aquifer. And then also the
9 northernmost one-half mile of the proposed rail line
10 here crosses the recharge zone of the Edwards
11 Balcones Fault Zone Aquifer.

12 The contaminants of concern would be
13 very similar to those just described for surface
14 water, including silt and debris from construction or
15 land repair and locomotive fuels. Contaminants from
16 the rail line could end up in the water which
17 recharges the aquifers and therefore resulting in
18 aquifer contamination.

19 And once again, SEA recommended some
20 preliminary mitigation conditions that we would very
21 much welcome your comments on as well as on the
22 actual analysis.

23 Wetlands. There is little potential or
24 natural opportunity for significant wetland resources
25 to form in Medina County. According to the national

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1 wetland inventory Elm Creek and portions of Cherry
2 Creek and Quihi Creek form riparian wetlands. And
3 all of the local creeks have small pools classified
4 as Palustrine wetlands. I hope I pronounced that
5 right. These classifications deal with the types of
6 vegetation that these wetlands support. And I'm not
7 going to get into the details of that. But that's
8 pretty much the extent of wetlands in this area.

9 There is a potential for permanent loss
10 of wetland function where the rail line crosses these
11 creeks and places fill or structures within the
12 creek. Where such placement is necessary
13 authorization from the Corps of Engineers would be
14 required under Section 404 of the Clean Water Act.
15 Corps authorization is also needed when there will be
16 temporary impacts to streams from access roads needed
17 to transport the equipment and personnel during
18 construction near these creeks. During rail
19 operations wetland resources could also be affected
20 due to contaminated runoff following an accident that
21 results in a diesel fuel spill.

22 And again, we welcome your comments.

23 As far as biological resources, the rail
24 land will require a construction right-of-way where
25 all vegetation will be temporarily cleared. In

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1 In addition, it will require clearance of a permanent
2 area a narrower strip where the rail bed would be
3 located. Since this vegetation represents wide life
4 habitat any loss of this habitat would be an impact
5 to biological resources. Now construction,
6 maintenance and operation of the rail line could pose
7 a more direct impact to biological resources as there
8 is a potential for collisions between the train and
9 wildlife. And mechanical mowing and shredding along
10 the right-of-way could potentially harm smaller
11 animals.

12 Land use. As everyone here knows,
13 creation of the permanent rail line right-of-way
14 would require acquisition of land for both the
15 construction and for the permanent right-of-way for
16 the rail bed and it would have temporary -- and it
17 would have impacts to those properties adjacent to
18 the right-of-way or within the right-of-way. Most of
19 the right-of-way for the proposed route would be
20 located along or near fence lines. However, some
21 properties would be severed. Given current land use
22 SEA concluded that the proposed alignment would cause
23 a reduction in the amount of land including prime
24 farm -- farmland available for agriculture. Adverse
25 impacts on land use could not be fully mitigated.

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1 Noise. The proposed action would result
2 in both construction and operation related noise
3 impacts. Construction of the rail line would proceed
4 at about 140 to 150 feet per day along the corridor
5 creating temporary noise impacts to nearby residences
6 as the construction moves along the right-of-way.
7 During the operation, noise would result from the
8 operation of the train on the line as well as from
9 the sounding of the horns prior to entering any
10 at-grade crossing.

11 SEA performed an analysis on operational
12 noise caused by engine noise and wheel rail
13 interactions and determined that operations over
14 Alternative I would have greater adverse impacts than
15 any of the other alternatives as far as the number of
16 receptors.

17 As far as horn noise the maximum sound
18 level from the horn would have an adverse effect on
19 residences closest to the grade crossings.

20 Finally, I would like to summarize
21 vibration impacts. Vibration impacts could result
22 both during construction and operation of the rail
23 line as well. Because of the nature of activities,
24 different activities would cause vibrational impacts
25 at different distances from the rail line. This is

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1 very important. Depending on the source and the
2 activity the vibration impacts would be different.
3 Of primary concern are vibrational impacts to
4 sensitive structures such as historical structures or
5 wells or any other fragile structure. For example,
6 most construction related vibration impacts will be
7 limited to structures within 25 feet of the activity.
8 But for pile driving activities vibration impacts
9 could occur to extremely fragile historic structures
10 up to 200 feet away that's because pile driving has
11 much greater vibration -- is a much stronger
12 vibration source.

13 In addition SEA preliminarily -- SEA --
14 SEA'S preliminary studies indicate that vibration
15 impacts from the operation phase of the project or of
16 the rail line would not impact sensitive structures
17 more than 45 feet away. So it's 25 feet for
18 construction, 200 for pile driving, and 45 feet for
19 normal operation.

20 And with that, I conclude my summary of
21 the impacts and I turn this back over to Nancy so we
22 can begin the comment session.

23 MS. GATES: Now we're ready to begin the
24 most important part of this meeting which is the
25 comment period. And in order to insure that we have

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1 a safe and comfortable environment in which everyone
2 can speak the way they want to, we've set up a few
3 ground rules. And they were listed in some of the --
4 the meeting fact sheet that you received when you
5 walked in today. But I want to just review them
6 briefly.

7 First of all, if you signed up to speak
8 you -- there was a number on your comment card. And
9 we will call you in the number -- according to the
10 order in which you signed up. We will call your
11 name. And then if you'll approach the nearest
12 microphone to speak, that -- that would be the
13 preferred procedure. If you're not able to speak for
14 any reason -- If you're not able to approach the
15 microphone for any reason, just raise your hand and
16 we'll bring the microphone to you. If you're a
17 Spanish speaker and you need help with understanding
18 anything that's being said, please let us know also
19 because Jaya is bilingual in Spanish and English and
20 she can help you with that. Each speaker will have
21 three minutes in which to make your comments. And to
22 help you with your -- with the three-minute
23 guidelines we have this nifty aid here that we will
24 show you when you're got thirty seconds so it's time
25 to start wrapping up your comments. And then when

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1 your time is up, we'll -- we'll give you the times up
2 signal. And if you feel that you still have more
3 than you want to say you can wait and if -- if we
4 have a chance for everyone to make -- to speak who
5 wants to, then we'll start again with people who
6 would like to speak again. So if you feel like you
7 can't make it through your comments, don't worry;
8 there's a chance to -- to finish them later. As I
9 said, all speakers will speak once before we allow
10 people to speak twice.

11 And finally, we are recording this
12 meeting. We have a court reporter here and we're
13 audio taping it as well. And we're doing that
14 because we want to be sure and capture everything
15 that everyone says accurately. And for that reason
16 we ask that you not talk or make a lot of noise while
17 someone is speaking because that will hinder our
18 ability to record the comments.

19 So, let's go ahead and get started. And
20 I'm just going to turn off my equipment here. Okay.
21 I'll call your name, and then if you would just
22 approach the closest microphone.

23 Timothy Hildebrand.

24 MR. HILDEBRAND: Good evening. I'm
25 going to read mine in the interest of time. Thank

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1 you for allowing this opportunity.

2 My name is Timothy Hildebrand. I'm an
3 elected public official residing in Medina County,
4 Texas serving as director and vice president of the
5 east Medina County Special Utility District. The
6 East Medina County Special Utility District is a
7 water purveyor in the needed area of the proposed
8 railway. I have a Bachelor of Science Degree in
9 geological engineering and am a licensed professional
10 geoscientist in the State of Texas.

11 East Medina County Special Utility
12 District's plant number five lies approximately five
13 and a half miles south of the proposed Vulcan quarry.
14 The proposed rail line would be constructed to
15 service and facilitate the proposed quarry and would
16 run near our plant number five. East Medina's plant
17 number five consists of various elevated storage
18 facilities. But most importantly two minutes for
19 water wells drilled into the Edwards Aquifer. These
20 two wells and aquifer serve approximately 30 percent
21 of our nearly 2,400 local customers on a daily basis
22 and is the sole source of supply water for over 700
23 families. How can the Surface Transportation Board
24 rule on the proposed Southwest Gulf Railroad Company
25 issue without an exhaustive environmental impact

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1 study on the affects of the proposed quarry sitting
2 on the Edward Aquifer Recharge Zone?

3 My initial research and study have led
4 me to conclude that the only 100 percent guarantee
5 that I can make to my constituency that the proposed
6 Vulcan quarry will not pollute the aquifer in the
7 vicinity of plant five is for it not to be
8 constructed. The affects of rain and point source
9 pollutants in the Edwards Aquifer are immediate and
10 dramatic. In the last week alone water inside
11 Natural Bridge Caverns located northeast and in the
12 aquifer rose over 70 feet concurrent with the recent
13 rains.

14 My point is that although it has good
15 filtering capacity the Edwards Aquifer has in fact
16 tremendous permeability allowing whatever occurs on
17 the surface of the recharge zone to rapidly find its
18 way into the aquifer. I emphasize this because in
19 the exact science of geology allows for different
20 interpretations. And we all know paid consultants,
21 of which I am not one, will skew the facts toward the
22 side of their client. The undeniable fact is that
23 the Edwards Aquifer transmits fluids and some
24 particulates with the amazing capacity. Why would a
25 governmental agency ever facilitate this type of

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1 activity over a recharge zone? Knowing the proximity
2 of this site to our water wells at plant number five
3 why should the only water supply for these 700
4 families be placed at risk? Paid consultants for
5 Vulcan, Southwest Gulf Railroad will argue that the
6 risk is negligible. Even if the risk were
7 negligible, why should these families in East Medina
8 County Special Utility District have to bear it?

9 I have worked in an extractive industry,
10 upstream oil and gas exploration and production for
11 nearly 25 years. I would dearly love to have the
12 right of condemnation as a tool to help us make
13 money. But that is not how the American free
14 enterprise system works. That is how totalitarian
15 governments work.

16 If you allow Vulcan under the guise of
17 Southwest Gulf Railroad to condemn these people's
18 land for the sole benefit of a private industry, I
19 fear not only for their water, I fear for their
20 freedom.

21 Thank you.

22 (Clapping.)

23 MS. GATES: Thank you.

24 Will Carter.

25 MR. CARTER: Thank you. I'm Will

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1 Carter. I'm here representing the
2 Bexar/Medina/Atascosa Water Improvement District. We
3 are a political subdivision of the State of Texas.
4 We are the owners of the diversion of Medina dams and
5 also for Medina Lake.

6 One thing I'll need to get qualified, I
7 guess, later from URS is that I never knew till
8 tonight that URS had a conflict; because URS does all
9 the engineering for BMA. And I inquired about a year
10 ago about the impact of the quarry and it's effect of
11 its blasting on the fault system that we are directly
12 on strike with at Medina Dam. And I should have been
13 told then that y'all had a conflict. And I -- If you
14 could relate to someone with URS they need to
15 contact our office tomorrow because we have a real
16 problem with this.

17 But the real issue is not the railroad
18 for BMA. The issue is the quarry. And I also am --
19 my primary business is in oil and gas. And I have
20 seen the affect of blasting on seismic surveys where
21 I've had to go out and negotiate a settlement of
22 collapsed casing and wells up to two miles away.
23 Which is a fraction of the affect that the blasting
24 is going to have on the fault system that -- that
25 Medina Lake is on. Diversion Dam sits on top of an

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1 active fault. And I can promise you that fault
2 system is going to run right into the quarry.

3 And what I'm going to need to find out
4 is -- We're having our next board meeting inquiry as
5 to the affect -- and the study that has been done,
6 y'all's study impacts just the railroad. The
7 railroad is not the problem. It's what it services.
8 And what we'd also like if we could get from your
9 agency is an explanation in writing as to where the
10 public purpose is in servicing a private enterprise
11 that -- as -- strictly for profit. You cannot --
12 This is a taking. And how it is a taking it's going
13 to potentially damage our reservoir of not only the
14 Edwards recharge but also our -- our -- the dam at
15 Medina Lake. Medina Lake's Dam has -- has relief
16 wells. If those wells which relieves the hojatic
17 (sic) pressure in the case of flooding, if those
18 relief wells should get severed because of a movement
19 of a fault even by a fraction of an inch, that whole
20 structure is in jeopardy and thousands of flies (sic)
21 downstream are going to be jeopardized.

22 And so I'd very much appreciate if
23 someone with the agencies could get in touch with us
24 and give us some comfort level that -- where we can
25 answer to -- to our constituents as to the impact of

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1 -- of the quarry itself that this rail -- rail line
2 is -- is going to be servicing.

3 Thank you.

4 (Clapping.)

5 MS. GATES: Thank you.

6 Richard Fournier.

7 MR. FOURNIER: Hi. I would like to
8 thank everybody for being here tonight and listening
9 to us. I think Tim and the gentleman from BMA thank
10 you very much.

11 In 1959 my parents moved my two brothers
12 and my sister from San Antonio to the country. Why?
13 Because it was country. It was quiet. There wasn't
14 anything out there. We reveled in the solitude. I
15 just came back from seven years in Colorado. I
16 purchased some of the property that my parents had
17 only to find out that I'm going to have a railroad
18 run through it. This is going to be detrimental to
19 some of the things that I do out there, such as the
20 hunting, the people that I lease some of the land out
21 to, and everything else. I mean what is going to be
22 my compensation for my downgrade? Tell me it doesn't
23 downgrade the price of land to have a railroad run
24 close by. Tell me what my compensation is going to
25 be for having to put up with all these impacts or

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1 possible or potential impacts.

2 I have no other recourse. I need to go
3 against this railroad, the quarry also. We've got
4 quarries on 1283, 471, 1604. How many is enough?
5 This is an out of state company. A very wealthy
6 company. Checked out their web site. Some people
7 are squabbling over the scraps from their table.
8 It's thrown the community apart. I don't know what
9 else to do. I voiced my opinion.

10 Thank you very much.

11 MS. GATES: Thank you.

12 Tom Walpole.

13 MR. WALPOLE: My name is Tom Walpole. I
14 live in Quihi on FM 2676 at Elm Creek. The railroad
15 and quarry must be studied as a connected action.
16 Without the quarry the railroad serves no purpose.
17 The Draft EIS did not conduct any flood studies.
18 Only remarks like "best engineering practices in the
19 design of the stream crossings will be made to avoid
20 increasing floodplain width." Which can be anyone's
21 interpretation.

22 On January -- 12 January of 2000 my wife
23 and I along with the Fitzgeralds met with Tom
24 Ramsdale, Darrell Brownlow and Vulcan's lawyer, Chris
25 Schuchart. This happened when we heard rumors about

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1 a rock quarry being planned near our homes. I told
2 them that I grew up in Birmingham, Alabama and that I
3 knew Vulcan very well. Mr. Ramsdale's very rapid
4 response was "oh, we don't cause all those pollution
5 problems like that done in the past." Some of the
6 quarry problems have been lessened in the U.S.
7 because people like you in this audience have fought
8 for better environmental laws. It is common
9 knowledge that big business will try to get away with
10 all they can just to increase their profits. We need
11 to continue seeing that all unanswered questions
12 regarding this EIS are properly addressed before STB
13 gives the go ahead for the railroad to begin
14 construction.

15 My relatives in Birmingham are still
16 living with the quarry. Quarry problems have
17 encouraged me to do all we can do to prevent the
18 quarry. If that fails, try to make the project
19 environmentally safe from the beginning. Once
20 they're here, your voice becomes very small.

21 Remember the only reason that Vulcan is
22 doing this Environmental Impact Study is because the
23 MCEAA has fought for Quihi's right to live in a safe
24 and healthy environment. Medina County is it worth
25 it?

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1 Thank you.

2 (Clapping.)

3 MS. GATES: Thank you.

4 Joseph Salomon.

5 MR. SALOMON: Hello. My name is Joseph
6 Salomon, and I own property right by the proposed
7 quarry and railroad. I'm actually 4,000 feet from
8 where the quarry is going to be.

9 My main concern is that the quarry and
10 the railroad are not tied as one item. Like many of
11 the other people have stated, if the quarry weren't
12 going to be there, the railroad would never come. I
13 know that in some of these statements that people
14 have made they are saying that the quarry -- or the
15 railroad would be open for other businesses and stuff
16 like that. I don't know of any other business that's
17 going to come out there and build any kind of
18 construction or anything like that without the quarry
19 being there.

20 I'm really worried about the quarry and
21 the railroad in the sense that my water well is an
22 Edwards Aquifer well, and I'm only 4,000 feet from
23 that quarry. They say they'll compensate you and all
24 that other stuff, but I don't want to have to be
25 bringing water in bottles or whatever it may be to be

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1 able to drink water and protect my family and my
2 animals.

3 There's going to be a lot of situations
4 where we're all going to come up and have to be
5 mitigating with Vulcan. And there's no way that I
6 could ever stand up to them and have the power or the
7 money or the lobbying efforts that they have to deal
8 with the organizations like yours and others.

9 I'm -- I'm a single owner -- landowner
10 that if my well is damaged, I'll have to fight with
11 them. Well, the only resources that I have are the
12 resources that come out of my wallet that I have to
13 pay for my property and my family and everything else
14 like that. And there's no way I could ever fight
15 Vulcan and the railroad to be able to -- to get water
16 to be able to drink. So my only resource would be --
17 would be to -- to leave my property. And who is
18 going to want to come and buy my property that is
19 4,000 feet from a -- from a quarry and a railroad
20 with the traffic that's going to go down 353? I know
21 that they say, "Well, if you -- if you let us have
22 the railroad, we won't bring trucks through. We're
23 only going to bring 24 trucks." Well, all you have
24 to do is go down 1283 in front of Vulcan's entrance
25 there and see that -- I guarantee you there's more

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1 than 24 trucks that run out of that lot in an hour's
2 time, let alone a day. I mean there -- It might be
3 24 of their trucks, but what about all the other base
4 that they're going to sell to all these other, you
5 know, public places that are going to come and say,
6 "Hey, I need, you know, 200 hundred yards" or I need
7 whatever it may be to service my road or my whatever
8 it may be, projects, construction and everything else
9 like that. I mean that traffic -- You know they'll
10 say, "Well we'll pave your road now. We'll pave 353
11 so that way it will be safer." No it will be so that
12 those trucks can go faster. And if anybody has ever
13 been down 353, that road is not very wide, especially
14 right there where the quarry is going to be at.
15 It's -- it's -- If anything, it's 30 feet wide. I
16 mean I've been out there with my tractor and a darn
17 chisel and I have to stop when other trucks are
18 trying to go by.

19 So I just hope that you guys take that
20 into consideration when you're giving these people
21 their right to come and take our land and our
22 property.

23 Thank you.

24 MS. GATES: Thank you.

25 (Clapping.)

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1 Dr. Bob Fitzgerald.

2 DR. FITZGERALD. Thank you.

3 I would like to bring up a question to
4 STB. STB has ignored MCAA and others concerning the
5 environmental impact of rail traffic caused by the
6 shipment of 5,000,000 tons of limestone a year from
7 the proposed quarry to the Houston and Gulf Coast
8 area. The question I would like to have answered is:
9 Does STB believe the statement made by Dr. -- by Mr.
10 David Coburn who is STR's attorney that ST -- that
11 MCAA makes weird and unprecedented questions on this
12 issue? Well, it may seem weird and unprecedented to
13 Mr. Coburn, but six Union Pacific train wrecks in the
14 past six months are far too many. And now people in
15 San Antonio about a million strong are very concerned
16 and are asking their government: "What can be done
17 about this?" Something needs to be done to prevent
18 it. Vulcan's solution to this problem is to add
19 additional traffic, one thousand cars a week will go
20 through the same tracks that have been the site of
21 these accidents that I -- derailments that I have
22 just mentioned. UP doesn't need this type of
23 increase when it is coupled with ever increasing rail
24 traffic from west coast, from Mexico and from the new
25 Toyota plant, which will certainly have precedents

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1 (sic) over the limestone shipments. It's true that
2 limestone is not a hazardous cargo unless you're
3 crushed by a derailed freight car. Limestone takes
4 up space. There's no denying that. And it worsens
5 the congestion on the rail traffic. This rail
6 traffic has already reached critical limits and past
7 them in some areas, in San Antonio. Why has STB
8 ignored MCAA's scoping comments, which have already
9 been submitted in this matter? I find no information
10 at all in the DEIS.

11 So we again ask that the impact of this
12 5,000,000 tons of limestone that's going to be
13 shipped through overburden system be evaluated for
14 its environmental impact.

15 Thank you very much.

16 MS. GATES: Thank you.

17 (Clapping.)

18 MS. GATES: Jacque Conrad.

19 MS. CONRAD: My name is Jacque Conrad.

20 We have spent the last 12 years preparing our
21 property which is three-quarters of a mile west of
22 the quarry and rail site to become our final dream
23 home. Today our property is a model of pristine
24 Texas as it was 150 years ago, grass covered, dotted
25 with native trees. A little over five years ago we

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1 spent several thousand dollars on house plans. Just
2 after they were complete, the announcement was made
3 about the proposed quarry project. Those house plans
4 are now rolled up and stored in the back of a closet.
5 We just do not care to live next to a noisy and
6 polluting quarry and railroad; which I definitely
7 feel is a connected action. One would not be
8 profitable without the other.

9 Also, we don't want to take the chance
10 of losing our water. None of us in this area have
11 access to the rural water system. We also fear water
12 pollution from chemicals, spilled fuels from the
13 quarry site. Should we decide to move out of this
14 beautiful southern escarpment of the Edwards Plateau.
15 I cannot imagine anyone wanting to buy our place.
16 Just ask the local realtors what kind of response
17 they get as soon as the potential buyers of our
18 property in our area find out that their would
19 possibly be a quarry and railroad located close to
20 them. They buy elsewhere. What does this do to our
21 property values? Our good neighbor Vulcan could
22 care less. Vulcan wants us to make major sacrifices
23 so that they and their shareholders can make major
24 profits.

25 Thank you.

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1 MS. GATES: Thank you.

2 (Clapping.)

3 MS. GATES: Alyne Fitzgerald.

4 MS. FITZGERALD: Thank you for allowing

5 us to speak to you. Mine is rather long, so I
6 anticipate that I'll have to divide it into two
7 parts. Many of us thought that this study was very
8 poorly done and very unprofessional. It left out
9 many important issues or trivialized them calling the
10 impacts "minimal, not significant or negligible." It
11 looked like Vulcan did the study themselves and
12 rushed it through. It left most of the problems up
13 to Vulcan to solve later at mitigation. Using such
14 terms as "use best management practices, develop a
15 contingency plan, take appropriate measures, comply
16 with reasonable requirements or minimize to the
17 extent practicable." Well, we do not want Vulcan to
18 handle things in their own way later. Let's look at
19 how they handled things in other parts of Texas and
20 the United States.

21 "New York, New York Harbor - The United
22 States sued Vulcan for discharging contaminants into
23 New York Harbor for several years.

24 Texas Burnett County - On Highway 281
25 north of San Antonio people are fed up with all the

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1 quarries. Senator Troy Frazier is concerned about
2 the affect of multiple quarries. One report noted
3 that Vulcan quarries in Texas have received seven
4 notices of violations from clear streams inspections.

5 North Carolina, Gilford County - Board
6 of Commissioners denied permits to Vulcan. Neighbors
7 of a quarry cited falling property values, broken
8 windows, cracked walls dried up wells, falling rocks.
9 The National Environmental Journal reported that
10 Vulcan is the seventh worst emitter of toxins in the
11 United States.

12 Illinois, Cook County - Vulcan Materials
13 fined and shut down in April 2003 for air pollution
14 violations starting in 2000. State Attorney Richard
15 Devine said it is victory for Cook County and the
16 environment. Attorney General Lisa Matigan said
17 families who happen to live near a business should
18 not be forced to smell or breath polluted air.

19 Alabama, Marshall County - Strong
20 opposition to proposed Vulcan quarry. County
21 Commissioners concerned about cracking a damn two
22 miles away. Mayor of the town urged Alabama
23 Department of Environmental Management to deny the
24 permit. County tax assessor said the people would
25 take an 18 percent hit on their home -- their home

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1 values; which for many represents their life savings.
2 Their state senator said hundreds of people have
3 contacted him. Vulcan will leave us a hole to deal
4 with after they've left with the profits.

5 Illinois western -- in the town of
6 Weston - Vulcan was fined \$10,000 by the U.S.
7 Department of Labor because a man was killed by a
8 flying -- by flying rocks from a quarry blast while
9 he was mowing his lawn some 900 feet away.

10 Illinois - Department of Transportation
11 along with U.S. Congressman Lapinski, State
12 Representative Lyons and State Senator Racogno filed
13 a lawsuit against Vulcan for damages to a ma -- major
14 road."

15 I'll conclude my remarks later.

16 MS. GATES: Okay. Thank you.

17 (Clapping.)

18 MS. GATES: Mary Walpole.

19 MS. WALPOLE: I am Mary Walpole. My
20 husband and I live at -- live on FM 2676 at Elm
21 Creek. We will be very affected by railroads one,
22 two and three. I am asking again before the final
23 EIS draft is completed to study the quarry and
24 railroad as a connected action. This nec -- This
25 information is necessary for a true and complete EIS.

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1 The flooding in Quihi has not been
2 addressed. The problem of a railroad through the
3 floodplain cannot be mitigated away.

4 I take daily medication for vertigo, a
5 disorder of the inner ear that can cause severe
6 dizziness. I have suffered with this since a child
7 and my life has centered around doing nothing that
8 could trigger an attack. Vibration is one of the
9 causes. Only someone who has attacks of vertigo can
10 understand the fear I felt when I heard about a
11 railroad coming near my home. Only rumors were
12 available. And I wanted to know how close to my home
13 the track would be.

14 My husband and I along with the
15 Fitzgeralds met with Tom Ramsdale, Darrell Brownlow
16 and Chris Schuchart on January 12th, 2000. They
17 declined to give me any information then. And now
18 almost five years later, I still don't know how close
19 to my mobile home the track will come. Even STB has
20 not been able to make a decision and wishes our
21 comments.

22 Before the EIS I asked questions about
23 vibrations. I do know which comment or questions our
24 mind, but I haven't found the answers in the Draft
25 EIS yet. I did find vibrations studies on the

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1 historical homes and that the impact of the track
2 would go out 1,000 feet on each side. I hope that my
3 vertigo understands that I am not in the impact zone
4 -- zone of the track.

5 At the end of the January 2000 meeting
6 with Vulcan, Darrell Brownlow told my husband and me
7 that I could sue them if I became ill. So much for
8 Vulcan's concern for the health problems that the
9 quarry and the railroad could cause the citizens of
10 Quihi.

11 Thank you.

12 MS. GATES: Thank you.

13 (Clapping.)

14 MS. GATES: Craig Heiligman.

15 MR. HEILIGMAN: My name is Craig
16 Heiligman. I'm the son-in-law to Clovis Boehme, one
17 of the landowners of the proposed quarry site. I was
18 born and raised here in Hondo, Texas. Graduated from
19 Hondo High School and now live in Castroville with my
20 family.

21 First of all, I wanted to thank the
22 Surface Transportation Board and it's Section of
23 Environmental Analysis for a very thorough and well
24 written Draft Environmental Impact Statement. The
25 man hours and investigation time must have been

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1 tremendous.

2 The opposition has made claims in local
3 papers that Vulcan must have written the report. If
4 I spent all that time and effort on a report of this
5 magnitude, a comment like that would be very
6 upsetting. I feel the Draft EIS addressed all
7 concerns raised by the opposition and proper
8 mitigants were included for those concerns.

9 It is evident that the railway is the
10 best option to transport the aggregate from the site
11 to the connection point. I can't believe the
12 opposition would rather have trucks instead of the
13 railway.

14 This project would be a great economic
15 boost to Medina County and to the Hondo Independent
16 School District in the form of tax dollars, job and
17 increased revenues for small business who will
18 benefit from Vulcan's presence.

19 The opposition has used every scare
20 tactic imaginable plus tried in every way to delay
21 this project.

22 As a person who grew up in Medina
23 County, I am shocked that people I've known all my
24 life can be brainwashed by these scare tactics and
25 allow outsiders who move here to control them. They

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1 convinced these people to place restrictive covenants
2 on their land, barn and railways and then screen
3 property rights. However, when it comes to the
4 property rights of landowners like my father-in-law
5 where the quarry will be, they don't think they
6 should have any rights.

7 The opposition would rather see
8 subdivisions and trailer parks which are popping up
9 everywhere rather than a Fortune 500 company like
10 Vulcan who provide a boost to the economy rather than
11 a drain on the county's infrastructure.

12 As mentioned, I graduated from Hondo
13 High School. I can't believe that the school board
14 is not fighting tooth and nail for this project which
15 would bring in thousands of tax dollars, dollars
16 which can be used to pay teachers the kind of pay
17 they deserve, dollars which could be used to increase
18 and expand programs to better educate the students of
19 the school district.

20 There must be school board members who
21 have personal agendas rather than looking out for the
22 best interest of the school district.

23 I'm glad to hear that the Castroville
24 Chamber of Commerce and the Mayor of Castroville have
25 made positive comments in regards to this project.

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1 It's time Hondo stepped up to the plate and backed
2 this project which would be a boost to the county's
3 economy.

4 Once again, I want to thank the Surface
5 Transportation Board and it's Section of
6 Environmental Analysis for -- for all their hard
7 work.

8 Thank you.

9 MS. GATES: Thank you.

10 (Clapping.)

11 MS. GATES: Donald Schoch.

12 MR. SCHOCH: My name is Don Schoch. My
13 great, great grandfather landed in Quihi Creek area.
14 And my great grandfather built the home of Henry
15 Schweers there then in 1858. My grandfather was born
16 there. My father and mother reared a family there.
17 And my brother and sister were born in Quihi. Quihi
18 in about 1910 or something like that actually had a
19 railroad track that ran right smack through that
20 area. And I imagine that my great ancestors rejoiced
21 in the chance that they might have gotten some work
22 at Medina Lake and so on. And I don't think there
23 was any objection to a railroad track at that time.

24 I want to commend the SBC and the CEA
25 and URS for the professional work that y'all have

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1 done and devised the way that you're going through it
2 and the thoroughness in which you're doing the study.
3 We've studied this thing from "A" to "Z" with all --
4 all that we've studied and the environment --
5 environment and endangered species, the air and water
6 and streams and wetlands, the traffic and on and on
7 and on. This has been studied from "A" to "Z". And
8 I'm sure that when you get back to Washington D.C.
9 and make your reports to the three deciders, they'll
10 make a very wise decision based on real facts from
11 people that know what they're talking about.

12 China is growing at a rate of 10 percent
13 per year with their gross national product. This
14 last year they used 50 -- they produced 50 percent of
15 the concrete in the world. They need high grade
16 limestone to do that concrete work. And America
17 needs their sources of high grade limestone also. We
18 can throw stumbling blocks in the way of our free
19 private enterprise and our very good companies and
20 stifle America to where we can't compete in the
21 world's market.

22 Vulcan Material has -- can help the
23 economy in America, in Texas, in Medina County and in
24 Quihi. They can provide essential materials, jobs
25 and provide tax monies. And I know that they're a

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1 community oriented company.

2 I used to be a general contractor for
3 about 45 years. They say that back in those days you
4 could shake a hand and that that was as good as a
5 contract. Shaking a hand was just as good as a
6 contract when I -- when I did general contracting
7 work. Just over a phone people would commit to
8 hundreds of thousands of dollars just on my say so.
9 And that was because they were good companies. We're
10 talking about a very, very good high quality company,
11 the Vulcan Material Company. I know Tom Ramsdale
12 very well, and I know that a handshake from him would
13 be as good as a contract.

14 Thank you.

15 MS. GATES: Thank you.

16 (Clapping.)

17 MS. GATES: Wayne Balzen.

18 MR. BALZEN: First of all, I want
19 everyone here to think one item. If denied -- this
20 issue denied tonight, trucking would be in order.
21 And if it becomes an order, you're looking at a truck
22 every 51 seconds 24 hours a day. That's something to
23 remember. So therefore, I ask the Surface
24 Transportation Board to adopt this Draft EIS for
25 Southwest Gulf Railroad and approve building of such

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1 railroad according to the voluntary mitigation
2 measure -- measures BM 1 through BM 5 and SEA's
3 recommended mitigation with cooperation using
4 engineering and design methods with Vulcan Materials
5 and STR concerning transportation and traffic safety,
6 public health and safety, worker health and safety,
7 ground water, surface water, wetlands, biological
8 resources, air quality, land use, noise, vibration,
9 recreational and visual resources, cultural resources
10 and last but not least the karst features.

11 It is my belief that SEA has worked long
12 and hard to address these concerns and will approve
13 building this railroad according to the documentation
14 of facts found in this vag -- investigation as a
15 result of the scope and concerns from the first open
16 house meeting.

17 Quihi area has changed. There are more
18 residences in Quihi today than there were in 1970.

19 Thank you.

20 MS. GATES: Thank you.

21 (Clapping.)

22 MS. GATES: Marian Wernette.

23 MS. WERNETTE: Good evening. I'm Marian
24 Wernette. And I thank you for allowing me to speak
25 at this meeting. My comments are about all the truck

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1 alternative.

2 Vulcan is trying to make this all truck
3 proposition sound like it could really work. We who
4 live here know that 850 trucks every day could not
5 make that loop from the quarry to the Union Pacific
6 connection on lots number 10, 11 and 12 of the Dunlay
7 Acre Subdivision. That truck loop would go through
8 14 miles of narrow gravel county roads, County Roads
9 353, 351, 365 and 451. Two cars have difficulty
10 passing along these roads. Every one of these roads
11 flood extensively when we have only just a few inches
12 of rain. We have had six floods already this year on
13 these roads. You have not studied the flooding well
14 at all in this Draft EIS.

15 Also, Farm-to-Market 2676 was not built
16 to handle these 80,000 pound trucks. Roads and parts
17 of the roads will be closed all the time for repairs.
18 Vulcan has told you that they have other quarries
19 serviced entirely by trucks. But the above
20 conditions I've just talked about do not exist at
21 these quarries; 14 miles of narrow unpaved roads,
22 flooding all the time, 850 trucks per day each day.
23 We know the reason Vulcan is telling us that their
24 all truck idea could work is so that people will say
25 "Oh, let's let them have the train. That's better

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1 than all of those trucks. We don't want 850 trucks."
 2 Well, the truth of the matter is there will be trucks
 3 anyway, up to 250 trucks per day and the trains. We
 4 resent the deceit you are using to get some people to
 5 agree to the idea of trains. They are using this all
 6 truck alternative as a club. You can't be serious
 7 when you say that that would work.

8 I choose not to make comments on any of
 9 the railroad routes that you've studied.

10 Quihi is where my husband and I chose to
 11 live. And all the people here are our neighbors. I
 12 have no right to say which property should be
 13 condemned, taken by eminent domain or ruined by a
 14 railroad running near their homes. How easy it's
 15 been for people not living here to tell us that the
 16 quarry and the railroad are a wonderful asset to our
 17 community. I think it would be even better as that's
 18 where they live.

19 The railroad and the quarry are
 20 dependent on each other and need to be studied as
 21 connected actions.

22 Thank you.

23 MS. GATES: Thank you.

24 (Clapping.)

25 MS. GATES: Tom Ramsdale.

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1 MR. RAMSDALE: Good evening. I'm Tom
 2 Ramsdale, Project Manager for Southwest Gulf Railroad
 3 Project and also the proposed quarry that we've been
 4 talking about tonight.

5 I'd like to thank the members of the
 6 Surface Transportation Board for their investment of
 7 time and resources in this project and for the
 8 thoroughness of the Draft Environmental Impact
 9 Statement prepared by the agency Section of the
 10 Environmental Analysis.

11 The Draft EIS identifies a total of 47
 12 recommended mitigation measures, including many
 13 measures which we had voluntarily incorporated into
 14 our own planning for the project. We are encouraged
 15 that the draft EIS concludes that the building of the
 16 rail line would not result in significant adverse
 17 environmental impacts provided that the specified
 18 mitigation measures are implemented.

19 We understand that a significant --
 20 excuse me -- significant new project like this raises
 21 questions and concerns in a community. All those
 22 concerns were addressed in the Draft EIS there are
 23 several that I would like to address specifically.
 24 Regarding traffic and safety in the area I would like
 25 to point out that our trains will travel at low

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1 speeds of 25 miles per hour or less. The volume of
 2 rail traffic we are proposing from the quarry would
 3 be light. Trains would pass through road crossings
 4 in less than five minutes, not the long traffic
 5 delays that some have predicted.

6 Finally, the railroad would operate with
 7 the appropriate safety measures required by the Texas
 8 Department of Transportation and the Federal Railroad
 9 Administration. Many claims have been made about
 10 water supplies in the area. The Draft EIS concluded
 11 that with mitigation the rail line would not
 12 significantly impact area water resources, including
 13 aquifers or wetlands in the areas of streams and
 14 creeks, nor would it result in flooding.

15 The fact, well engineered rail lines
 16 that follow the guidelines of Federal and local water
 17 management agencies do not contribute to the flooding
 18 concerns. Over the past several years we have
 19 consulted with a number of water management agencies,
 20 including the Edwards Aquifer Authority to evaluate
 21 any potential concerns. The fuel storage will be
 22 located off the recharge zone. Likewise the rail
 23 route would be primarily south of the recharge zone.

24 Finally, I would like to say a word
 25 about the quarry. I would like to point out the very

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1 real benefits of the quarry to Medina County and to
 2 Texas. The \$30,000,000 that we would invest would
 3 provide a significant economic boost to Medina
 4 County. Once operating the quarry would be the
 5 largest private employer and the largest source of
 6 tax revenue in the county generating an estimated
 7 seven and a half million in annual, direct and
 8 indirect economic benefits. Notably an estimated
 9 \$650,000 in annual county taxes will be paid by
 10 Vulcan. Four thousand of which will direct --
 11 directly benefit local schools. For all these
 12 reasons Vulcan Materials is committed to this
 13 railroad project and is doing the right thing. I
 14 would add that we are serious about our commitment to
 15 being a good neighbor, and we take great care to work
 16 closely with our neighbors in the communities where
 17 we operate. We are convinced. And the results of
 18 the Draft Environment Impact Statement support this:
 19 That rail is the best option for serving our quarry.
 20 And this a project that will work in Medina County.

21 Thank you.

22 MS. GATES: Thank you.

23 (Clapping.)

24 MS. GATES: Lester Landrum.

25 MR. LANDRUM: I just have a few comments

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1 that -- and not -- Try not to repeat too many others.

2 My name is Lester Landrum. And my wife
3 and I have been Quihi residents for 14 years and live
4 at the home we built at 776 County Road 354. It
5 includes one Edwards well. Our home is about
6 six-tenths mile east of the proposed railroad --
7 railroad and about 1.1 miles from the proposed
8 quarry. Our home is on registered heritage land.
9 It's been in the family for 124 years.

10 I'd like to comment one or two things,
11 and that's rail traffic. Mr. Ramsdale talked about
12 no -- it wouldn't be more than five minutes on any
13 place. I'll tell you that coming out of our quarry
14 with a -- from a dead stop and a loaded train will
15 take more than five minutes coming across County Road
16 353.

17 How does he talk to Union Pacific? Is a
18 train going to sit on the seven miles waiting for the
19 Union Pacific people to come out? How many hours is
20 that train going to sit on the railroad and wait for
21 Union Pacific to come out? Will Union Pacific have a
22 window to get to -- onto the main line? How long
23 will it take them to get the window on -- on the main
24 line? They know all those answers and questions, but
25 they've been very hesitant to give us any of those.

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1 Now then we've got to think about our neighbors in
2 San Antonio. What is the added traffic going to do
3 to San Antonio? Maybe nothing. But I believe it
4 will. And that that should be studied too. That is
5 part of Surface Transportation Board's job to take
6 care and look at the safety of them all. So I tell
7 everybody look at the time for crossing, look at the
8 safety. They talk about the cars but they have never
9 told you how they're going to do the railroad. Are
10 they going to martial cars? How many railroads are
11 going -- How many trains are going to be on the
12 railroad at one time? There's lots of unanswered
13 questions. They know all these answers. Why don't
14 they give them to us?

15 Thank you.

16 MS. GATES: Thank you.

17 (Clapping.).

18 MS. GATES: Ray Schoch.

19 MR. SCHOCH: I'm Ray Schoch. I'm
20 president of the Schweers Historical Foundation. We
21 became interested in the Henry Schweers home several
22 years ago, and trying to find out where we could
23 acquire that to renovate it. Henry Schweers had two
24 brothers come over with him and a sister. And
25 between 1846 and 1873 all four had built homes in

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1 that area all on contiguous land. It's on the corner
2 -- or close to 450 and 365.

3 By the time we found out who owned the
4 land Vulcan had just purchased it. We thought our
5 opportunity had gone away. We decided to ask Vulcan
6 if they would just sell us the home plus enough land
7 to include the out buildings. After meeting with
8 them, they said considering what we were trying to do
9 if we would form 501-C3 tax exempt corporation and
10 open it up to the public that they would donate that
11 home to us, plus the Henry -- the William home since
12 they owned both tracks -- or both homes. We were
13 amazed and we were delighted. Since then they've
14 been over just -- they have worked with us
15 tremendously in order to achieve our goal in trying
16 to restore these ancestral homes. They have provided
17 the expertise it took to organize a Texas nonprofit
18 corporation to get it tax exempt. They've donated
19 money to do the fencing, to put in a parking lot.
20 And they have agreed to match \$5,000 for our
21 renovation, matching fund basis. And that still
22 stands. So they have worked very well with us.

23 We began to wonder about Vulcan having
24 never heard of them before. And if you look on the
25 Fortune 500 you'll find that they rank very high in

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1 social responsibility and number nine in that
2 category which puts them in the same category as UPS,
3 and Alcoa and McDonald's. Those are very, very big
4 companies. They do very good things for the
5 communities that they live in. Not only do they
6 bring a lot of tax dollars but help their schools and
7 communities, but they also offer help in the projects
8 that the community is interested in such as museums,
9 libraries, et cetera. And their actions with us
10 prove that they will do the same thing here. Also
11 they have the strength -- financial strength.
12 They're rated number five again with UPS, Microsoft
13 and Exxon, big companies that have the where-with-all
14 to back up the promises they've made.

15 And they operate about 200 quarries in
16 the nation. If you contact them, most of them have
17 good things to say. The communities would love to
18 have them. And most of the community if they had the
19 resources or the product they would fight to have
20 them come to their community and increase their tax
21 base and be a good community.

22 Thank you.

23 MS. GATES: Thank you.

24 (Clapping.)

25 MS. GATES: Marilyn Brown.

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1 MS. BROWN: First of all, I want to say
2 my name is Marilyn Brown. And I think it's great
3 with our soldiers being over in Iraq that we have the
4 freedoms that we have in America to speak on both
5 oppositional sides and voice our opinion for all our
6 -- all of our freedoms and our choices here in this
7 country. And thank you for allowing me to speak
8 tonight. I had preliminarily prepared a speech
9 because as an educator I talk in front of 140
10 students five days a week. And I thought the best
11 way to lay out the plan was to prepare and organize
12 just like I do my lessons a preparation for what I
13 wanted to say. But as I tossed and turned in the
14 last few days I realized that with so many different
15 issues at hand it was too difficult to cover
16 everything in three minutes. Therefore I want to
17 change my focus tonight on impromptu and say that I
18 speak from the heart.

19 From what I here tonight, so many of my
20 neighbors -- By the way, I reside in Quihi, which is
21 -- if you're not familiar with Quihi -- I could
22 reside in Mico. Which if you're not familiar with
23 it, it butts up against Quihi. And when my husband
24 and elected to move into the area five years ago we
25 did it from the eighth largest city in the nation.

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1 And we did it primarily because of an issue of
2 safety. We owned a home on the north side of town.
3 But what we were seeing and what was happening was
4 not the place we wanted to raise our family in. We
5 have three children of which two are teenagers and
6 one soon to be a teenager. As we approach our
7 retirement years we took everything we had to put
8 into the home that we currently own. Although we
9 will not directly be I guess -- or the a railroad
10 won't run through our land however the quarry is
11 within 1800 feet of our property. Therefore, the
12 home that we moved from in San Antonio, Texas because
13 our kids could not play in a front yard because of
14 traffic control and the things that were going on are
15 now happening in our dream home. We are near
16 retirement age. As our children leave the house we
17 have no other resources. To sell our home, as people
18 have said here tonight, would be an unjust cause.

19 So I'm speaking from my heart. Whether
20 Quihi -- whether the quarry comes, I don't know. Who
21 can stop us -- who can stop them?

22 I'm just asking this board that when you
23 go to bed at night think about the families that you
24 are affecting. And maybe we're only a few, 400, 500.
25 I don't know the numbers but some of us can't start

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1 over. And the quarry and the people -- Mr. Ramsdale,
2 I invite you to my home so that you can see that what
3 you bring in will not only affect maybe one family,
4 two families. But it is our home. And I ask you to
5 please think about what we're doing here in a
6 beautiful community.

7 I also want to say that what the quarry
8 has done for school districts. Being in the school
9 district I applaud you. Forty thousand dollars is
10 admirable. However, let's not change the safety of
11 our children bringing in railroads and major trucks
12 into the area at the expense of our next generation.

13 Thank you.

14 (Clapping.)

15 MS. GATES: Thank you.

16 Joe McKay.

17 MR. MCKAY: Hello. I'm Joe McKay. I
18 want to thank you in advance I'm sure of the careful
19 consideration that you will give to this project. As
20 I've been hearing so much in the community I'm one of
21 those outsiders. About 10, 12 years ago I decided
22 that I would sink my entire investment in everything,
23 into land and property for my family to have a safe
24 place to live. Knowing the area of Quihi having been
25 there as a child I knew the extreme pride people had

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1 in their land. It had been passed down from
2 generations out there. I figured it was a pretty
3 safe place to be. Well, as an outsider I came in and
4 obviously did some things that they didn't like.
5 Built a nice house and cleaned up the property and
6 take care of it. Took great pride in it.

7 But this study that we've heard it
8 claims to have a minimal impact on this. I question
9 the study in that one of the alternates goes through
10 my living room. And nobody has even asked me if this
11 would have an affect on my livelihood. Well, I think
12 it probably would. The -- You know you say that the
13 -- how do we know -- very minimal impact on the
14 property values and the safety issues. But had I
15 known ten years ago what I know now there's certainly
16 no way I would have invested my -- in the place that
17 I'm at. So obviously it does have an impact.

18 The threats that we've had about this
19 truck traffic having grown up near a gravel quarry I
20 know exactly what will go on. And basically these
21 threats of running 24 hour trucks if this was a
22 viable option -- I understand Mr. Ramsdale he told us
23 at the very first meeting their interest in this was
24 moving a very high volume of rock by rail. And I
25 don't think they have very much interest in this

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1 project if it doesn't go through. So basically by
2 threatening us is -- is the issue involved to try to
3 get us to -- to jump on the band wagon that this
4 rails a good idea.

5 I was trained for several years in
6 response to HAZMAT emergencies, such as train
7 derailments. And I'm sure that y'all are well aware
8 of the devastation that's involved with rail
9 accidents. We've seen quite a bit of it lately.
10 We're putting a huge junction right in the middle of
11 a -- one of the more populated areas in Medina
12 County. And I think this would have devastating
13 effects if we roll a very large gravel train into
14 this item, an ammonia or chlorine tank car that would
15 be passing through there. It does pass through there
16 on a daily basis.

17 The -- and also to -- And part of that
18 is all -- everything I'm hearing here today, they
19 will take the best route or the best way or the best
20 alternative. And I just -- I just think that there's
21 some issues involved in that. I'm sure they've done
22 things to minimize their liability already. Which I
23 don't know anything that Vulcan could possibly own or
24 their assets that would be enough to reimburse
25 somebody for the loss of a life, loss of a family

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1 member or loss of one of my neighbors.

2 So I would hope that you'd take careful
3 consideration to the ones of us that had planned for
4 a much different life style out here than having a
5 gravel pit and rail run by their -- their property.

6 Thank you.

7 MS. GATES: Thank you.

8 (Clapping.)

9 MS. GATES: Jean Marty.

10 MS. MARTY: My name is Jean Balzen
11 Marty. I am 60 years old. And I've lived on County
12 Road 354 most of my life.

13 I've heard a lot of people talk tonight
14 that they've moved into the area. I just want you to
15 know that when I was growing up there was maybe five
16 cars that went by our house a day. And my mother
17 knew each one of them by the sound. She'd say, "Well
18 there comes Roy Daily. I hear him." Two or three
19 minutes later Roy Daily would drive by. So when you
20 talk about moving into our community we weren't real
21 happy to have all these people move into our
22 community. But this is progress. People move.
23 Things happen. I'm a fourth generation Medina County
24 resident. I'm a pioneer family. I'm very proud of
25 that. I -- I live on County Road 354 close to 353.

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1 And the proposed route will be close to my home. I'm
2 not objecting to it. Progress happens. My daughter
3 and her husband and my three grandchildren live on
4 the same property that I've lived on all my life.
5 Many of the people here that are opposing the quarry
6 are not landowners for the amount of years and have
7 the history that we have. I feel like we've had a
8 lot of history here.

9 Subdivisions are popping up all along
10 the roads. I'm not happy with it. But the farm and
11 ranch land hasn't been profitable for small farmers
12 and farm ranchers. My father was one. It isn't
13 profitable anymore. Therefore there's subdivisions
14 coming in. And there's different ways of making the
15 area more profitable. Change is inevitable. We may
16 not like it, but it comes anyway. In fact you need
17 to see that it's done safely.

18 Therefore the rail line I believe would
19 be the best way to go. I believe the board has
20 addressed all the problems that -- They've really
21 done a good job. And Medina County needs the jobs.
22 And I think that we need this quarry and the
23 railroad.

24 Thank you.

25 (Clapping.)

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1 MS. GATES: Thank you.

2 Wayne Stansbury.

3 MR. STANSBURY: Good evening. My name
4 is Wayne Stansbury. I'm a landowner close to where
5 the quarry and railroad is going to be. Also, I'm
6 project manager. And I guess as I was listening to
7 the presentation by the project manager here and also
8 their project manager over here, I guess frankly I
9 was real disappointed in the way that you did your
10 research. You made statements like "may have some,
11 may cause little or no impact potential or not
12 significant." I guess as a project manager I would
13 always like to see some sort of quantitative methods
14 applied. I know there is uncertainty in everything,
15 but you can at least quantify the uncertainty by
16 using appropriate assistal (sic) models, using
17 probability analysis, by using competent tables. For
18 example, "I'm 95 percent confident that this is going
19 to be an issue or it won't be an impact." The only
20 place where I really found that you did some
21 statistics or some analysis was in this 4.1.2 listing
22 of accidents. Again, we have here that the DOT --
23 DOT study showed that between 1991 and 1996 there was
24 a one in ninety-two chance of an accident/injury
25 occurring. Again, unfortunately as a project manager

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1 no assumptions were listed. No comparisons or no
2 references were made to any other industry.

3 I tried just for the day that I just had
4 here to put it to equal basis, to look at other with
5 other industries. So the way to do that
6 mathematically would be to look at it as parts per
7 million or how many million -- per million
8 opportunities you would have. So if you converted it
9 correctly, as I converted here, it was one in
10 ninety-two chance or for every million opportunities
11 there would be 10,870 accidents. If you compare that
12 with another industry, let's say the airline
13 industry, for every million opportunities or million
14 times they do the baggage claim -- they lose baggage
15 about 6,000 times for every million times they move
16 baggage. So in other words, according to your data
17 here there's a one and three-quarters greater chance
18 to having the -- having an injury than there is
19 having -- losing your baggage in the airline
20 industry. Which is kind of scary.

21 So, I guess the point again I'm trying
22 to make here is that when you're going to do the
23 research, when you're going to do studies use
24 quantitative methods. Don't rely just on your
25 opinion "may cause, may give a problem." But whether

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1 you're for or against the quarry or for against the
2 railroad, at least use the appropriate competent
3 intervals, appropriate statistics that can be used.
4 And I guess I'd like to say it's always
5 better to have the data than the opinions. And like
6 I'm fond of saying "in God we trust, all others bring
7 that data.

8 (Clapping.)

9 MS. GATES: Thank you.

10 Robert Reed.

11 MR. REED: My name is Robert Reed. I'm
12 a dentist. I'm retired from Castroville for 33
13 years. I -- We lived in Castroville for 15 years.
14 My brother wanted to go to Houston and live there.
15 And I said, "No, I want to go to a small town and
16 raise my family." So about 15 years of living in
17 Castroville we decided to move to the country. So we
18 moved to Quihi in 1978. And we've been here ever
19 since. For 26 years. We came here so we could live
20 a nice quiet life and enjoy our retirement and such.
21 With the quarry that will never happen and with a
22 railroad. We're about one mile from that quarry.
23 I'm against it. Let's put it that way. I can't see
24 one thing that's good for it. I know it's out and
25 dry. What we say here will probably mean nothing.

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1 but I hope it has an impact. We're real people. And
2 I didn't -- I wasn't raised here. I -- ten years I
3 sweated blood to pay for the land that I now live on.
4 185 acres. And it wasn't easy. And I did this so we
5 could have a descent lifestyle the rest of our life,
6 my wife and I. We've been married 50 years tomorrow.
7 So I'm not -- I just want to say my bits. But I hope
8 it has some -- that you are real people and you'll
9 think that we are real people here. The people
10 living in town talk about this. And the people that
11 have no living circumstances in this community and
12 they're whatever -- The one lady that was here just
13 spoke she's been from here. But we're outsiders. We
14 came here and we chose to live here as our living
15 place.

16 Please think about this when you make up
17 your mind. We're people here. We do have hopefully
18 some say so in this great country of ours.

19 Thank you.

20 MS. GATES: Thank you.

21 (Clapping.)

22 MS. GATES: Is there anybody here who
23 didn't sign in to speak but who has decided they
24 would like to speak right now.

25 MS. ADAMS: I did sign but I signed in

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1 the wrong place.

2 MS. GATES: Okay. If you would just
3 state your name and spell your last name. Thank you.

4 MS. ADAMS: My name is Charlotte Adams.
5 I don't think I have to spell it.

6 MS. GATES: You're right.

7 MS. ADAMS: I was one that come from San
8 Antonio to deer hunt out here, my husband and I. In
9 1972 we bought our land. In 1976 we built. My
10 husband is no longer living. We've been -- I've been
11 in this house 29 years. I'm west of the Cherry Creek
12 on 4516 about a quarter of a mile from Quihi. And
13 I'm flooded in on both sides when it rains. And I
14 don't know how much more flooding it will be.

15 What I would like to see is a map
16 showing where our homes are because from the way it
17 looks Alternate II is either coming through my place
18 or right next to it. And is there going to be a
19 possibility of having something like that?

20 MS. Rutson: We will do our best.

21 MS. ADAMS: Okay. Thank you.

22 MS. GATES: Thank you.

23 Is there anybody -- anyone else who
24 would like to --

25 MS. FUCHS: Yes. My name is Sandra

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1 Fuchs, F-U-C-H-S. And I inherited my dad's place on
2 the old Kent Place on County Road 450. And I've
3 lived with my dad and I've lived through floods. Of
4 course I wrote my notes, but I won't read them. And
5 I've lived through floods and where we are completely
6 flooded in. And my main concern of course the
7 pollution but also you cannot make me believe that
8 the railroad is not going to cause additional
9 flooding. What was it last week I just saw on the
10 television where a gentleman was concerned because
11 their only evacuation route -- because it had flooded
12 they had shutdown the railroad. And their only
13 evacuation route was -- Of course the railroad had it
14 blocked, and they couldn't get out, and their --
15 their homes flooded. And I'm very concerned about
16 that as well.

17 And I'm not impressed at the thought of
18 trucks either. My mom owned and operated eight rigs.
19 And she expressed her concerns about the winding
20 roads we have out here. And it's very dangerous to
21 the truck drivers. But also we're going to be paying
22 for the roads if they put trucks out as well. And I
23 just don't want to see the quarry, railroad or the
24 trucks.

25 Thank you.

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1 MS. GATES: Thank you.

2 (Clapping.)

3 MS. GATES: Is there anyone else who
4 would like to speak?

5 Yes, sir.

6 MR. WARDWELL: My name is Ray Wardwell,
7 W-A-R-D-W-E-L-L. This area is on a edge of a desert.
8 And when they say there's no dust, and we're going to
9 suppress the dust, and we're going to hold it back in
10 the trucks, you need to go investigate on 1283 and
11 471. And there -- there are several quarries. One
12 of them on 471 stays lit up constantly running. When
13 you go to work, traffic -- or in that traffic and
14 that path you better be driving real serious because
15 they will flat run over you. We've got 100 year old
16 damn a little bit to the side. I'm going to listen
17 now to them grind rock. I'm going to listen and hope
18 that they're blasting doesn't screw up the aquifer
19 and do those kind of things. This -- this area is
20 not desolate. Somebody mentioned a map. The last
21 time y'all were here I said "Did you see the houses
22 up around towards the lake? No." There needs to be
23 a wider look at this. This is presented as a
24 desolate area. It's not. And it turns into a
25 desert. Across from Vulcan on 1283 when it's dry the

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1 entire hillside -- And there's some nice homes across
2 the road. It turns white. It looks like snow. My
3 wife has a friend who lives out there. Said,
4 "They're driving me crazy." Right now we have
5 another subdivision behind us. And the trucks are
6 going through. And they're going through probably
7 about every 10 minutes. I can't imagine every -- 53
8 seconds if they want to do a truck route. It's good.
9 You need to look at the whole area all around, around
10 the lake and so forth.

11 Thank you.

12 MS. GATES: Thank you.

13 (Clapping.)

14 MS. GATES: Anyone else?

15 MR. FITZGERALD: I want to speak again.

16 but --

17 MS. GATES: Okay. Well, I was going to
18 offer that next. Okay.

19 MR. FITZGERALD: I think she -- I'm
20 going to defer to my wife. Okay?

21 MS. GATES: Go right ahead.

22 MS. FITZGERALD: Well, I'll continue my
23 remarks that I made earlier that concern the fact
24 that this DEIS left most of the problems up to Vulcan
25 to solve later as mitigation. And they end this

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1 mitigation, "they would use their best management
2 practices, develop a contingency plan, take
3 appropriate measures," you know the general run of
4 things. That's rather vague. Nothing concrete about
5 what to do. So I was pointing out some of the places
6 where these things were involved. And apparently the
7 plans weren't good enough because disasters happen.

8 I believe I was at the point of talking
9 about the State of Texas, Limestone County, the
10 little town Tawankina (sic). "Vulcan sued the town
11 Tawankina for not letting them blast in their city
12 limits. Also as a -- a prior quarry there had
13 drained the city water supply and now they have to
14 purchase poor quality of water and expensive water
15 from Mejia, which is ten miles away."

16 "Tennessee, Jiles County - Plaintiffs
17 are suing Vulcan for construction of a rock quarry
18 siting loss of property values, loss of ground water,
19 loss of water for fire protection."

20 "Washington, King County - Homeowners
21 have to haul water for their household use. They
22 blame a mining company for the draw down on their
23 water. And they're also holding the landowners who
24 lease the land to the mining company Libel. Internal
25 memos of county agencies indicate that the mining

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1 impacted their wells."

2 "Wisconsin, Susik County - Subdivision
3 residents say local quarries caused three or four
4 wells to go dry each year. In 1997 Vulcan's core --
5 core drilling project -- and this is in quotes -- hit
6 something and 41 wells went dry. End quote. They
7 have to find water from another source. In Wisconsin
8 Vulcan was listed as having a high rate of release of
9 toxins."

10 "Texas, Bexar County - The people of
11 Helotes sued Vulcan and the land owners of a
12 potential quarry site to stop the project."

13 In another action Bexar County judge and
14 commissioners unanimously passed a resolution against
15 quarries.

16 So we don't want you to let Vulcan
17 Railroad do as they wish when problems arise. Vulcan
18 has failed to protect people and property in other
19 places, and all those were smaller projects.

20 Moreover, the quarry is a connected
21 action of the project and should be studied as such.

22 Thank you for letting me speak.

23 MS. GATES: Thank you.

24 (Clapping.)

25 MS. GATES: Is there anyone else who has

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1 already spoken once who would like to speak again?

2 UNKNOWN SPEAKER: Hope y'all don't get
3 bored with all this, shall I say, solitary things.
4 But bear with me.

5 I'm fulfilling a promise that I had a
6 conversation with Rini Ghosh. When I read the Draft
7 EIS I was very disappointed that y'all had not
8 considered other alternative routes. I believe that
9 variations of other alternative routes could solve a
10 lot of problems. However, Vulcan doesn't want to
11 consider some of these things, I don't really know
12 the exact reason for it, but I believe probably
13 because quarry owners are involved -- would be
14 involved in the land that would be used for the
15 railroad. That's my opinion. I can't verify it. I
16 can't get it out of my mind however. It would also
17 go through land that one of their attorneys has. It
18 would also go through land that they know are
19 sympathetic to their cause. And this is one reason I
20 have difficulty in understanding why they don't want
21 to do this.

22 But let me tell you: This alternative
23 route could be so designed as it would be much better
24 for Vulcan to run. It would be on level ground
25 essentially. It would not cross as many county

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1 roads. It would cross roads, state and county, that
2 at -- at a safer place. And it would also totally
3 almost entirely save the historic and archeological
4 heritage that we have in the Quihi area. Because
5 this railroad route has already been laid out if
6 there has been damage done to archeological or
7 historic things it's already occurred. It only made
8 sense to me. But I guess I just can't see their
9 logic. They certainly don't see mine. Because if
10 they did, we wouldn't be having nearly as many things
11 to talk about in the way of destruction and damage,
12 particularly from the flooding aspect.

13 How much more time have I got? One
14 minute. Okay.

15 I'm going to go on to something else
16 that's going to blow your mind, Tom. Let's
17 reconsider the all truck route. Why don't you buy
18 the land and have your own private road for all the
19 trucks, get them off of the county roads. And of
20 course you would want to put overpasses over 2676 and
21 485 and 16 because 850 trucks as you know -- well
22 know the highway department -- I'm talking to you as
23 well as --

24 MS. GATES: Well, yeah.

25 TOM: Who is he talking to?

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1 MS. GATES: Well, you're supposed to be
2 addressing --

3 UNKNOWN SPEAKER: I'm getting to him.
4 I'm sorry. I'll talk to you.

5 If you did have your own private road,
6 just think you wouldn't be competing with our traffic
7 or would you be -- or school buses or anything.
8 Essentially you would have your own road. You would
9 upkeep it. You would not have any problems with
10 people being awakened at night with horn blowing,
11 with that type of thing. And I'm sure the all-truck
12 route as you have said in your -- as Vulcan has said
13 in its correspondence would be profitable. So I
14 think that ought to be considered at great length
15 when you do your final draft -- thank you -- or your
16 final EIS. Thank you.

17 MS. GATES: Thank you.

18 (Clapping.)

19 MS. GATES: Yes, sir.

20 MR. WALPOLE: My name is Tom Walpole.
21 Will Carter earlier brought up a subject tonight that
22 sparked something in me, and I'm going to -- I would
23 like to reiterate and make sure that it gets some
24 attention in that I request that SEA do a full report
25 on the Medina Dam and its active fault before the

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1 final EIS. That's all.

2 MS. GATES: Thank you.

3 (Clapping.)

4 MS. GATES: Anyone else?

5 MR. SALOMON: Hello. My name is Joseph
6 Salomon. And I spoke earlier. I didn't get to talk
7 about a lot of things that I want to talk about as
8 far as this quarry and road are concerned. But I
9 want to say something that -- that sparked my memory
10 when one of my neighbors, the Marty's, were talking.
11 And I saw them and it kind of brought something to
12 mind on a conversation that we had at church. And
13 what it was was I know we're talking about the quarry
14 and the blasting and railroad cars and all this other
15 stuff and how much noise that it's going to make or
16 not going to make. Like I said, I'm 4,000 feet from
17 this quarry and the railroad. And I've got a lot of
18 rock out there just like everybody else does. We
19 know that we've got a lot of rock out there. A lot
20 of people probably think I'm crazy because I get on
21 my 4020 out there with chisel and I chisel that rock
22 trying to make some grass out of it. And I was at
23 church one day and the Marty's asked me, said, "Hey, I
24 heard you on your tractor out there. What are you
25 trying to do up there on that hill?" And I thought,

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1 "Well, maybe they passed by and saw me chiseling that
2 rock because they're about maybe 1500, 2000 feet from
3 my place where I was at." And they said, "No, we
4 heard you." And I thought wow I didn't know that a
5 tractor with a chisel in the ground could be heard
6 that far. So just imagine what blasting and rail
7 cars will do for you when you're out there? And I
8 just wanted to bring that out because I didn't know
9 that people could hear you when you're on a tractor
10 from that far and all you're doing is chiseling the
11 ground. Just imagine when you're blasting it.

12 Thank you very much.

13 (Clapping.)

14 MS. GATES: Thank you.

15 Is there anyone else would like -- And
16 please state your name again when you come up.

17 MR. BALZEN: I'm Joe Balzen. But I -- I
18 really don't have any comments, I just have a little
19 information. The people at the earlier meeting and
20 also at this meeting we were talking -- And I believe
21 Ms. Adams was concerned about where she lived
22 according to -- in relation to the railroad and
23 quarry and so forth. I just wanted to let y'all
24 know, you people and everybody else we have a map
25 right back here with all the homes and everything on

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1 it. And you're welcome to look at it.

2 Thank you.

3 MS. GATES: Thank you.

4 Is there anyone else who would like to
5 make another comment who has already spoken?

6 MS. FITZGERALD: I'm Alyne Fitzgerald.
7 This time I want to make a remark about the only --
8 the only argument put forth in favor of quarries, and
9 that is the two things, jobs and taxes. First, let's
10 talk about jobs. Medina County does not have an
11 unemployment problem. If you will read your
12 newspapers carefully you will see that our
13 unemployment is just slightly over four percent.
14 Four percent is considered the normal, acceptable
15 unemployment range due to workers being between jobs,
16 et cetera. You never have 100 percent full
17 employment. Therefore, if Vulcan were to come in and
18 employ 125 people, that means there would be new
19 people coming into the county that would take these
20 jobs. These are not high paying jobs. We were told
21 by Mr. Ramsdale that they would -- that they would
22 average \$25,000 each. Presumably workers coming in
23 to do this sort of work would be at an age where they
24 would have families. They would bring with them
25 children and spouses and their families. So that

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1 would mean more children to educate. What does it
2 cost to educate a child in this county? I don't
3 know, but it would range, I imagine, somewhere
4 between \$5,000, 5500 to \$7,000. Okay. If 125
5 workers brought in 100 children and it cost, say,
6 \$5,000 to educate a child, there's \$500,000 of extra
7 school tax money that's going to be needed. Vulcan
8 proposes to pay \$450,000 max on their millions of
9 dollars of investment to the school, to school taxes.
10 Well, that looks like a loss to me.

11 I want to also talk about the purported
12 income, all this income that will be brought into the
13 county. Why do we not see the down side of that?
14 It's always presented as a win-win situation. Now,
15 you know you can't have it that way. You're going to
16 be giving up something when you bring in these
17 quarries. And you can readily see from the examples
18 in other places it will be a draw down on the
19 property values. That looks like that's going to
20 offset some of this income that's purported to be
21 coming in.

22 We need a full study, a full economic
23 study on what will be coming in and what we would be
24 losing out on. That's the only true way to know
25 whether we would ever benefit from tax money coming

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1 in.

2 Let's see. Yeah it's true that -- that
3 Vulcan spends money in the community. They give some
4 money to -- and goods to area projects. And that's
5 very admirable. But remember every business does
6 that. And the bigger the business the more they
7 give. It's expected. It's advertising. And so we
8 -- we really appreciate Vulcan a Fortune 500 company
9 giving these things to the community. But as, again,
10 I said, it's advertising. We all do that. All of us
11 who are in business do that to some extent.

12 Also, we don't see any other counties
13 bragging about all this money they're taking in from
14 quarries. Have y'all ever seen anything in the
15 newspapers about that? I haven't. All I've seen is
16 other counties complaining about what a detriment
17 they are to their counties.

18 And I guess that's it. Thank you.

19 MS. GATES: Thank you.

20 (Clapping.)

21 MS. GATES: Is there anyone else who
22 would like to speak? We have two people. Okay.

23 MR. WALSH: My name is Jimmy Walsh from
24 Quihi, Texas. I was born and raised out there. I've
25 been there practically all my life. And I have known

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1 these people all my life too. And we're all kind of
2 raised together. But this is my home. I inherited
3 an Alsatian home out there from my parents. And I
4 live in San Antonio, but I'm going to reside in Quihi
5 as soon as I can because I'm going to get out of the
6 big city and move to my home place out at Quihi where
7 I was born and raised.

8 And my main concern is the flood
9 situation. I've endured a number of floods over the
10 years. And I'm afraid this situation might escalate
11 to a worse situation than it is right now. But I
12 wonder if you had the assurances by Vulcan, you know,
13 they going to try to do -- work with the flood
14 situation and -- and -- the best they can with the
15 railroad. And personally I've got nothing against
16 the railroad, but I want first the satisfaction that
17 they're going to take care of the situation before it
18 gets out of hand.

19 And I appreciate your time. Thank you.

20 MS. GATES: Thank you.

21 (Clapping.)

22 MS. WALPOLE: I'm May Walpole. And I
23 just want to ask about this newspaper article
24 headlined in the Medina Valley Times. "Railroad
25 Quarry Gets Environmental Go Ahead." Did you give it

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1 already? What are we doing here today? Tom Ramsdale
2 is quoted in it. We are not.

3 MS. GATES: Thank you.

4 (Clapping.)

5 Is there anybody else who would like to
6 make a comment?

7 UNKNOWN PERSON: Ma'am, I apologize.

8 I'd like to comment again, but I'll make it brief.

9 I have sat here really this whole time
10 thinking about URS. It was about a year ago this
11 time that I as a director of BMA contacted them. I
12 don't know if y'all realize the size of the reservoir
13 of Medina Lake, but it's 5,000 acre reservoir. And I
14 contacted URS and specifically expressed concerns
15 about the affect of the quarry. And I understand
16 with -- You cannot separate the two. And I was
17 immediately told the next day by URS that there was
18 -- that there was no problem about any research or
19 question, and it raised a red flag to me. And I
20 realize that -- now that whenever you get in the way
21 of the all mighty dollar you -- you better look out.

22 I -- I would question this entire
23 environmental impact study that's been done because I
24 questioned URS who I'm sure assisted in this study.
25 And if -- They have a conflict of interest because

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1 they told a public entity that they had no concerns
2 over the affect of -- of Vulcan. And to -- for a
3 study to say that the impact on a community is -- is
4 minimal raises red flags. Because I was involved in
5 helping a family that lands were taken for Falcon
6 Reservoir, and can -- can see as to what can happen
7 with the Federal Government when they want to see a
8 project get through when -- when things that had been
9 sealed that were released. When they had condemned,
10 they had quoted the area and South Texas as being
11 inhabited by -- by Mexicans; like that had any impact
12 on the value of the land other than to say there is
13 no impact. And at the same time they required land
14 to be purchased to cause the potential of a -- of a
15 return of an osolot (sic). And this is more than
16 osolots (sic) being affected here. There's families.
17 And it's affected this region with Medina Lake. And
18 I think URS had a serious conflict of interest in any
19 work they did on this.

20 And I'm going to be bringing to the
21 attention of the BMA to find out how we couple -- You
22 cannot have one without the other in -- in the quarry
23 with the railroad.

24 Thank you.

25 (Clapping.)

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1 MS. GATES: Thank you.
 2 Does anyone else have a comment that
 3 they would like to make?
 4 (No response.)
 5 Okay. We thank you very much for coming
 6 here tonight and sharing your comments with us. If
 7 you would like to present us with a written comment
 8 while you're here, please feel free to do so.
 9 Otherwise, please submit one in writing. The
 10 deadline is January 10th of 2005.
 11 Thank you very much.
 12
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 14
 15
 16
 17
 18
 19 (Meeting concluded.)
 20
 21
 22
 23
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 25

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1 COUNTY OF MEDINA)
 2 STATE OF TEXAS)
 3 I, PATRICIA A. GADDIS, Certified
 4 Shorthand Reporter, in and for the State of Texas, do
 5 hereby certify that the foregoing pages represent a
 6 true and correct transcription of the Surface
 7 Transportation Board, Section of Environmental
 8 Analysis, Southwest Gulf Railroad Company,
 9 Construction and Operation Exemption, Public Meeting
 10 held in Medina County, Hondo, Texas on December 2,
 11 2004.
 12 WITNESS my hand on this the 20th
 13 day of December, 2004.
 14
 15
 16
 17
 18
 19 PATRICIA A. GADDIS
 20 8548 Northview Pass
 21 Fair Oaks Ranch, Texas 78015-4922
 22 Certificate No. 2393
 23 Expires 12-31-05
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Texas Board of Legal Specialization

January 10, 2005

received
1/11/05

BEFORE THE SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34284

SOUTHWEST GULF RAILROAD COMPANY
CONSTRUCTION AND OPERATION—MEDINA COUNTY, TX

received
1/11/05

MEDINA COUNTY ENVIRONMENTAL ACTION ASSOCIATION

Comments on the Draft Environmental Impact Statement

Ms. Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N. W.
Washington, DC 20402-0001

FEDERAL EXPRESS MAIL

Re: Finance Docket No. 34284-Southwest Gulf Railroad Company
Petition for Exemption from U.S.C. 10901 to Construct and
Operate a Rail Line in Medina County, Texas

Dear Ms. Rutson:

Enclosed please find four copies of Medina County Environmental Action Association's
Comments on the Draft Environmental Impact Statement regarding the referenced matter.

Please contact me should you have any questions or comments.

Very truly yours,

THE GARDNER LAW FIRM
A Professional Corporation
David F. Barton
David F. Barton

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Attorney for Medina County
Environmental Action Association

January 10, 2005

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dfb/8675.0004-stb-1-10-05.doc

Originals of maps and some figures
submitted in color. Please contact the
Section of Environmental Analysis to
view a color copy.

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Acronyms

CEQ – Council on Environmental Quality
MCEAA – Medina County Environmental Action Association
NEPA – National Environmental Policy Act

Appendices

Cumulative Rail Impact on San Antonio

1. "Appendix F: Grade Crossing Delay and Safety," Finance Docket No. 34079, Bayport Loop Build-Out, Draft Environmental Impact Statement
2. Microsoft Excel Workbook (5 spreadsheets)
3. Powerpoint Presentation (submitted electronically)

Endangered Species Act

4. U.S. Fish and Wildlife Service Region 2, GOLDEN-CHEEKED WARBLER RECOVERY PLAN (1992) – (Not included due to length. Found at http://ecos.fws.gov/docs/recovery_plans/1992/9209301.pdf) (USGS summary recovery plan included.)
5. U.S. Fish and Wildlife Service Region 2, BLACK-CAPPED VIREO RECOVERY PLAN (1991) – (Not included due to length. Found at http://ecos.fws.gov/docs/recovery_plans/1991/9109301b.pdf) (USGS summary recovery plan included.)
6. U.S. Fish and Wildlife Service, "Minimum Procedures for Determining the Presence/Absence of Golden-Cheeked Warblers and Black-Capped Vireos" (Apr. 3, 2002)

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include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.²

Anticipating that more detailed regulations governing the scope and content of environmental impact statements would flow from this provision, Congress established the Council on Environmental Quality (CEQ),³ and gave it the sole authority to interpret the statute.⁴ CEQ's regulations "are entitled to substantial deference,"⁵ and "binding on all Federal agencies for implementing the provisions of [NEPA]."⁶

The statute requires agencies to prepare a "detailed statement" (the environmental impact statement) on "proposals for legislation and other

² 42 U.S.C. § 4332(2)(C) (2000).

³ 42 U.S.C. § 4342 (2000).

⁴ 42 U.S.C. § 4334(3) (2000). See also *Andrus v. Sierra Club*, 442 U.S. 347, 358 (1979) (citing this provision for the proposition);

⁵ *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 355 (1989); *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 372 (1989); *Andrus v. Sierra Club*, 442 U.S. 347, 358 (1979).

⁶ 40 C.F.R. § 1500.3 (2004).

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I. THE RAIL LINE AND QUARRY ARE "CONNECTED ACTIONS" UNDER THE CONTROLLING REGULATION FOR THE SCOPE OF ENVIRONMENTAL IMPACT STATEMENTS

The primary action "not in accordance with law" in this proceeding has been the agency's unwillingness to treat Vulcan's quarry as a "connected action," disclosing its direct and indirect, as well as cumulative effects, in the environmental impact statement. MCEAA has refuted the applicant's arguments (and to the extent the agency has adopted them, the agency's arguments) three times, all prior to the release of the draft environmental impact statement.¹

The result is an environmental impact statement that does not adequately consider the cumulative environmental impacts of the quarry and the rail line, because the agency refuses to analyze the direct and indirect effects of the quarry as inputs to a comprehensive analysis, particularly for flooding.

A. The Rail Line Lacks Independent Utility

The National Environmental Policy Act of 1969 (NEPA) "directs that, to the fullest extent possible . . . all agencies of the Federal government shall—

¹ See Letter, David F. Barton, The Gardner Law Firm, to Victoria J. Rutson, Section of Environmental Analysis (Feb. 19, 2004); Letter, David F. Barton, The Gardner Law Firm, to Victoria J. Rutson, Section of Environmental Analysis (Apr. 19, 2004); MCEAA Scoping Comments (Feb. 24, 2004). All three of the above submissions are hereby incorporated by reference.

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major Federal actions." The Supreme Court has construed the term "proposals" to apply to both "legislation" and "other major Federal actions."⁷

The CEQ promulgated regulations in 1978.⁸ These regulations detail what actions are swept into the scope of the environmental impact statement to avoid segmenting a proposal on jurisdictional grounds ("connected actions"), and what actions it is unnecessary to prepare a comprehensive environmental impact statement for because, taken collectively, a comprehensive proposal is not yet ripe ("cumulative actions").⁹ The regulations address and incorporate numerous pre-1978 case law holdings bearing on when a "proposal" exists.¹⁰

This case is about the first category ("connected actions"). The CEQ regulations require agencies to consider "[c]onconnected actions, which means that they are closely related and therefore should be discussed in the same

⁷ *Kleppe v. Sierra Club*, 427 U.S. 390 (1976).

⁸ 43 Fed. Reg. 55,992 (Nov. 29, 1978), codified at 40 C.F.R. §§ 1500–1508 (2004).

⁹ Compare 40 C.F.R. § 1508.25(a)(1) ("connected actions") with *id.* § 1508.25(a)(2) ("cumulative actions").

¹⁰ In particular, the CEQ regulations specifically incorporate language in *Kleppe v. Sierra Club*, 427 U.S. 390 (1976), a "cumulative action" case involving the timing of numerous Federal oil and gas leases in the Northern Great Plains, that also devised an "independent utility" test for actions generally. That test was incorporated into the CEQ regulations for "connected actions" at 40 C.F.R. § 1508.25(a)(1)(iii). See also Memorandum on "Kleppe v. Sierra Club" and "Flint Ridge Development Co. v. Scenic Rivers Assn. of Oklahoma", 43 Fed. Reg. 61,069–61,072 (Dec. 1, 1977).

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impact statement."¹¹ Actions are connected if they, among other tests, "[a]re interdependent parts of a larger action and depend on the larger action for their justification."¹²

Connected actions are defined in a manner consistent with the criteria recognized in the independent-utility cases.¹³ The Second Circuit has affirmatively acknowledged that "[t]he proper test to determine relatedness under 40 CFR § 1508.25(a)(1)(iii) is whether the project has independent utility."¹⁴

The independent utility test requires that "[i]f proceeding with one project will, because of functional or economic dependence, foreclose options or irretrievably commit resources to future projects, the environmental consequences of the projects should be evaluated together."¹⁵

On the facts in this case, the rail line does not possess any real independent utility. The rail line applicant and the quarry operator are the same entity. The applicant admits the physical and corporate governance connection. The proposed rail line connects an existing rail line to land

¹¹ 40 C.F.R. § 1508.25(a)(1) (2004).

¹² *Id.* § 1508.25(a)(1)(iii).

¹³ *Fritiofson v. Alexander*, 772 F.2d 1225, 1242 (5th Cir. 1985); *Piedmont Heights Civic Club, Inc. v. Moreland*, 637 F.2d 430, 439 (5th Cir.1981).

¹⁴ *Town of Huntington v. Marsh*, 859 F.2d 1134, 1141-42 (2d Cir.1988); *Hudson River Sloop Clearwater v. Department of the Navy*, 836 F.2d 760, 764 (2d Cir.1988).

¹⁵ *Fritiofson*, 772 at 1241 n. 10; *Stewart v. Potts*, 996 F. Supp. 668, 683 (S.D. Tex. 1998).

regulation governing the scope of environmental impact statements does not mean what it says and control this case.

The Supreme Court has correctly observed that "[t]he statute, however, speaks solely in terms of proposed actions."¹⁷ Consistent with this statement, the connected action regulation sweeps in only those projects so dependent on the proposed action that they are effectively proposed with it and effectively a part of the "larger action."¹⁸

¹⁷ *Kleppe v. Sierra Club*, 427 U.S. 390, 410 n.20 (1976).

¹⁸ As Congress and the Supreme Court have recognized generally, the purpose of an environmental impact statement on the "action" is to

ensur[e] that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts; it also guarantees that the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision. Simply by focusing the agency's attention on the environmental consequences of a proposed project, NEPA ensures that important effects will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast. Moreover, the strong precatory language of § 101 of the Act and the requirement that agencies prepare detailed impact statements inevitably bring pressure to bear on agencies to respond to the needs of environmental quality. Publication of an EIS, both in draft and final form, also serves a larger informational role. It gives the public the assurance that the agency has indeed considered environmental concerns in its decisionmaking process, and, perhaps more significantly, provides a springboard for public comment.

Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 349 (1989). Because Medina County is getting a quarry and a rail line from Vulcan, and not just a rail line, it is not hard to understand why the statute protects the interest of the County's residents and landowners in having the agency analyze the quarry as well. These citizens have a legitimate concern that, for instance, the design of the rail line—its bridges, grading, and drainage features—must incorporate and

leased for quarrying, and for no other purpose. The applicant admits that no other shippers have located or expressed intent to locate along any of the proposed alternatives. The applicant admits that its parent will fund the line, and the quarry may depend on the rail line in order to function cost-effectively once a certain level of production is reached.

1. The rail line and quarry are both part of the "major Federal action"; the "action" consists of the connected actions

Connected actions are therefore the "action" to be analyzed; each project is now "part of the action," that is, the "major federal action"; there is not a proposed "action" and a separate "connected action." The connected action regulation sweeps in those projects that "depend" on the proposal, or, as here, on which the proposal "depend[s]", and recognizes that this dependence makes them part of a larger "action," the "proposed action."

It matters not that the agency has jurisdiction only to license the rail line, and cannot disapprove the quarry. The agency's jurisdiction is irrelevant to the scope of the environmental impact statement as defined by the regulation, because NEPA is a procedural, not a substantive statute.¹⁶ The agency is free to license the rail line once it has fulfilled its NEPA obligations. The agency cannot cite a single case holding that the 1978 CEQ

¹⁶ See, e.g., *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989).

Once Vulcan's quarry is constructed, every phase of it will be connected to the proposed rail line, because none of the quarry phases have independent utility with respect to one another. They will all rely on common equipment, a shared crushing unit, and shared personnel and resources. They cannot exist apart from one another or the rail line that will transport at least some of their joint output.

2. The connected action regulation applies regardless of who proposed the rail line

The connected action regulation applies regardless of whether Vulcan or a major railroad proposes the rail line, since the line exists solely to serve the quarry, and is thus interdependent on it.

disclose the impacts of the quarry on the area's hydrology and flooding in order for the discussion of the rail line's impacts on hydrology and flooding to be meaningful. An environmental impact statement lacking this discussion, as this draft does, "overlook[s]" flooding impacts from the quarry, denies "relevant information" to the larger audience of county officials who will have to address overlapping impacts from the quarry and rail line on roadways and floodplains, and denies the public the opportunity to comment on a meaningful analysis.

B. The Agency Has Adopted the Applicant's Argument, Which Ignores the Controlling Regulation, Invents Jurisdictional Barriers Not Contemplated by the Statute or Regulations, and Badly Misrepresents Existing Case Law

The draft environmental impact statement largely adopts the erroneous reasoning, if not the exact caselaw, of Vulcan's position that its quarry is not a connected action.¹⁹

Before again refuting an argument that essentially represents the culmination of thirty years of agency foot-dragging on NEPA—the final showdown between federal agencies that wish to think (and argue) in compartmentalized jurisdictional boxes and the statute and regulations that bind them to the contrary²⁰—we think, after three refutations,²¹ the message is just not getting through, or, most likely, being deliberately ignored. We think we should finally give the agency the only valid argument it can make. In so doing, we demonstrate that the agency's impermissible position in this

¹⁹ Compare Draft Environmental Impact Statement, at 1-10 to 1-16, with Letter, David Coburn, Steptoe & Johnson, to Victoria J. Rutson, Section of Environmental Analysis (Mar. 10, 2004).

²⁰ For over thirty years, the courts have made clear that NEPA's "detailed statement" extends beyond an agency's jurisdiction, encompassing more than just those parts of or alternatives to the proposed action that the agency could adopt. See e.g., *Natural Resources Defense Council v. Morton*, 458 F.2d 827, 834–835 (D.C. Cir. 1972); *Environmental Defense Fund, Inc. v. U.S. Army Corps of Engineers*, 492 F.2d 1123, 1135 (5th Cir. 1974); *City of Alexandria v. Slater*, 198 F.3d 862, 868 (D.C. Cir. 1999).

²¹ Letter, David F. Barton, The Gardner Law Firm, to Victoria J. Rutson, Section of Environmental Analysis (Feb. 19, 2004); Letter, David F. Barton, The Gardner Law Firm, to Victoria J. Rutson, Section of Environmental Analysis (Apr. 19, 2004); MCEAA Scoping Comments (Feb. 24, 2004).

interpretation would receive no deference.²⁶ Likewise, agencies receive no deference at all when a regulation is clear,²⁷ which, given the relatively straightforward concept of independent utility, CEQ's scope of environmental impact statement regulation arguably is.

Nevertheless, the only term even conceivably subject to interpretation in the regulation that applies to this case is "interdependent." Such an interpretation would have to hold that rail lines always, by their very nature, have an independent utility that open-access facilities, such as highway or road segments to nowhere, lack.²⁸ Such an interpretation would provide an intermediate position between spur tracks, which do not require Surface Transportation Board approval or environmental review to construct, but

²⁶ *Southern S.S. Co. v. NLRB*, 316 U.S. 31, 46–47 (1942); *Hoffman Plastic Compounds, Inc. v. NLRB*, 535 U.S. 137, 143–44 (2002) (no deference for agency accommodations of statutes or policies beyond their area of expertise entrusted by Congress; interpretation precluded if in conflict).

²⁷ *Christensen v. Harris County*, 529 U.S. 576, 588 (2000); *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410, 414 (1945) (agency's interpretation must be given "controlling weight unless it is plainly erroneous or inconsistent with the regulation.") (emphasis added).

²⁸ Roads have independent utility only if they have "logical termini." *Save Barton Creek Ass'n v. Federal Highway Admin.*, 950 F.2d 1129, 1140 (5th Cir. 1992). Logical termini include existing development and other roads.

Road construction projects may enable future development on surrounding lands, and are used by and accessible to the public, and therefore may be said to have a general public independent utility if they are not being built solely to access a piece of land that is not a traffic generator. See *Association Concerned About Tomorrow, Inc. v. Dole*, 610 F. Supp. 1101, 1108–09 (N.D. Tex. 1985). Unlike road projects, rail lines are for private use, and generally connect to private shippers on private land.

proceeding masks its intent to bend NEPA to meet its fundamental policy views on how rail lines should be constructed.

1. NEPA does not yield to the agency's current fundamental policy views

Congress gave the authority to interpret NEPA to the Council on Environmental Quality (CEQ), and courts must give its interpretations "substantial deference".²² Where CEQ has spoken by regulation, the other federal agencies, including the Surface Transportation Board, must follow.²³ The CEQ has made a regulation governing the scope of environmental impact statements, and the types of actions those impact statements must consider and analyze.²⁴ Of these three principles, there can be no dispute.

Further, as discussed below, the agency has already determined that the quarry and the rail line are "related" within the meaning of the applicable regulation.²⁵ Therefore, if the agency has the power to advance any position at all, it is only through interpretation of some other part of the CEQ's scope of environmental impact statement regulation. Even so, such an

²² *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 355 (1989); *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 372 (1989); *Andrus v. Sierra Club*, 442 U.S. 347, 358 (1979).

²³ 40 C.F.R. § 1500.3 (2004).

²⁴ 40 C.F.R. § 1508.25(a)(1) (2004).

²⁵ As discussed *infra*, the determination of relatedness is made at the environmental assessment stage, before the decision to prepare a more detailed environmental impact statement is made.

which the Board maintains jurisdiction over,²⁹ and the requirements NEPA currently imposes absent such an interpretation.

This is plainly what the agency wants to further its policy choice on how new rail construction should occur. One of the most fundamental questions for the uninitiated in this proceeding (and others like it) is: "Where's the railroad?" Where's Union Pacific? The agency has made a policy decision to allow private non-railroad shipping companies, such as Vulcan, to create private paper railroads, and, once the agency grants a license to construct, common carrier status (i.e. "public use") and thus eminent domain power through the states.

This policy choice forces the non-railroad shipping companies to front all the costs of new construction, and takes the burden off the rail carriers. When shippers want competitive service, or access to a main rail line, the rail carriers tell the shippers: "If you build it, we will come," and the agency tacitly approves the policy consequences.

The agency's policy choice also allows a private, non-rail corporation that has never been delegated and would not otherwise receive "public use" eminent domain power from the state legislature to take the land of private citizens. This last consequence cannot be understated. It is by far the most

²⁹ 49 U.S.C. § 10501(b)(2) (2000).

egregious and the most dangerous, and the most central to the success of the agency's policy choice. Lately it has become fashionable for the agency to claim that a case from the District of South Dakota holds that states cannot use their eminent domain statutes to block rail construction if a federal license has been issued.³⁰ In a brief, the agency has stated, without apparent shame or acknowledgement of its position in a government of limited power:

Accordingly, the county court's conclusion here that whether a railroad "has the power to condemn in a certain instance . . . is a question of state law that Congress . . . has left to the States to decide" is *clearly wrong*. As the court made clear in [DM&E Railroad v. South Dakota, 236 F. Supp. 2d 989 (D.S.D. 2002)] state courts cannot interpret and apply condemnation law in a way that "will wholly prevent" construction of a Board-approved rail line.³¹

We cannot recall the Congress ever passing a federal eminent domain statute for licenses issued by the agency. Nor can we find any evidence that Congress ever impliedly created (if it even could) such preemptive authority in the agency's statutory mandate. The agency itself holds that condemnation "occurs in accordance with the state's railroad condemnation

³⁰ Draft Environmental Impact Statement at 4-65.

³¹ Brief of the Surface Transportation Board as Amicus Curiae in Support of Appellant Burlington Northern-Santa Fe Railway, BNSF v. City of Houston, No. 14-03-01311-CV (Tex. Ct. App., 14th Dist.) (2003), at *22-*23, available at 2003 WL 23571201 (internal citations omitted) (emphasis added).

only if consistent with "public convenience and necessity"³⁴, the assumption of all permitting and construction costs by the private, non-rail corporation (the shipper); and preemption of state eminent domain authority.

We reject the agency's fundamental worldview and its policy choice as inconsistent with the Constitutions of the United States and the state of Texas, and as inconsistent with the requirements of NEPA. The ongoing validity of the agency's fundamental worldview, and the agency's attempt to make NEPA—and ultimately private citizens in the path of non-rail corporations and their paper railroads—yield to that policy choice, is what this case is all about.³⁵

It is clear to see why the analysis of "nonjurisdictional" related proposals (such as the quarry) would cause the agency's policy choice to break down. If a shipper knew that the agency had to disclose the environmental consequences of the facility that the rail line would serve, it might make a greater effort to locate along existing rail lines, rather than develop farther away from rail lines and attempt to bear the cost of bringing the rail line to itself.

³⁴ 49 U.S.C. § 10901 (2000).

³⁵ See also Surface Transportation Board News Release, Dec. 20, 2004, Statement of Chairman Roger Nober ("Where shippers want rail competition, rail construction proposals continue to provide the opportunity both to construct and to negotiate based on the right to construct.") (emphasis added).

law."³² Indeed, the actual holding of the South Dakota federal district court on the eminent domain issue in the case—whether South Dakota could condition eminent domain on a finding of public use—shows how badly the agency is overstating its authority in the above-cited brief:

[T]he question becomes whether Congress intended to preempt a state's right to condition an exercise of state eminent domain power upon a finding by the state of public use and necessity. The answer to that question is no.

. . . This Court will not lightly infer a Congressional intent to preempt the ability of a state to condition the exercise of state eminent domain power upon the black letter law requirement of public use when Congress did not explicitly say so. If Congress would have intended to supplant such a basic state power, it could have delegated its own eminent domain power or made the preemption of state eminent domain law express in nature. Accordingly, it is the finding of this Court that only those provisions of South Dakota law that are clearly regulatory in nature, are preempted by federal law.³³

The agency's policy choice on new rail construction for build-outs and access to competitive service is its fundamental worldview. It has four necessary elements: No analysis of "nonjurisdictional" related proposals (such as the quarry); approval of a paper railroad created by a private, non-rail corporation to obtain a common carrier license that the statute grants

³² Draft Environmental Impact Statement at 4-65.

³³ Dakota, Minn., & Eastern R.R. v. South Dakota, 236 F. Supp. 2d 989, 1012 (D.S.D. 2002), *aff'd* 362 F.3d 512 (8th Cir. 2004).

There are other ways to build a railroad, and other policy choices the agency could make. Congress has not specified the policy choices that the agency now advances. The agency retains nearly unqualified latitude to change its policy. But, opportunistically, it would rather change NEPA and the CEQ regulations. This, it lacks the power to do.

Compelling arguments exist on both sides of the rail access issue and how the nature of federal rail policy does or does not give rail lines an inherent "independent utility." But the agency has not yet had the courage or the forthrightness to make those arguments. It has not yet interpreted the term "interdependence" in a rulemaking. It has not asked the CEQ to make an exception for new rail construction in its regulations. It has not promulgated regulations of its own and made an argument that they are consistent with the controlling CEQ regulation. Until it does so, the agency's arguments concerning the scope of the environmental impact statement, as well as the applicant's, are entitled to no respect from any court; or, for that matter, any citizen of a constitutional republic with a federal government of limited power.

2. The agency's argument fails because it applies the independent utility test to the quarry, but not to the rail line

In this proceeding, the agency's and applicant's positions³⁶ are without merit and reflect extreme disregard for the consensus policies underlying agency analysis under the National Environmental Policy Act as well as its existing regulations and case law. Nowhere do the agency or the applicant advance an argument that the statutes and regulations are invalid or that the case law requires reversal. Rather, their misuse and misclassification of legal standards and case law fails to support their position.

- a. The agency fails to apply the connected action regulation to the rail line

The draft environmental impact statement presumes that the quarry is a non-federal action that will not, and cannot through some operation of law, be included in the EIS. The applicant fails to test this assumption by properly applying the relevant connected action regulation, 40 C.F.R. § 1508.25(a)(1)(iii) (defining scope for actions that lack independent utility as those that "are interdependent parts of a larger action and depend on the larger action for their justification"), anywhere.

Instead of applying 40 C.F.R. § 1508.25(a)(1)(iii) to the quarry and the rail line, the draft environmental impact statement applies it only to the

³⁶ Draft Environmental Impact Statement, at 1-10 to 1-16; Letter, David Coburn, Steptoe & Johnson, to Victoria J. Rutson, Section of Environmental Analysis (Mar. 10, 2004).

1. The controlling regulation, governing environmental impact statements, makes case law based on environmental assessments irrelevant

The agency relies heavily on environmental assessment cases to hide its failure to apply the controlling regulation for the scope of environmental impact statements.

Environmental assessments are summary analyses that an agency may prepare in order to decide whether an environmental impact statement is required.³⁸ Following the preparation of an environmental assessment, an agency will reach one of two possible outcomes.³⁹ If an agency finds a significant impact, it must prepare an EIS. If it does not, and if the action does not significantly affect the quality of the human environment independently, the agency must prepare a Finding of No Significant Impact and finalize the decision.

Neither NEPA nor the CEQ regulations speak to the scope of an environmental assessment. A multi-factor test (the multifactor federalization test for relatedness) has evolved to determine whether actions they must be considered in a proposed federal action's environmental assessment because they are sufficiently "related". These factors, which "federalize" otherwise non-jurisdictional segments of a project at the environmental assessment stage, include, but are not limited to:

- (1) whether the regulated activity comprises "merely" a link" in a corridor type project (e.g., a transportation or utility transmission project);
- (2) whether there are aspects of the nonjurisdictional activity in the immediate vicinity of the regulated activity which uniquely determine the location and configuration of the regulated activity;
- (3) the extent to which the entire project will be within the agency's jurisdiction; and
- (4) the extent of cumulative federal control and responsibility.⁴⁰

³⁸ 40 C.F.R. § 1501.4(b) (2004).

³⁹ 40 C.F.R. § 1501.4(c)-(e) (2004).

⁴⁰ See *Sylvester v. Army Corps of Engineers*, 884 F.2d 394, 398-99 (9th Cir. 1989) (quoting similar Corps of Engineers regulations at 33 C.F.R. Part 325 Appx. B, §7(b)(2)).

quarry. Everything in the draft environmental impact statement discussion centers on whether the unproposed action (the quarry) has independent utility. This ignores the fact that it is the rail line in this proceeding that lacks independent utility when 40 C.F.R. § 1508.25(a)(1)(iii) is applied, and therefore draws the action it is interdependent with (the quarry) into the scope of NEPA analysis. The agency never tests the assumption that the federalized rail line action is independent of, and therefore not connected to the "non-federal quarry," and the remainder of the *ipse dixit* "analysis" serves solely to obfuscate this deliberate omission.

- b. Federalization of the quarry—or the "non-Federal" project generally—is not the issue

The issue in this case is whether either the rail line or the quarry lack independent utility such that they are "interdependent parts of a larger action and depend on the larger action for their justification."³⁷ Here, the rail line is a wholly-owned subsidiary of the quarry's owner/operator that is "an interdependent part" of the quarry, lacks any other potential customers, and "depend[s] on" the quarry for its justification.

³⁷ 40 C.F.R. § 1508.25(a)(1)(iii) (2004).

The leading case on the multi-factor test, *Sylvester v. U.S. Army Corps of Engineers*,⁴¹ involved the alleged segmentation of a proposed golf course from other portions of a proposed resort at Squaw Valley, California, including a village and additional ski runs. The state completed an environmental impact report on all segments of the proposal, pursuant to state law.⁴² The Corps of Engineers, however, issued a finding of no significant impact for the federal wetland fill permit after completing an environmental assessment describing only the golf course, which was the only segment of the proposal that it had jurisdiction over. The Corps applied the federalization test in its regulations, 33 C.F.R. Part 325 Appx. B, §7(b)(2), and concluded that the other segments of the resort were not related to the golf course for the purposes of NEPA. The court held that NEPA was unclear as to the proper scope of analysis of NEPA review for nonjurisdictional actions in an environmental assessment, and that the Corps' interpretation was not an impermissible reading of the statute.⁴³ In the wake

⁴¹ *Id.*

⁴² *Id.* at 396.

⁴³ *Id.* at 397.

of *Sylvester*, numerous other federal agencies promulgated EIS-threshold regulations similar to the Corps.⁴⁴

Certainly one other permissible interpretation of the statute for the scope of environmental assessments is to apply the controlling CEQ regulation for the scope of environmental impact statements. Some courts have done exactly that.⁴⁵

No court, however, has ever held that any other test—“but for”, “proximate cause”, or otherwise—replaces the controlling CEQ regulation for the scope of environmental impact statements.

The agency makes much of the Supreme Court’s recent decision in *Department of Transportation v. Public Citizen*,⁴⁶ a case involving an environmental assessment for proposed trucking safety regulations. Congress had imposed a moratorium on Mexican motor carriers receiving operating authority in the United States in 1982, and authorized the President to lift it. The President had announced his intent to lift the moratorium, subject to the issuance of safety regulations by a subagency of the Department of Transportation. That subagency issued regulations, which

were subject to NEPA, and produced an environmental assessment, the content of which was the subject of the litigation.

Nowhere in *Public Citizen* does Justice Thomas, writing for a unanimous Court, ever say that the CEQ regulation for the scope of an *environmental impact statement* is invalid or superseded by a test of the Court’s creation. The CEQ scope regulation for environmental impact statements is not even cited in the case. The agency’s use of *Public Citizen* to support its position in this draft environmental impact statement is beyond disingenuous.

Yet the applicant and agency would deny the effect of the CEQ environmental impact statement connected action regulation by substituting such an inapplicable relatedness analysis from the environmental assessment cases, with their multiple potential factors, including independent utility. This is why it is essential to classify and separate the case law on environmental assessments and environmental impact statements. The applicant’s and agency’s use of environmental assessment cases applying the relatedness test in various forms is disingenuous and disrespectful of clear rules of law represented by the environmental impact statement connected action regulation.

We have enclosed a classification of environmental impact statement and environmental assessment cases dealing with “scope” issues below:

⁴⁴ See e.g., 23 C.F.R. § 771.111(f) (2003) (Federal Highway Administration), 18 C.F.R. § 380.12(c)(2)(ii) (2003) (Federal Energy Regulatory Commission).
⁴⁵ *Thomas v. Peterson*, 753 F.2d 754 (9th Cir. 1985).
⁴⁶ 124 S.Ct. 2204 (2004).

EIS cases – Applying connected action regulation or test

<i>Piedmont Heights Civic Club, Inc. v. Moreland</i>	637 F.2d 430 (5th Cir.1981)
<i>Sierra Club v. Sigler</i>	695 F.2d 957 (5th Cir. 1983)
<i>Chelsea Neighborhood Association v. U.S. Postal Service</i>	516 F.2d 378 (2d Cir.1975)
<i>Town of Huntington v. Marsh</i>	859 F.2d 1134 (2d Cir.1988)
<i>Hudson River Sloop Clearwater v. Department of the Navy</i>	836 F.2d 760 (2d Cir.1988)
<i>Texas Committee on Natural Resources v. Van Winkle</i>	197 F. Supp. 2d 586 (N.D. Tex. 2002)
<i>Welch v. U.S. Air Force</i>	249 F. Supp. 2d 797, 820-25 (N.D. Tex. 2003)
<i>Blue Ocean Preservation Society v. Watkins</i>	754 F. Supp. 1450 (D. Haw. 1991)
<i>City of Williams v. Dombeck</i>	151 F. Supp. 2d 9 (D.D.C. 2001)
<i>Sierra Club v. Dombeck</i>	161 F. Supp. 2d 1052 (D. Ariz. 2001)
<i>Shoshone-Paiute Tribe v. U.S.</i>	889 F. Supp. 1297 (D. Idaho 1994)
<i>Citizens Committee to Save Our Canyons v. U.S. Forest Service</i>	297 F.3d 1012 (10th Cir. 2002)

Environmental Assessment cases – Applying relatedness test that is inapplicable here

<i>Department of Transportation v. Public Citizen</i>	124 S.Ct. 2204 (2004)
<i>Fritofson v. Alexander</i>	772 F.2d 1225 (5th Cir. 1985)
<i>Stewart v. Potts</i>	996 F. Supp. 668 (S.D. Tex. 1998)
<i>Sylvester v. Army Corps of Engineers</i>	884 F.2d 394 (9th Cir. 1989)
<i>Thomas v. Peterson</i>	753 F.2d 754 (9th Cir. 1985)
<i>Friends of the Earth v. Coleman</i>	518 F.2d 323 (9th Cir.1975)
<i>Winnepago Tribe of Nebraska v. Ray</i>	621 F.2d 269 (8th Cir. 1980)
<i>Save the Bay, Inc. v. U.S. Army Corps of Engineers</i>	610 F.2d 322 (5th Cir. 1980)
<i>Friends of the Earth v. Hintz</i>	800 F.2d 822 (9th Cir. 1986)
<i>Save the Yaak Committee v. Block</i>	840 F.2d 714 (9th Cir. 1988)
<i>California Trout v. Schaefer</i>	58 F.3d 469, 472 (9th Cir. 1989)
<i>Northwest Resource Information Center v. National Marine Fisheries Service</i>	56 F.3d 1060 (9th Cir. 1996)
<i>Morongo Band of Mission Indians v. Federal Aviation Administration</i>	161 F.3d 569 (9th Cir. 1998)
<i>Wetlands Action Network v. U.S. Army Corps of Engineers</i>	222 F.3d 1105 (9th Cir. 2000)
<i>Airport Neighbors Alliance, Inc. v. United States</i>	90 F.3d 426 (10th Cir. 1995)

<i>Utahns for Better Transportation v. U.S. Department of Transportation</i>	305 F.3d 1152 (10th Cir. 2002)
<i>Vieux Carre Property Owners, Residents, and Associates, Inc. v. Pierce</i>	719 F.2d 1272, 1278 (5th Cir. 1983)
<i>Save Barton Creek Assn. v. FHWA</i>	950 F.2d 1129 (5th Cir. 1992)
<i>Citizen Advocates for Responsible Expansion, Inc. v. Dole</i>	586 F. Supp. 1094 (N.D. Tex. 1984)
<i>Association Concerned About Tomorrow, Inc. v. Dole</i>	610 F. Supp. 1101 (N.D. Tex. 1985)
<i>Sierra Club v. U.S. Department of Energy</i>	255 F. Supp. 2d 1117 (D. Colo. 2002)
<i>Border Power Plant Working Group v. U.S. Department of Energy</i>	260 F. Supp. 2d 997 (S.D. Cal. 2003)
<i>Hoosier Environmental Council, Inc. v. U.S. Army Corps of Engineers</i>	105 F. Supp. 2d 953 (S.D. Ind. 2000)
<i>Tennessee Gas Pipeline Co.</i>	95 FERC ¶ 61,169, 2001 WL 469985
<i>Coalition for a Livable Westside v. HUD</i>	1997 U.S. Dist. LEXIS 8860

2. Why the environmental assessment case law does not apply

- a) Environmental assessment factors for relatedness do not carry over to the environmental impact statement

A court does not have the power to create new NEPA doctrine on connected actions for environmental impact statements, in the face of the clear regulation. To do so would usurp an agency of the Executive Branch, which made the regulation. A reviewing court may not impose its own procedural requirements on an agency where a minimum standard exists.⁴⁷ By adopting the environmental assessment approach and establishing a multifactor test for an environmental impact statement, and ignoring the test

⁴⁷ *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council*, 435 U.S. 519 (1977).

in the existing regulation (which is entitled to substantial deference), a court would impermissibly make up new factors that could be applied later.

The agency cannot recast its multifactor jurisdictional argument to fit within the "independent utility" part of the connected action test, because "independent utility" and the broader question of whether an agency should assert jurisdiction over a project and federalize it in an environmental impact statement, are two different things.

One is a functional analysis—Can x and y happen separately, or is proposing x effectively proposing y due to a "but for" or "dependent" relationship? Answer: Because Vulcan Materials Company is not in the business of building rail lines that lack customers, proposal of the rail line effectively depends on proposal of the quarry that it will solely serve.

The other, broader question is jurisdictional—Is y related enough to x to be part of the federal project?

The existing scope regulation at 40 C.F.R. § 1508.25(a)(1)(iii) answers the function question. The rail line lacks independent utility. No new test is necessary, and in fact, the court is barred from creating its own test.

The broader jurisdictional question has already been answered in this proceeding.

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further exercise of jurisdictional limits after that point may lead to an EIS that is practically an environmental assessment.

More disturbing is the fact that both the applicant and the agency use environmental assessment cases to stand for the categorical principle that projects "not financed by federal funding" and not controlled by "federal regulation," or, "not [but-for] dependent on the federal action . . . and an independent private project over which the [agency] has no jurisdiction," *id.*, or where "only one of them falls under agency jurisdiction," cannot be connected actions in an environmental impact statement. The environmental assessment cases do not even stand for this principle in an environmental assessment, much less in an environmental impact statement where they cannot apply. The factors those cases list are just that—factors—meant to be applied by agencies in environmental assessments on a case by case basis, and not as categorical rules.

- c) To resurrect the federalization test from the environmental assessment stage, the agency seeks to define "action" in the CEQ regulations to mean only "federal action," which it clearly does not

Now that an EIS will be required, and the only test left to apply is the connected action regulation, the applicant's only argument is to replace the explicit EIS regulation at 40 C.F.R. § 1508.25(a)(1)(iii) (the independent

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- b) The multifactor federalization test for relatedness has already been applied, and the applicant has lost—the quarry has been deemed related

It is telling that the applicant is attempting to take a second bite at the apple by applying the inapplicable case law-based multifactor relatedness test for the scope of an environmental assessment in lieu of the clear connected action regulation for the scope an EIS. For if simply federalizing the non-federal project is the issue, rather than establishing the dependence of the federal proposal on an additional project that must be considered part of the "action" and directly analyzed in the EIS, the applicant has already lost. It concedes that "the Board's January 28 Draft Scoping Notice specifically and correctly states that the quarry will be considered under the cumulative impacts analysis of the EIS" and that "the rail line and quarry are related to the extent that the rail line will serve the quarry."⁴⁸ The only test left to apply is the connected action regulation for the scope an EIS.

The EIS connected action regulation properly excludes jurisdictional concerns because the significance determination whether to prepare an EIS, where jurisdictional concerns may play a role, has already been made. Any

⁴⁸ Letter, David Coburn, Steptoe & Johnson, to Victoria J. Rutson, Section of Environmental Analysis (Mar. 10, 2004).

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utility test) with a multifactor, jurisdictional federalization test for relatedness. Unfortunately for the agency and its restated federalization tests, 40 C.F.R. § 1508.25(a)(1) contains no requirement that the connected action be subject to agency permitting or funding, be otherwise federal, or even be proposed as opposed to planned.⁴⁹

Assume for a moment that the agency's implicit assertion—that "action" as used in the Council on Environmental Quality regulations means only federal actions—is even arguable:

Federalization of a project not otherwise subject to federal agency review occurs during the environmental assessment stage, when an agency's decision to prepare an EIS turns on whether the action and any related segment does so "significantly."⁵⁰ In that determination, significance may arise directly from the proposed action, or cumulatively. If "the action is related to other actions with individually insignificant but cumulatively significant impacts . . . [then] [s]ignificance exists if it is reasonable to anticipate a cumulatively significant impact on the environment."⁵¹ As

⁴⁹ Compare 40 C.F.R. § 1508.25(a)(2) (2003) (requiring analysis in the same EIS only for "proposals" that are cumulative actions) with *id.* § 1508.25(a)(1) (lacking that requirement for connected actions).

⁵⁰ 40 C.F.R. § 1502.3 (2004).

⁵¹ *Id.* § 1508.27(b)(7) (2004).

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Fritiofson v. Alexander,⁵² and hundreds of environmental assessment cases before and since have recognized, the “other actions” that may be considered in the determination of cumulative significance may be non-federal. A multifactor federalization test for relatedness, which includes independent utility and other potential factors, governs whether these non-federal actions are related enough to the proposed federal project to be included in that significance determination.⁵³

Then, when these other actions are considered in an EIS, if they are not otherwise connected actions (§ 1508.25(a)(1)) or cumulative actions (§ 1508.25(a)(2)), they are considered as merely cumulative impacts (§ 1508.7). A “cumulative impact” is “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.”

Having established that even the most remote “actions” considered in an EIS are both federal and non-federal, we turn to the applicant’s assertion that those “actions” most directly tied to the federal action—indeed, connected to it—need not be considered if they are non-federal. The result can be no

⁵² 772 F.2d 1225 (5th Cir. 1985).

⁵³ *Id.*; *Sylvester v. Army Corps of Engineers*, 884 F.2d 394, 398-99 (9th Cir. 1989).

argument that two EISs are just as good as one, because the cumulative impact section in the second one will account for the effects of the first (probably after it is built). That ignores the basis for the connected action regulation for EISs,⁵⁴ and its three tests, in favor of treating all unproposed actions as unconnected cumulative impacts. The purpose of 40 C.F.R. § 1508.25(a)(1) is precisely to require the direct effects analysis of both projects at the same time, since without each other they would not both be built. The connected action regulation applies regardless of whether the quarry had obtained or would obtain non-federal permits

3. If the rail line has independent utility, then impacts from other shippers are imminent and must be analyzed

A rail construction license issued by the Surface Transportation Board confers common carrier status that permits (but does not guarantee the right to) exercise eminent domain under Texas law. *See* 49 U.S.C. §§ 10102(5) (defining rail carrier as common carrier); 10501(b) (exclusive jurisdiction of STB); Tex. Const. Art. I § 10 (authority of rail carriers to construct). Vulcan alleges that various highly general characteristics of rural land near rail lines support the rail line’s independent utility, in that these characteristics could

⁵⁴ 40 C.F.R. § 1508.25(a)(1) (requiring analysis in the “same EIS”) (emphasis added).

different. The applicant’s only justification could be that multiple environmental documents are preferable to one, per the two hypotheticals discussed above. If this were true, STB would consider the quarry solely as a cumulative impact in the rail line EIS, as the applicant desperately wishes at this late date. But it is not. The connected action regulation exists apart from the cumulative impact regulation for a reason, and the applicant’s argument must fail.

d) Consequences of the agency’s Position

The applicant’s flawed view of connected actions in an EIS under NEPA can be distilled into two hypothetical principles:

First, if an applicant desires to construct what would otherwise be a connected action under 40 C.F.R. § 1508.25(a)(1)(iii), such as a quarry and a rail line, they can avoid analyzing them together in an EIS by proposing the one that lacks independent utility (the rail line) first.

Second, if an applicant desires to construct what would otherwise be a connected action under 40 C.F.R. § 1508.25(a)(1)(iii), such as a quarry and a rail line, they can also avoid analyzing them together in an EIS by proposing the federal action (the rail line) first, and then waiting until after that process to see if the nonfederal action requires an EIS.

Both of these hypotheticals are flatly inconsistent with NEPA and the connected action regulation. Underlying this inconsistency is the theoretical

someday attract a shipper that Vulcan’s Southwest Gulf Railroad could serve by virtue of its common carrier status.⁵⁵

Of course, if these “someday shippers” give the rail line its independent utility, their impacts must be analyzed. To trumpet the benefits of activities in the EIS as a selling point for the proposal renders a decision that these activities are imminent. NEPA therefore requires full disclosure and analysis of their costs.⁵⁶ The agency cannot tip the scales of an environmental impact statement by promoting possible benefits while ignoring their costs. Simple logic, fairness, and the premises of cost-benefit analysis, let alone NEPA, demand that a cost-benefit analysis be carried out objectively.⁵⁷ There can be no “hard look” at costs and benefits unless all costs are disclosed.⁵⁸

If an agency were permitted to cite possible benefits in order to promote a project, yet avoid citation of accompanying costs by hiding behind *Kleppes* [*v. Sierra Club*, 427 U.S. 390, 410 n.20 (1976)], the cost-benefit analysis in the EIS would be reduced to a sham: such a “cost-benefit analysis” would

⁵⁵ *See e.g.*, Finance Docket No. 34284, Southwest Gulf Railroad Company—Construction and Operation Exemption—Medina County, TX, at 1 (served May 9, 2003) (Conditional Exemption).

⁵⁶ *Sierra Club v. Stigler*, 695 F.2d 957, 978-79 (5th Cir. 1983).

⁵⁷ *Id.*

⁵⁸ *Id.*

always be tipped in favor of benefits.⁵⁹ This is because “NEPA does not require an agency to consider the possible environmental impacts of less imminent actions when preparing the impact statement on proposed actions.”⁶⁰

4. However, the rail line lacks independent utility, because location of other shippers is not imminent, as the applicant concedes

By concocting its “someday shippers,” Vulcan wants to have it both ways: for the agency to find the “someday shippers” imminent enough, based on speculative relocation potential, to justify the independent utility of the rail line, but too speculative to require cumulative impact analysis as “other . . . reasonably foreseeable future actions.” Indeed, Vulcan’s counsel brazenly admits as much:

Ms. [sic] Kitchen commented that construction of the line “will cause a significant increase in commercial and industrial development along the railroad.” SGR at this point is not aware of any specific shippers that may locate on the line, other than Vulcan. While the line will be operated as a common carrier line and thus open to use by other shippers, SGR has no information at this time about other shippers that may locate in the area. *Accordingly, any assessment of the level of*

⁵⁹ *Id.*

⁶⁰ *Vieux Carre Property Owners, Residents & Assoc., Inc. v. Pierce*, 719 F.2d 1272, 1278 (5th Cir. 1983), quoting *Kleppe*, 427 U.S. at 410 n.20.

highway. But here, we are considering a rail line that will only be built if the quarry is.

The agency’s incorrect argument is predicated on a line of NEPA case law that does not deal with connected actions. In every single case that could justify the agency’s position, the either/or proposition to reasonably define no action applies as follows:

either the action / or something that is not the action that would occur anyhow.

No action is obviously the latter “or” result. These cases all proceed from the assumption that no action can be defined “reasonably” as something that is *not the action* that would occur regardless of whether the *action* did. We cannot disagree with that general principle. Here, however, the *action* is a *connected action* with two constituent and interdependent parts. If actions are so bound up and closely related that they cannot be separated, and require side-by-side consideration in the same EIS, then they obviously cannot be juxtaposed against one another in an either/or analysis. The proper analysis to determine the no action alternative is:

either the connected action /

*commercial and industrial development that could develop along the line is speculative.*⁶¹

It would be irrational to assume that the rail line can proceed independently on the basis of speculation.

If a bare assertion about “someday shippers” can undercut the connected action regulation, the regulation might as well not exist.

C. Because the Agency Has Not Analyzed the Rail Line and Quarry as Connected Actions, It Has Misrepresented the No Action Alternative

The no action alternative to the connected action neither builds a rail line nor builds any quarry facilities. For a connected action, no action is something that is *not the connected action* (i.e., something that has independent utility apart from the connected action) that would occur anyhow. It is illogical to define no action as part of the action itself.

The agency’s position yields an EIS where the public and decision-makers never see the impact of the quarry without thousands of trucks lumped in with it, or the impact of doing nothing at all—a result that would be perfectly fine if we were considering, say, an independent federal interstate highway project that was going to be built through part of the quarry site where the quarry was certain to be built with or without the

⁶¹ Letter from David Coburn, Steptoe and Johnson, to Victoria Rutson, Section of Environmental Analysis, at 3 (January 5, 2004) (emphasis added).

or something that is not the connected action (i.e., something that has independent utility apart from the connected action) that would occur anyhow

not what the agency has done in the draft environmental impact statement, which is:

either one part of the connected action /

or the other part of the connected action with a substitute for the first part that would occur anyhow

As the definition of “scope” in the CEQ regulations states, scope consists of the ranges of actions, alternatives, and impacts to be considered in an EIS. Actions, alternatives, and impacts—each term is set out and defined separately by the regulation; each term follows from the other. Defining alternatives to an action, including the alternative of *no action*, necessarily requires defining the *action* in a previous step of the scoping process. The agency cannot “undefine” or “redefine” the scope of the action—be it connected, cumulative, similar, or single and unconnected—in a subsequent step if these codified words, which are entitled to substantial deference, mean anything at all.

The general principle that something that is *not the action*, but that would occur regardless of whether the *action* did or did not, can reasonably constitute a no action alternative differs by orders of magnitude from redefining the scope of the action after it has already been defined. The de

facto result of independent utility if the quarry is assumed as part of *no action* is no illusion—it is the outright reversal of the connected action determination made one step earlier.

flood events.⁶⁵ Just over a year and a half ago, rivers crested at record levels in June of 2002 as accumulations totaled between 40 and 45 inches during a week-long set of storms. The Medina Dam was almost overtopped during this event. On August 1-2, 1998, during a 24-hour period, 32 inches of rain were recorded at Medina, in nearby Bandera County. The U.S. record for extreme point rainfall in a 72-hour period is held by Medina—48 inches during Tropical Storm Amelia in 1978.⁶⁶ Accumulations of 6-9 inches in 6 hours or less leading to flash flood events occur almost annually and can be verified with rainfall data from the National Weather Service's San Antonio office.

The proposed rail line will impact flooding and hydrology in at least the following ways: (1) by adding fill in and around stream crossings, widening the floodplain upstream; (2) by using trestle (trellis) bridges, the piers of which will have major hydraulic effects, as with any bridge pier, including the likely collection of debris; (3) the use of fill to elevate track away from the stream crossings, altering surface runoff patterns and channeling flow along the berms to the stream crossing.

⁶⁵ MCEAA has submitted voluminous documentary evidence of flooding in the project area. Those letters are incorporated by reference into these comments.

⁶⁶ See U.S. Geological Survey Open File Report 03-193, "Major Catastrophic Storms and Floods in Texas," available at <http://www.floodsafety.com/USGSdemo/25onmore.htm> (last visited Feb. 22, 2004).

II. THE AGENCY HAS FAILED TO CONSIDER THE CUMULATIVE IMPACT OF THE QUARRY AND THE RAIL LINE ON FLOODING AND HYDROLOGY

The agency has completely failed to analyze flooding and hydrologic impacts for the rail line and the quarry.

The agency has not analyzed flooding and hydrologic impacts from the quarry at all.

For the rail line, the agency has impermissibly delegated its responsibilities to the applicant as a mitigation condition. It is well-settled that the agency assumes responsibility for compliance with NEPA and may not delegate this duty.

This is indeed curious (and unlawful), because the Supreme Court has held that NEPA does not require adoption of a complete mitigation plan by the applicant to mitigate environmental harm before an agency can act.⁶² The applicant's voluntary promise to analyze the flood impacts of the rail line lane is amorphous and ultimately self-defined.

Residents of the project area, including the County Judge⁶³ and County Commissioners,⁶⁴ have been most concerned with flood impacts, and with good reason. Flash flooding in Medina County is common, as are sustained

⁶² *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 351–53 (1989)

⁶³ See Letters, County Judge Jim Barden, to Rini Ghosh, Section of Environmental Analysis (requesting detailed flooding analysis).

⁶⁴ See Letters, County Commissioners Royce Hartmann and Chris Mitchell, to Rini Ghosh, Section of Environmental Analysis (requesting detailed flooding analysis).

The agency concedes that:

Construction of the proposed rail line (any route) could have an adverse impact on flooding because it would require the crossing of a number of intermittent streams and could involve the use of fill (added material) at these stream crossings. . . . The added fill would increase the width of floodplains above stream crossings because it would change the hydraulic conditions at the crossings.⁶⁷

However, the agency does not inquire further in the draft environmental impact statement. Rather, it relies on Vulcan's mitigation promise to analyze the impacts later. This is an impermissible delegation of agency duty to the applicant and requires correction in a supplemental environmental impact statement.

The proposed quarry will impact flooding and hydrology in at least the following ways: (1) by removing all vegetation from significant portions of the quarry site adjacent to and flowing into Polecat and Elm Creeks; (2) by altering the hydrologic characteristics of the site by excavating, blasting into ledges, and piling debris; (3) by paving or rendering impermeable large portions of the site; and (4) by pumping significant amounts of groundwater

⁶⁷ Draft Environmental Impact Statement at 4-34.

for site use and dust control upgradient and then redepositing that water in a concentrated fashion to the groundwater table downgradient.⁶⁸

The agency has analyzed the direct, indirect, and cumulative effects of none of these impacts. It must do so in a supplemental environmental impact statement.

As a practical matter, the analysis in the environmental impact statement, whether agency calls it that or not, must satisfy the "hard look" and "sufficient detail" criteria of the Fifth Circuit's "adequacy" test in *Mississippi River Basin Alliance v. Westphal*,⁶⁹ by answering the following three questions for both the quarry and the rail line, regardless of how the connected action issue is decided:

- Can you tell what the baseline is?
- Can you tell what the impact contribution of each project in the connected action is?
- Can you tell what the total impact is, when added to any other cumulative impacts?

⁶⁸ The base flow of the streams in the area is largely based on groundwater seepage when flash floods are not occurring. There is a legitimate concern that groundwater pumping at the quarry could permanently dry up these streams and any wells near the site. The link between groundwater and surface water flows, during flooding or otherwise, has not been analyzed by the agency.

⁶⁹ 230 F.3d 170, 174 (5th Cir. 2000).

III. THE AGENCY HAS FAILED TO CONSIDER THE PROPOSED RAIL LINE'S CUMULATIVE IMPACT ON SAN ANTONIO RAILWAYS AND ROADWAYS

A. Agency Duties

"To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts."⁷¹ Of the latter, impacts may be direct, indirect, or cumulative.⁷²

A cumulative impact is "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions."⁷³

B. Specific Complaints

In the draft environmental impact statement, the agency failed to consider the effect of Vulcan's rail traffic on San Antonio's railways and roadways. Specifically, the agency did not inquire into whether future rail traffic from Vulcan would exacerbate, cause, or contribute to at-grade crossing delays exceeding federal delay criteria on major roadways.

C. Vulcan's traffic will add to pre-existing grade crossing delay problems for at least three major at-grade railroad crossings in south San Antonio.

⁷¹ 40 C.F.R. § 1508.25 (2004).

⁷² *Id.* at § 1508.25(c).

⁷³ 40 C.F.R. § 1508.7 (2004).

The existing draft environmental impact statement contains only qualitative, conclusory statements that do not meet these requirements or those of majority rule case law for cumulative impacts.⁷⁰

⁷⁰ *Kern v. Bureau of Land Management*, 284 F.3d 1062 (9th Cir. 2002).

1. There is only one route Vulcan's eastbound traffic can physically follow

The San Antonio area is a hub of national and international rail traffic, receiving trains from West Coast ports, the Gulf Coast, and up and down the NAFTA corridor. Due to the stated routing of Vulcan's rail traffic, a cumulative impact on specific lines that make up this network is not speculative, but certain.

[A Powerpoint slide presentation has been prepared and enclosed with these comments to assist in visualizing the facts below]

From points west, rail traffic enters the city on what is known as the Union Pacific Del Rio subdivision, paralleling U.S. highway 90. This rail line is shown in red on Slide 1 in the presentation. Vulcan's rail traffic, if going east from its connection with the Union Pacific line, must follow this route. There are no other rail intersections between the tie in and the city.

Coming into the city, this red line parallels a line from the southwest shown in yellow, which carries traffic arriving from Laredo and Mexico. East of the former Kelly Air Force Base, another spur line enters the Laredo line from the south. This line will serve the Toyota assembly plant currently under construction. Just west of downtown, the Del Rio line (red) and the Laredo line (yellow) cross.

But significantly, as Slides 2 and 4 illustrate, there is no connector in either the northwest or northeast quadrant of this intersection between the Del Rio Line and the Laredo line. Traffic wishing to turn north on these lines must continue at least as far as the San Antonio river, where another track enters from the northwest, and conduct a reverse movement there. In any case, Vulcan has indicated in its petitions, which the agency has adopted in the draft environmental impact statement,⁷⁴ that “the primary market for that aggregate [produced at the proposed quarry] is in the eastern part of Texas, including the Greater Houston area.”⁷⁵ Vulcan has further indicated that its “connection with the Union Pacific main line “must be such that loaded trains on the SGR [Vulcan] line enter the UP main line with the *eastbound orientation*, since the vast majority of SGR rail shipments will be going east, where it is expected that the primary markets for aggregate will be located.”⁷⁶ The lines taking off to the north, in contrast, split into one short spur line that terminates not far past the northwest limits of San Antonio, and another line that travels due north, along which Vulcan already operates several quarries.

⁷⁴ Draft Environmental Impact Statement at 2-1 n.1.

⁷⁵ Southwest Gulf Railway [Vulcan] Petition for Exemption at 2 (filed Feb. 27, 2003).

⁷⁶ Letter, David Coburn, Steptoe & Johnson, to Victoria Rutson, Section of Environmental Analysis, at 13 (May 4, 2004).

of vehicle delay per day.” When this value—defined as the average delay per vehicle times the average number of vehicles per day—exceeds 40 hours, the federal criteria indicate that a crossing should be grade separated. The agency’s failure to disclose this information to the public violates its duties to consider cumulative impacts in the environmental impact statement.

Using the Surface Transportation Board’s own methodology, outlined extensively in an environmental impact statement for another recent urban rail construction project in Houston,⁷⁷ MCEAA has determined the total hours of vehicle delay for three major intersections in south San Antonio. To do so, MCEAA has obtained the relevant average daily traffic data from the City of San Antonio,⁷⁸ and used the same average train length that the agency used in its Houston analysis. MCEAA has followed the agency’s methodology exactly as laid out in the Houston analysis.⁷⁹

⁷⁷ See Finance Docket No. 34079, Bayport Loop Build-Out, Draft Environmental Impact Statement, Appendix F. This document is enclosed with these comments.

⁷⁸ MCEAA was not able to fully analyze one other grade crossing that may require separation under federal criteria, on Proband near Lone Star, because current traffic counts did not exist for those streets. It is the agency’s burden to address this uncertainty.

⁷⁹ The only change MCEAA has made was to correct a vehicle departure rate later found to be erroneous in the agency’s Houston analysis. In that analysis, the agency wanted to choose a vehicle departure rate for arterial streets, but instead chose the vehicle departure rate for arterial *highways*, such as the four-lane divided U.S. highway 67 in Louisiana. MCEAA corrected for this by selecting the next lowest vehicle departure rate from the set of corresponding rates and road categories that the agency presented in its Houston

It is therefore extremely unlikely that any Vulcan traffic will turn to the north at the first major intersection in San Antonio. Rather, the traffic must continue south of downtown, as shown in red on Slides 1 and 2, and cross the San Antonio River. Therefore, Vulcan’s cumulative impact on these portions of the San Antonio rail network is certain.

2. The consequences of the route Vulcan’s eastbound traffic must follow are significant

The result is that Vulcan’s eastbound traffic will not have a chance to turn onto other lines before it reaches the San Antonio River.

The consequences of this routing are real, severe, and additive to a pre-existing problem that the agency has a duty to disclose in the environmental impact statement. At least three major at-grade railroad crossings currently experience vehicle delay in excess of federal delay criteria.

Federal delay criteria for grade crossings is established by the umbrella agency for the Surface Transportation Board, the U.S. Department of Transportation (the Board itself is an independent agency). The criteria establish various thresholds for when a railroad crossing should be grade separated: some are based on train speed, some are based on road speed or average daily traffic, but the key criteria for this analysis is the “total hours

[The calculations in MCEAA’s analysis—from which the use of the agency’s methodology can be clearly verified—appear in an Excel spreadsheet enclosed with these comments. The agency’s methodology from the Houston analysis is also enclosed.]

MCEAA analyzed a range of existing train traffic levels, to determine whether grade separation is *presently* required. When analyzing cumulative impacts, the agency must consider “the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions.”⁸⁰ MCEAA concludes that grade separation is certainly required for one south San Antonio street, Zarzamora,⁸¹ and may likely be required for two others, Brazos⁸² and Flores,⁸³ based on current train traffic levels.

analysis. Given the urban nature and low speed limits on the south San Antonio streets, this is a conservative assumption that may still overstate the vehicle departure rate, and thus understate the total vehicle hours of vehicle delay per day.

⁸⁰ 40 C.F.R. § 1508.7 (2004).

⁸¹ See Powerpoint presentation slides 4 and 8.

⁸² See Powerpoint presentation slides 4 and 9.

⁸³ See Powerpoint presentation slides 5 and 11.

San Antonio Streets Currently Exceeding Federal Grade Separation Criteria

August 2004				
	N of trains	Total hrs	Threshold (hrs)	Over/Under (hrs)
Zarzamora at Merida	20	65.75	40	25.75
Brazos south of Laredo	20	26.66	40	-13.34
Flores at Lone Star	20	27.32	40	-12.68
Probant at Lone Star	20	N/A	40	N/A
September 2004				
	N of trains	Total hrs	Threshold (hrs)	Over/Under (hrs)
Zarzamora at Merida	16	42.08	40	2.08
Brazos south of Laredo	16	17.06	40	-22.94
Flores at Lone Star	16	17.48	40	-22.52
Probant at Lone Star	16	N/A	40	N/A
October 2004				
	N of trains	Total hrs	Threshold (hrs)	Over/Under (hrs)
Zarzamora at Merida	13	65.75	40	25.75
Brazos south of Laredo	30	39.99	40	-0.01
Flores at Lone Star	30	40.98	40	0.98
Probant at Lone Star	??	N/A	40	N/A

The most recent published train movement data for one of the three major railroads serving San Antonio, the Union Pacific, indicates 25 train movements per day on the lines entering the city from the west.⁸⁴ Additional reported data places the present total number of daily train movements from all railroads passing through San Antonio between 40 and 45. Viewing Slide 2 in the Powerpoint presentation, it is clear that the vast majority of these trains will have to cross the San Antonio River. MCEAA

⁸⁴ TRAINS MAGAZINE, July 2004.

made extremely conservative assumptions as to daily train traffic, and made assumptions for train length identical to those used in the Houston analysis.

The agency has a duty to determine the actual level of train traffic along Vulcan's route and determine the effect of Vulcan's contribution to it. The agency should be able to easily obtain this information as it did in its Houston analysis. If no further information is provided, the agency must use the uncertainty regulation, 40 C.F.R. § 1502.22, and apply reasonable inputs to the methodology it has suggested. The Surface Transportation Board knows well that "when the nature of the effect is reasonably foreseeable but its extent is not . . . the agency may not simply ignore the effect."⁸⁵

⁸⁵ Mid States Coalition for Progress v. Surface Transportation Board, 345 F.3d 520, 550 (8th Cir. 2003).

IV. THE AGENCY HAS NOT COMPLIED WITH THE ENDANGERED SPECIES ACT

A. Relevant duties of the agency

Section 7 of the Endangered Species Act (ESA) imposes on Federal agencies the duty to "insure that actions authorized, funded, or carried out" by them do not jeopardize the continued existence of any threatened or endangered species or result in the destruction or modification of habitat of such species which the Secretary of Interior determines to be critical.⁸⁶

An agency proposing to take an action must inquire of the U.S. Fish and Wildlife Service, as the Secretary's delegate, "whether any threatened or endangered species may be present" in the area of the proposed action.⁸⁷ If the answer is affirmative, the proposing agency must prepare a "biological assessment" to determine whether such species "is likely to be affected" by the action.⁸⁸ An agency may fulfill the biological assessment requirement as part of an environmental impact statement.⁸⁹

⁸⁶ 16 U.S.C. § 1536(a)(2) (2000).

⁸⁷ *Id.*

⁸⁸ 16 U.S.C. § 1536(c)(1) (2000).

⁸⁹ *Id.*; 50 C.F.R. 402.12(f) (2004). If, after completing the biological assessment, the agency determines that an action may "affect" proposed or listed threatened or endangered species or their proposed or designated critical habitat, it must formally consult with the U.S. Fish and Wildlife Service. 16 U.S.C. § 1536(b)(3)(A) (2000).

The ESA requires that Federal agencies "adequately consider" the "total impact" of their actions on endangered and threatened species, including "indirect effects."⁹⁰ The federal agency involved "must take *all necessary action* to insure that its actions will not jeopardize the continued existence of an endangered species or destroy or modify habitat critical to the existence of the species."⁹¹

These duties apply independent of other procedural duties under the National Environmental Policy Act (NEPA) or other statutes.

B. Specific Complaints

Regardless of how the scope of the action is construed under NEPA, the Surface Transportation Board has failed to "adequately consider" the "total impact" of the action under the ESA.⁹²

If the quarry and rail line are "connected actions" under NEPA's regulation governing the scope of environmental impact statements,⁹³ and the quarry is thus part of the action, then there is no dispute that its effects

⁹⁰ *National Wildlife Federation v. Coleman*, 529 F.2d 359, 373 (5th Cir. 1976).

⁹¹ *Id.* at 371 (emphasis added).

⁹² MCEAA has raised these concerns previously, in the scoping phase of this proceeding. See Letter, David Barton, The Gardner Law Firm, to Victoria J. Rutson (Feb. 19, 2004) (regarding analysis under the ESA). This letter is incorporated by reference into these comments.

⁹³ 40 C.F.R. § 1508.25(a), (a)(1) (2004).

must be considered in determining whether a species “is likely to be affected” by the action.

Even if the quarry and rail line are not connected actions, however, the agency still has a duty—as the Fifth Circuit amply stated nearly three decades ago in *National Wildlife Federation v. Coleman*, the leading case on agency responsibilities beyond the mere direct effects of a project on species and their habitat—to “adequately consider” the “total impact” of licensing Vulcan’s rail line by considering “indirect effects.”⁹⁴ “The fact that . . . private development . . . does not result from direct federal action does not lessen the [agency’s] duty under § 7.”⁹⁵ In this proceeding, the Surface Transportation Board failed to adequately consider indirect effects from the quarry and future land development along the rail line. The effect of the quarry was not adequately considered; the effect of future land development along the rail line was not considered at all.

An agency’s failure to conduct an inquiry of the proper scope amounts to a failure to consider relevant factors, reversible as arbitrary and capricious under section 706(2)(A) of the Administrative Procedure Act.⁹⁶

⁹⁴ *National Wildlife Federation v. Coleman*, 529 F.2d 359, 373 (5th Cir. 1976).
⁹⁵ *Id.* at 374 (5th Cir. 1976).

⁹⁶ *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402, 416 (1971).

It is well-settled that habitat destruction would likely “affect” both the vireo and the warbler.⁹⁹ This would trigger a duty for the agency to consult further to determine the extent of, and appropriate course of action based on, those effects.¹⁰⁰

The issue in this proceeding is the agency’s failure to adequately consider “indirect effects” of the quarry and future land development adjacent to the rail line when determining if habitat destruction would occur. The effect of the quarry was not adequately considered; the effect of future land development along the rail line was not considered at all.

Determining if habitat destruction would occur, and thus whether the birds would be affected, is not simply a paper exercise where the applicant may make representations to the agency concerning the viability of the project site as potential habitat based on the flora. Only if *no* potential habitat exists does the inquiry terminate at that step. Where potential habitat

⁹⁹ The U.S. Fish and Wildlife Service states that “Loss of habitat is the most important threat to the existence of the golden-cheeked warbler. In particular, on-going and imminent habitat destruction was used to justify the emergency listing of the golden-cheeked warbler in 1990.” U.S. Fish and Wildlife Service Region 2, GOLDEN-CHEEKED WARBLER RECOVERY PLAN (1992), at 21. This document is enclosed with the comments for inclusion in the record. A similar finding has been made for the black-capped vireo. U.S. Fish and Wildlife Service Region 2, BLACK-CAPPED VIREO RECOVERY PLAN (1991), at 28. This document is enclosed with the comments for inclusion in the record.

¹⁰⁰ 16 U.S.C. § 1536(b)(3)(A) (2000) and note 89, *supra*.

C. Background and Summary of Process to Date

1. Species of concern

The U.S. Fish and Wildlife Service has identified species that “may be present” in the area of the proposed action.⁹⁷ Two listed endangered species that occur both along the rail route and at the quarry site are songbirds: the black-capped vireo (*Vireo atricapillus*) and the golden-cheeked warbler (*Dendroica chrysoparia*).⁹⁸

The vireo nests in mainly Texas during April through July and migrates to Mexico in the winter. To nest, it relies on low woody brush typically cleared or overgrazed by deer and livestock. Vireos return year after year to the same area, approximately 2 to 4 acres in size.

The warbler nests and raises its young in exclusively in the Edwards Plateau region of Texas and migrates annually between there and Central America. It comes to Texas in March and leaves in July. It prefers mixed Ashe juniper or oak woodland that is disappearing due to clearing for development and grazing. Like the vireo, it is an exceptional songbird well known to the landowners in Medina County.

2. Habitat destruction has not been adequately considered for the quarry

⁹⁷ Draft Environmental Impact Statement, at 3-27 to 3-29.
⁹⁸ Draft Environmental Impact Statement, at 3-27 and 4-108.

exists, the U.S. Fish and Wildlife Service requires presence and absence surveys.¹⁰¹

Vulcan has contracted to conduct biological and threatened and endangered species surveys for the quarry since April 1999, four years prior to the commencement of any public process.¹⁰² Yet during the nearly six years to date, Vulcan has never conducted the required focused counting outlined by the U.S. Fish and Wildlife Service presence and absence survey protocol over the entire potential habitat on the 1700-acre quarry site.¹⁰³

From the beginning, Vulcan has known that the U.S. Fish and Wildlife Service requires three migration seasons of data (i.e., data collected over three years) to establish presence or absence at a site as large as the 1700-acre quarry.¹⁰⁴ Yet Vulcan has carried out the survey protocol on only

¹⁰¹ U.S. Fish and Wildlife Service, “Minimum Procedures for Determining the Presence/Absence of Golden-Cheeked Warblers and Black-Capped Vireos” (Apr. 3, 2002), *hereinafter* Survey Protocol. This document is enclosed with the comments for inclusion in the record.

¹⁰² 2001 Biological Assessment, at 2.

¹⁰³ Survey Protocol, *supra* note 101, at ¶ 4–5.

¹⁰⁴ See Letter, David C. Frederick, Supervisor, U.S. Fish and Wildlife Service Austin Field Office, to Dr. William Rodgers, Vulcan consultant, at 2 (Mar. 20, 2002) (“Normally, the Service requires a minimum of three years of Service-approved bird surveys to determine the absence of golden-cheeked warblers and black-capped vireos from potential habitat areas before we will concur that a development project will not adversely affect the species.”); 2003 Biological Assessment at 3.

a 400–600 acre portion designated as “Phase 1” of the quarry, leaving the other phases to an unspecified future date after Phase 1 operation begins.¹⁰⁵

This approach is arbitrary and capricious when unsurveyed potential habitat exists on Phases 2–5 of the quarry site for the warbler, as Vulcan,¹⁰⁶ the Service,¹⁰⁷ and the Surface Transportation Board¹⁰⁸ all admit.

The Federal agencies attempt to ignore the presence of potential habitat in Phases 2–5 by deeming it “low quality” and “unsuitable”.¹⁰⁹ This amounts to criteria-free, amorphous, arbitrary line drawing that would only trigger focused counting under the Service’s survey protocol whenever the Federal agencies felt like it, rather than whenever potential habitat existed. That is simply not within their discretion.

Even under the current survey protocols, an apparent lack of suitable habitat is not a sufficient basis to rest a “not likely to affect” determination on in a biological assessment:

¹⁰⁵ 2003 Biological Assessment at 2–3. The Service has slyly termed this approach “somewhat unconventional.” Letter, David C. Frederick, Supervisor, U.S. Fish and Wildlife Service Austin Field Office, to Dr. William Rodgers, Vulcan consultant, at 3 (Mar. 20, 2002).

¹⁰⁶ 2003 Biological Assessment at 3, 6, 13–17.

¹⁰⁷ Letter, Robert T. Pine, Supervisor, U.S. Fish and Wildlife Service Austin Field Office, to Dr. William Rodgers, Vulcan consultant, at 2 (Oct. 17, 2003).

¹⁰⁸ Draft Environmental Impact Statement at 4-109.

¹⁰⁹ Letter, Robert T. Pine, Supervisor, U.S. Fish and Wildlife Service Austin Field Office, to Dr. William Rodgers, Vulcan consultant, at 2 (Oct. 17, 2003) (adopting private consultant’s conclusion in 2003 Biological Assessment at 15); Draft Environmental Impact Statement at 4-109.

National Wildlife Federation v. Coleman would hold that such development along major channels of interstate commerce rises above “mere speculation.”¹¹² Candidly, the important point here is congruence with the scope of the NEPA analysis. If, for the purposes of NEPA, the agency relies on the indirect effect of future rail-served development to claim that Vulcan’s rail segment has independent utility, and is therefore not a connected action with its quarry, then it must analyze the impact of such development.¹¹³

D. The ESA requires the agency to account for indirect effects from the quarry.

¹¹² *National Wildlife Federation v. Coleman*, 529 F.2d 359, 373 (5th Cir. 1976). MCEAA notes that the Surface Transportation Board has not adopted this position. In the absence of any proposed development along the line whatsoever, i.e., without Vulcan’s quarry or any other shipper, the agency’s position must be different, and consistent with *Coleman*, because the agency would “control this development to the extent that they control the placement” of the line. *Id.* at 374. However, MCEAA continues to believe that the agency can maintain its current position only so long as it does not adopt the opposite one when determining scope of the environmental impact statement. In the latter context, MCEAA has previously pointed out Vulcan’s own statements that proposals for other future development have not yet materialized and are speculative.

¹¹³ See *Sierra Club v. Sigler*, 695 F.2d 957, 978-79 (5th Cir. 1983) (applying the same principle in the NEPA context).

One species, the Golden-cheeked Warbler, has recently been found in a variety of habitats other than Ashe juniper hardwood, so the [Service] does not currently allow the use of habitat surveys to determine presence of the species in a proposed disturbance area.¹¹⁰

This undercuts the Federal agencies’ conclusion: that even though focused counting for the presence and absence of the warbler did not occur on Phases 2–5, the totality of the circumstances (habitat quality, absence during screening surveys, and Vulcan’s promise to keep potential habitat areas as buffers) justifies a finding that the warbler is not likely to be affected by the project. Rather, the quality of the habitat supports no inference as to presence or absence. Therefore, additional criteria cannot be used to “overcome” a determination that the agency failed to make.

3. *Habitat destruction has not been considered for future land development*

Meanwhile, the Surface Transportation Board has limited its inquiry into habitat destruction along the rail line to the width of the easement, a distance of 80 feet.¹¹¹ This renders it impossible to evaluate the impact of future rail-served development on the species.

¹¹⁰ 2001 Biological Assessment at 20.

¹¹¹ Draft Environmental Impact Statement at 4-43.

When determining whether a species “is likely to be affected” by the action, an agency must “adequately consider” the “total impact” of its action by considering “indirect effects.”¹¹⁴

The quarry, if not a direct effect or a baseline condition that must be considered, is still an indirect effect within the meaning of *Coleman*.

If the quarry and rail line are “connected actions” under NEPA’s regulation governing the scope of environmental impact statements,¹¹⁵ and the quarry is thus part of the action, then there is no dispute that its effects must be considered in determining whether a species “is likely to be affected” by the action.

Even if the quarry and rail line are not connected actions, however, the agency still has the same duty.

Vulcan and the agency, however, want it both ways. As in the NEPA context, they would create jurisdictional bars where none exist, and insist on inapplicable but-for cause standards while ignoring the applicable law. The result, both under NEPA and the ESA, is impermissible abdication of agency authority and the failure to adequately consider the effects of related actions. Underlying the abdication of authority is the baseless assumption that effects

¹¹⁴ *National Wildlife Federation v. Coleman*, 529 F.2d 359, 373 (5th Cir. 1976).

¹¹⁵ 40 C.F.R. § 1508.25(a), (a)(1) (2004).

on the birds will not occur during the successive phases of quarry excavation, blasting, and operations, including the rail line. The conclusions in the record on this issue consist of a bald assertion that blasting will not affect flora or fauna.¹¹⁶

First, Vulcan absurdly argues that the agency has no duty to consider the quarry at all in its ESA analysis, citing a sole inapposite and misrepresented case holding from the Western District of Kentucky in support of its analysis.¹¹⁷ This is clearly erroneous given “The fact that . . . private development . . . does not result from direct federal action does not lessen the [agency’s] duty under § 7.”¹¹⁸ There simply is no jurisdictional bar to the agency’s duty to consider the “total impact” of the action, including “indirect effects,” regardless of their source.

Vulcan next insists that the duty to consider indirect effects in *Coleman* applies only to those effects that result from strict but for cause.¹¹⁹ This proposition is also incorrect insofar as it would excuse an agency duty to consider the quarry, and Vulcan clearly labors in its argument to ignore the fact that (as it maintains) the quarry is *certain to occur regardless of whether*

¹¹⁶ 2003 Biological Assessment, at 18.

¹¹⁷ Letter, David Coburn, Steptoe & Johnson, to Victoria J. Rutson, Section of Environmental Analysis, at 9 (Mar. 10, 2004).

¹¹⁸ *Coleman*, 529 F.2d at 374 (5th Cir. 1976).

¹¹⁹ Letter, David Coburn, Steptoe & Johnson, to Victoria J. Rutson, Section of Environmental Analysis, at 10 (Mar. 10, 2004).

“Similarly,” the court wrote, “the fact that timber management practices have in the past destroyed habitat of the crane does not lessen the duty of the [agency] to insure that the [project] and accompanying private development do not jeopardize the existence of the crane”¹²⁴ “Irrespective of the past actions of others,” the agencies “have a duty to ensure that the highway and the development generated by it do not further threaten the crane.”¹²⁵

Absent that analysis of past actions, i.e. baseline conditions, it would be “questionable whether the crane could survive . . . the indirect effects of the highway.”¹²⁶

Given the clear language of *Coleman*, does the agency really think that it would be excused from considering the effect of *past* actions, such as grazing and development, on the warbler and the vireo? No. The draft environmental impact statement considers these factors.¹²⁷ There is no “but for” limit on baseline conditions.

Having a clear duty to consider past and present non-Federal actions, then, there is no doubt that the agency must also consider future non-

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *National Wildlife Federation v. Coleman*, 529 F.2d 359, 373 (5th Cir. 1976).

¹²⁷ Draft Environmental Impact Statement at 3-26.

the rail line is built. Simply put, it is inexcusable, as well as arbitrary and capricious, for the agency to ignore a *known baseline condition* when determining the impact of its action on the warbler and the vireo.

As the Fifth Circuit stated in *Coleman*, the result compelled by the ESA is for the agency “to insure that [the project] will not jeopardize the [species] or modify its habitat,” with the bottom line being “whether the [species] can survive the additional loss of habitat.”¹²⁰

In *Coleman*, the U.S. Fish and Wildlife Service had found that a segment of Interstate 10 in coastal Mississippi, proposed by the U.S. Department of Transportation, would not “jeopardize the existence” of the endangered sandhill crane.¹²¹ However, the agencies had neglected to consider the “residential and commercial development that [could] be expected to result” adjacent to the highway.¹²² The court found that regardless of the non-federal nature of the development, the Department of Transportation still had a duty under § 7 and “control[led] the development . . . to the extent that they control[led] the placement.”¹²³

¹²⁰ *National Wildlife Federation v. Coleman*, 529 F.2d 359, 373 (5th Cir. 1976).

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.* at 374.

speculative non-Federal actions that will affect whether the warbler and vireo “could survive.” The quarry, certain to occur, is such an action.

By implicating “indirect effects,” the Fifth Circuit calls for the same level of inquiry used for direct effects to apply to what may fairly be called “cumulative effects” or “cumulative impacts” as the term is understood in the CEQ regulations implementing NEPA.¹²⁸

Indeed to the extent that the agency relies on its NEPA analysis to satisfy its ESA duties, it must consider such actions as the certain-to-occur quarry, which the agency itself argues is a “cumulative impact” under NEPA. The level, or depth, of inquiry must be the same in order to produce the result compelled by the ESA. As applied in *Coleman*, that was “whether the crane could survive.”¹²⁹

Even if we accept Vulcan’s “but-for” test for the sake of argument, *Coleman*’s rationale still requires the agency to consider the quarry. We cannot ignore the fact that at the moment the rail line begins operation, it will be 100% functionally interdependent on the output of the quarry. So too with Interstate 10 and its interchanges in *Coleman*. The foreseeable

¹²⁸ See 40 C.F.R. § 1508.7 (2004) (defining “cumulative impact” as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.”).

¹²⁹ *Coleman*, 529 F.2d at 373.

private developments would place their traffic on the highway the moment it was built. Would it have mattered, in evaluating whether the crane could survive the highway and its indirect effects, if the private developers had started clearing their land and operating a few months before the highway was finished? If they and their purchasers had accessed their properties up until highway completion with mule teams, airboats, or pirogues (Cajun dugout canoes)? Would the agency have been excused from considering their foreseeable and certain-to-occur impacts, when determining if the crane would survive the impact of the federal action? This is the poverty of Vulcan's argument that because the quarry may be served by trucks, some jurisdictional bar can be contrived to excuse the agency from its duties under the ESA. The duties imposed on federal agencies by the ESA do not permit decisionmaking or analysis in a vacuum. There is no basis for Vulcan's untenable distinctions, and the agency must reverse its position immediately.

Coleman holds without ambiguity that the agency must consider all phases of the quarry and rail line. In addition, the agency must consider the effects now, before operations begin that may adversely affect habitat on portions of the quarry site that have not been surveyed pursuant to required protocols. *Coleman* did not allow the U.S. Department of Transportation to wait around and see what the effects of Interstate 10 and the *foreseeable*

private development around it would have on the crane. In the same way, STB and FWS cannot wait and see what indirect effects the *certain-to-occur* blasting and other quarry operations would have on the golden-cheeked warbler or the black-capped vireo. Vulcan concedes that it will have to monitor over the life of the project anyhow—but it is the agency's duty to analyze today that has not been satisfied.

In closing, we repeat, as noted above, that under the current survey protocols, an apparent lack of suitable habitat is not a sufficient basis for the agency to rest a "not likely to affect" determination on. The U.S. Fish and Wildlife Service does not currently allow the use of habitat surveys to determine presence of the species in a proposed disturbance area.¹³⁰ Therefore, the quality of the habitat supports no inference as to presence or absence. In addition, the Surface Transportation Board has no expertise in judging habitat quality.¹³¹ Its additional "totality of the circumstances" factors, which lack a scientific basis supporting the validity of their inherent tradeoffs, cannot be used to "overcome" a determination that the agency failed to make.

¹³⁰ 2001 Biological Assessment at 20.

¹³¹ Federal and Federal-State Agencies With Jurisdiction By Law or Special Expertise on Environmental Quality Issues, 49 Fed. Reg. 49754-49778 (Dec. 21, 1984).

Appendix F: Grade Crossing Delay and Safety

APPENDIX F
GRADE CROSSING DELAY AND SAFETY

F.1 TRAFFIC DELAY METHODOLOGY

For each grade crossing analyzed, SEA calculated the time that a particular crossing would be blocked for each train-crossing event and estimated the average delay per vehicle using that crossing in a 24-hour period. SEA used the average delay per vehicle at grade crossings to determine the LOS. The LOS is a letter grading system developed by the Transportation Research Board to express the amount of traffic congestion at signalized intersections. LOS is also used as a qualitative measure of road operating conditions and comfort level of passengers. LOS ranges from A (best) to F (worst). SEA analyzed average traffic delay for all vehicles over a 24-hour period and used the average delay per vehicle to determine LOS for each grade crossing based on ratings described in Table F.1-1.

Table F.1-1
Grade Crossings Level of Service

Level of Service (LOS)	Average Total Delay (seconds/vehicle)
A	<=5
B	>5 and <=10
C	>10 and <=20
D	>20 and <=30
E	>30 and <=45
F	>45

SEA used the following calculations to determine traffic delay at grade crossings. The traffic delay at a crossing includes the time for the train to pass, along with time for any warning device to engage.

Blocked Crossing Time:

$$(D_c) = \frac{L}{V \times 88} + 0.5 \text{ minutes}$$

L = Length of the train, in feet.

V = Train speed in miles per hour.

88 = Conversion factor from miles per hour to feet per minute (1 mile per hour = 88 feet per minute).

	N of trains	Total hrs.	Threshold	Over/Under (hrs)
Zarzamora at Merida	20	65.75	40	25.75
Brazos south of Laredo	20	26.66	40	-13.34
Flores at Lone Star	20	27.32	40	-12.68
Proband at Lone Star	20	N/A	40	N/A
Zarzamora at Merida	16	42.08	40	2.08
Brazos south of Laredo	16	17.06	40	-22.94
Flores at Lone Star	16	17.48	40	-22.52
Proband at Lone Star	16	N/A	40	N/A
Zarzamora at Merida	13	65.75	40	25.75
Brazos south of Laredo	30	39.99	40	-0.01
Flores at Lone Star	30	40.98	40	0.98
Proband at Lone Star	??	N/A	40	N/A

USDOT Grade Separation Criteria

- 40 hours or more of vehicle delay per day at an intersection
 - » Delay per vehicle x number of vehicles/day
- 40 hours is obviously cumulative:
 - » Delay per vehicle
- Delay per train x number of trains
 - » Methodology: Surface Transportation Board formulas

Sheet	Avg length of train (ft)	V train speed (mph)	mph to ft/min	Dt (seconds crossing time)	Dt (seconds crossing time)
Zarzamora at Merida	500	15	88	3.2272727	3.2272727
Brazos south of Laredo	500	15	88	3.2272727	3.2272727
Flores at Lone Star	500	15	88	3.2272727	3.2272727
Proband at Lone Star	500	15	88	3.2272727	3.2272727
Zarzamora at Merida	7	700	10500	52.4166667	1.71604
Brazos south of Laredo	4	500	9110	35.7986887	1.67686
Flores at Lone Star	4	500	9110	35.7986887	1.67686
Proband at Lone Star	4	500	9110	35.7986887	1.67686
Zarzamora at Merida	1440	10500	157500	564.9181818	N/A
Brazos south of Laredo	1440	9110	133320	476.1818182	N/A
Flores at Lone Star	1440	9110	133320	476.1818182	N/A
Proband at Lone Star	1440	9110	133320	476.1818182	N/A
Zarzamora at Merida	1440	157500	2272500	8400.00000	2.00
Brazos south of Laredo	1440	133320	1912320	6573.63636	40
Flores at Lone Star	1440	133320	1912320	6573.63636	40
Proband at Lone Star	1440	133320	1912320	6573.63636	40

So, as a vehicle approaches from a Transportation Engineering manual in the San Antonio (SAB) used the next highest value 1400/vehicle/hour. The next value is for annual (ADT) traffic and was used for ADT to make a crossing over U.S. 97 in Louisiana. Therefore, a value of 900 is appropriate for urban areas. ADT is in both directions at lanes.

Sheet	Avg length of train (ft)	V train speed (mph)	mph to ft/min	Dt (seconds crossing time)	Dt (seconds crossing time)
Zarzamora at Merida	17230	15	88	1224.80352	42.06006
Brazos south of Laredo	10500	15	88	772.72727	26.74444
Flores at Lone Star	10500	15	88	772.72727	26.74444
Proband at Lone Star	10500	15	88	772.72727	26.74444
Zarzamora at Merida	7	700	10500	52.4166667	1.71604
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Proband at Lone Star	1440	9110	133320	476.1818182	N/A

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Brazos south of Laredo	1440	9110	133320	476.1818182	N/A
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Proband at Lone Star	1440	9110	133320	476.1818182	N/A

Future growth

- Vulcan quarry: 4 trains/day (> mile long)
- Laredo-Austin: at least 10% growth
- Toyota: ___ Trains/day
- Los Angeles-Houston container growth (on the line Vulcan will use): at least 10% growth

20 trains: Significant Problems at Zarzamora

	N of trains	Total hrs	Threshold (hrs)	Over/Under (hrs)
Zarzamora at Merida	20	66.75	40	25.75
Brazos south of Laredo	20	26.66	40	-13.34
Flores at Lone Star	20	27.32	40	-12.68
Proband at Lone Star	20	N/A	40	N/A

16 trains: Still requires grade separation today at Zarzamora

	N of trains	Total hrs	Threshold (hrs)	Over/Under (hrs)
Zarzamora at Merida	16	42.08	40	2.08
Brazos south of Laredo	16	17.06	40	-22.94
Flores at Lone Star	16	17.48	40	-22.52
Proband at Lone Star	16	N/A	40	N/A

Issues for San Antonio

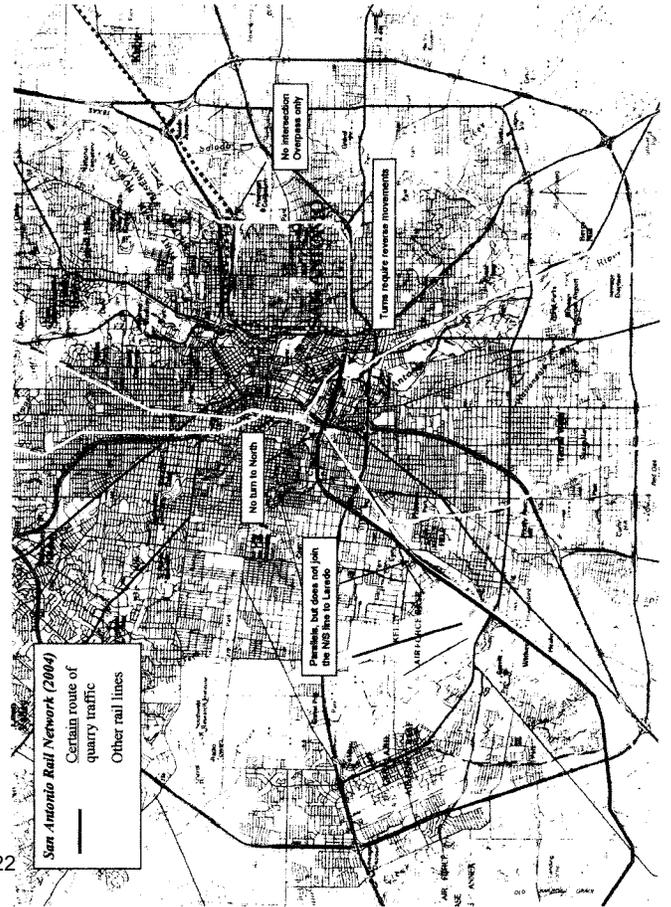
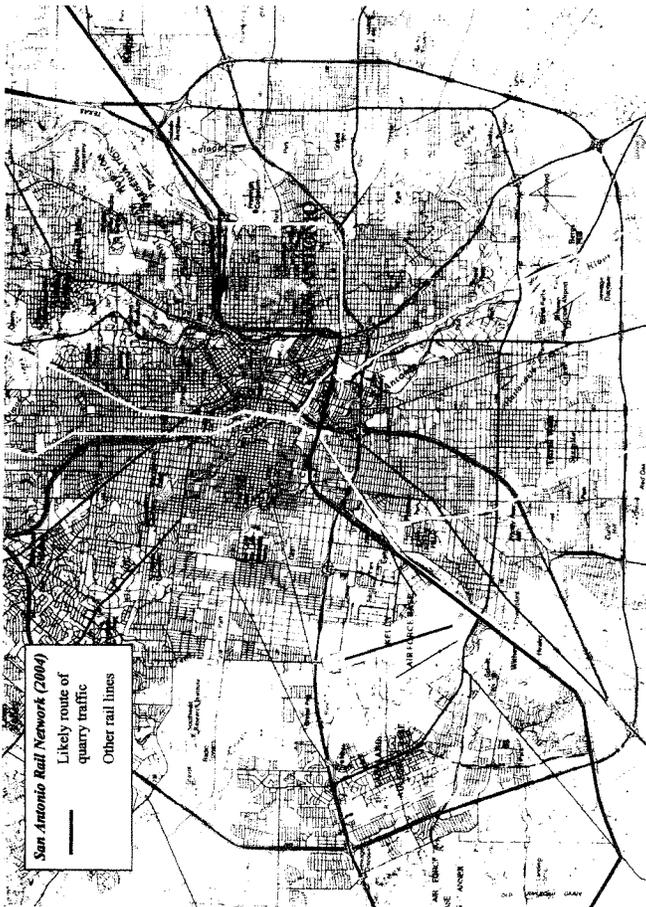
- Protect investment in south side, downtown
 - Backups in rail traffic will affect entire city
 - Redevelopment funds at risk
 - Road traffic delays negatively impact business
 - Educational investments, children at risk
 - 6 to 8 schools within 1/2 mile
- Study justifies grade separation projects now
 - Need will only increase in the future

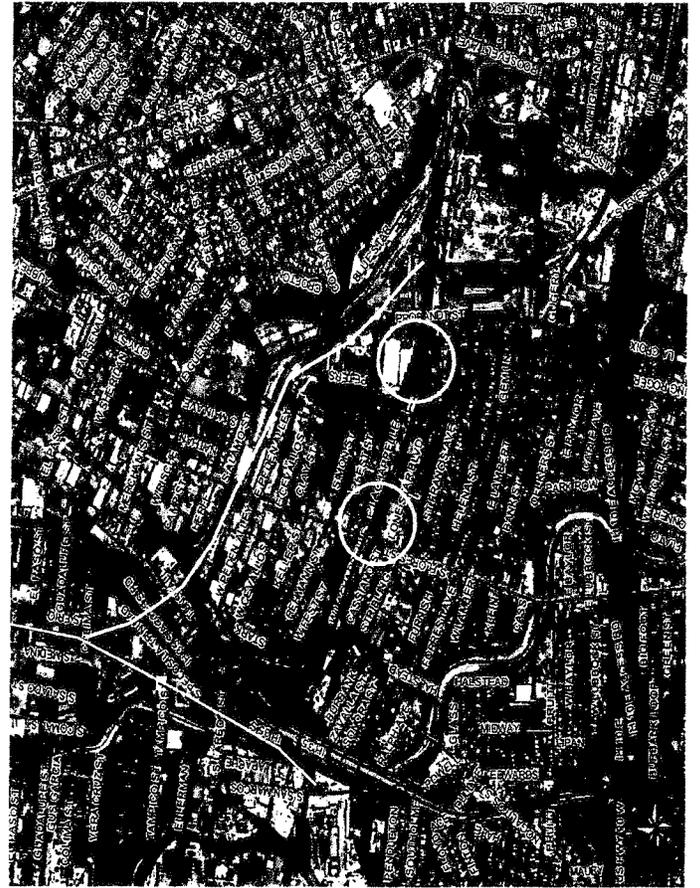
Why this study?

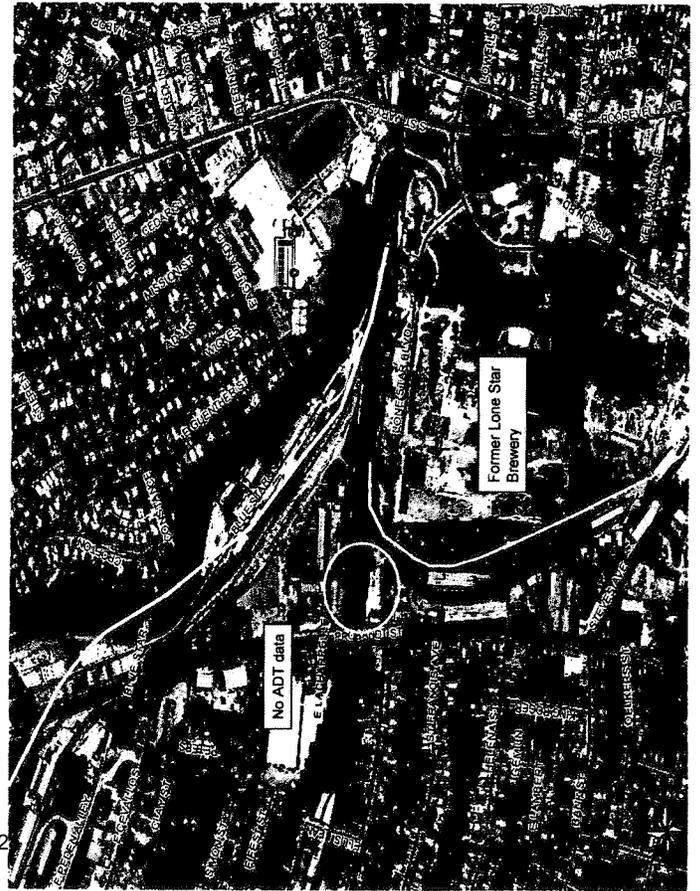
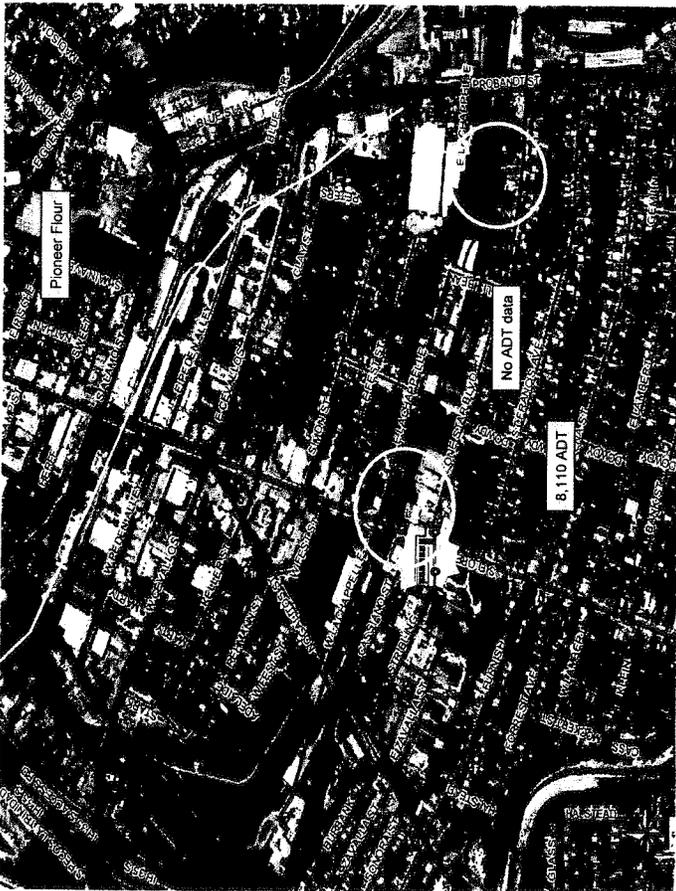
- Legal basis:
 - Nature of impact is **certain**
 - Vulcan quarry traffic will travel through SA at least as far as Brackenridge HS / SA River
 - Only extent is unclear
 - But significant problem exists now
 - Therefore, agency duty to analyze cumulative impact in EIS
 - Cumulative impact analysis for intersections along the segments of concern

Advantages to San Antonio from study now

- Identify pre-existing grade crossing needs today
- Identify future grade crossing needs
 - Before problem occurs
 - Before costs incurred
- No burden on applicant to mitigate...
- But STB could retain oversight to ensure routing changes, cooperation between SA, UP









Status of Listed Species and Recovery Plan Development

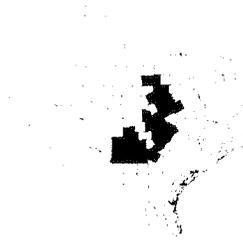
Golden-cheeked Warbler

Dendroica chrysoparia – Endangered

Texas



Golden checked Warbler Photo: Dan Plotz



Current Status:

Threats include habitat loss due to urbanization and other land use practices, as well as nest parasitism by the brown-headed cowbird.

Achievements:

Establishment of the Balcones Canyonlands National Wildlife Refuge has begun with the purchase of <http://www.npwrc.usgs.gov/resource/wildlife/recoprogram/states/species/dendchry.htm> 1/10/2005

3,500 acres containing golden-cheeked warbler habitat, offering safe haven for the bird on Federal land. Formal section 7 consultations also have been completed for a variety of projects including: a golf course and resort hotel, apartment and housing complex (Army Corps of Engineers); business development (Environmental Protection Agency); radio tower (Federal Communications Commission); and various highway projects (Federal Highway Administration). Consultation resulted in no-jeopardy biological opinions, and all reasonable and prudent measures were accepted. Two other section 7 consultations are anticipated on military base operations (Department of Defense) and technical assistance on brush clearing and conservation measures (Soil Conservation Service). In addition, Travis County, the city of Austin, The Nature Conservancy, Texas Parks and Wildlife Department, National Audubon Society, Fish and Wildlife Service, and other groups continue to cooperate on a comprehensive Habitat Conservation Plan for seven listed species in the Austin, Texas, area. Also, the Golden-cheeked Warbler Recovery Plan has been completed, and a recovery team appointed. The Fish and Wildlife Service is working with the Texas Parks and Wildlife Department, Soil Conservation Service, and other entities to formulate Golden-cheeked Warbler Conservation Management Guidelines for private landowners.

Current Recovery Needs:

Needed recovery actions include increased landowner education and involvement, identification of winter and migratory habitat, reduced nest parasitism from cowbirds, and protection of all habitat types (e.g., nesting, wintering) required to recover this bird.

Section 6 Funding and Activities:

The Texas Parks and Wildlife Department received \$20,500 in FY 1991 and \$35,000 in FY 1992 for a Geographical Information System (GIS) project to locate potential warbler habitat. A total of \$53,000 funded the GIS, with \$2,500 set aside to conduct banding and a habitat study.

Partnerships

Department of Defense: Fort Hood Military Reservation and Camp Bullis are monitoring goldencheeked warbler populations. Fort Hood also is conducting a banding project. Both studies are in their second year.

Texas Parks and Wildlife Department: Involvement in the Habitat Conservation Plan and the Conservation Management Guidelines has helped to move species recovery activities forward.

The Nature Conservancy: The Hill Country Bioreserve, under development by this Fish and Wildlife Service partner, includes a majority of the species' range.

Recovery Plan Status:

Plan approved 9/30/92.

Northern Prairie Wildlife Research Center

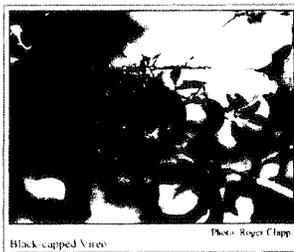


Status of Listed Species and Recovery Plan Development

Black-capped Vireo

Vireo atricapillus – Endangered

Texas



Black capped Vireo Photo: Roger Clapp



Current Status:

Loss of habitat to urbanization and other land uses, and nest parasitism by the brownheaded cowbird, continue to pose threats to the blackcapped vireo in Texas.

Achievements:

Cowbird control seems responsible for increased vireo nesting success in two populations, one at Fort Hood Military Reservation and one at Kerr Wildlife Management Area. Formal section 7 consultations have been completed for a variety of projects; all resulted in no-jeopardy biological opinions and all reasonable and prudent measures recommended were accepted. The Black-capped Vireo Recovery Plan also has been completed. As a result, the Fish and Wildlife Service is working with the Texas Parks and Wildlife Department, Soil Conservation Service, and others to formulate conservation management guidelines for private landowners. In addition, Travis County, the city of Austin, The Nature Conservancy, Texas Parks and Wildlife Department, Audubon Society (Travis

County Chapter and the Regional Office in Austin), and others are cooperating with the Fish and Wildlife Service on a Habitat Conservation Plan for the vireo and six other species in the Austin area. A bond election approved \$22 million for the purchase of Resolution Trust Corporation lands to preserve habitat for these species. Also, the Fish and Wildlife Service is purchasing land for the Balcones Canyonland National Wildlife Refuge, which will protect habitat for the vireo and other rare species.

Current Recovery Needs:

Actions necessary to recover the species include cowbird control, continued monitoring of vireo populations, and habitat restoration and management. Research needs include examining the biology/ecology of vireos on their wintering grounds, determining the effects of nest predators on reproductive success, and defining habitat requirements.

Section 6 Funding and Activities:

The Texas Parks and Wildlife Department received \$30,000 in FY 1992 for vireo surveys and management, including cowbird control, on State lands.

Partnerships

Department of Defense: For 6 years, the Department of Defense has been involved in black-capped vireo activities. Fort Hood Military Reservation and Camp Bullis have been monitoring vireo populations. Fort Hood also is conducting a banding project, controlling cowbirds, and experimenting with cattle removal from selected areas to determine the impacts on nesting success.

Texas Parks and Wildlife Department: The Department is conducting vireo surveys and management, including cowbird control, on State lands.

The Nature Conservancy: This organization is developing the Hill Country Bioreserve, which includes part of the vireo's range.

Recovery Plan Status:

Plan approved 9/30/91.

Northern Prairie Wildlife Research Center

MINIMUM PROCEDURES FOR DETERMINING THE PRESENCE/ABSENCE OF GOLDEN-CHEEKED WARBLERS AND BLACK-CAPPED VIREOS

Last updated 04/3/02

1. Endangered Species Permits must be obtained from FWS - Region 2 Office in Albuquerque (Stephanie Weagley 505/248-6663 or email FW2_TE_Permits@fws.gov) prior to work in occupied endangered species habitat. Texas Parks and Wildlife Department also requires persons working on endangered species to obtain a permit (512/389-4800). If there is a question about whether a permit is needed for conducting work in endangered species habitat, please call the Austin U.S. Fish and Wildlife Service Office at 512/490-0057.
2. The survey seasons are as follows:
 - a. Black-capped vireo - April 10 to July 1* and
 - b. Golden-cheeked warbler - March 15 to May 15.

* A minimum of 50% of the surveys for the BCW must be conducted between April 10 and May 31
3. We recommend survey times start 30 minutes before sunrise. All surveys must be completed by one o'clock in the afternoon.
4. A minimum of five visits with no more than 1 visit within any 5-day period.
5. Total survey time should be a minimum of 4 hours per 100 acres of habitat per visit (habitat is defined in the U.S. Department of Interior, Fish and Wildlife Service's "Guidance Concerning Review of Endangered Species Habitat", Revised April 1994).
6. Surveys should be conducted on days when weather conditions are suitable for the detection of bird singing. Robbins (1981) makes recommendations for acceptable limits of weather conditions and optimal conditions for increasing detection. Robbins (1981) recommends a wind speed of 12 mph as a generally acceptable maximum for satisfactory count results.
7. A minimum of 1 hour per visit is need regardless of the size of the site.
8. Taped or play back recordings of BCW or GCW or screech owl calls may be used only after the above methodology (5 visits, 4 hours/visit) have been exhausted and no birds have been located. Tapes must be used judiciously to avoid behavioral impacts. Tapes must be used to verify negative results (absence of target birds).
9. Reports must include date and year, weather (e.g., wind speed, temperature, precipitation), start and end time, number of birds heard or observed (to include absence of birds from a site), site name, whether tapes were used and observers' name(s). Two maps (7.5 min quad maps only) must be included in the report. One map of the site with location of the project area and the survey routes and another map with the bird detections as described by the International Bird Census Committee (Committee) (1970). Descriptions of habitats found on the site must also be included in the report. If available, also include GPS location information. Data collected in lat long (decimal degrees), NAD 83 is preferred. If collected in an alternate coordinate system, please report the coordinate system and datum the information was collected in. Also, please

<http://www.npwr.usgs.gov/resource/wildlife/recoprogram/states/species/vireatrt.htm>

1/10/2005

report the GPS unit model and its accuracy, and if any real time correction or post processing was done.

The above methodology is limited to determining the presence/absence of golden-cheeked warblers and black-capped vireos. It does not provide sufficient data to determine bird densities or territories. The results of surveys must be reported (as described above) to the U.S. Department of Interior, Fish and Wildlife Service in the annual permit report whether or not the survey detected any target species.

If bird densities or territorial mapping is needed then the methodology described by the Committee (1970) should be followed. The following exceptions apply: (1) the entire project area will be censused, not a sample plot; (2) all detections on the edge of the project area will be recorded even if more than half of the territory is off the project area; (3) the survey season is as described above; and (4) the time spent per visit and the number of visits should be sufficient to document the densities of the target species and suspected territories in the project area. Reports should include the information discussed above (for presence/absence reports) as well as the locations of all bird detections (by sex and age if identifiable), nests (if incidentally), contemporaneous detections, etc. registered on 7.5 min quad maps (or larger scale) as established by the Committee. Actual locations should be mapped rather than indicating territories or areas of use. Suspected territories could be mapped in addition to actual locations. Descriptions of habitats found on the site, whether or not birds were located in it, must also be included in the report. If available, you may include this information in the same format described in the first paragraph of this section.

10. Exceptions to this methodology may be allowed only through coordination with and approval of the Austin U.S. Fish and Wildlife Service Office.

Field Supervisor
U.S. Fish and Wildlife Service
10711 Burnet Rd., Suite 200
Austin, Texas 78758
(512)490-0057/(512)490-0974 (FAX)

LITERATURE CITED

- International Bird Census Committee. 1970. An International standard for a mapping method in bird census work recommended by the International Bird Census Committee. Audubon Field Notes. 24(6). 722-726.
- Robbins, C.S. 1981. Bird activity levels related to weather. Pp. 301-310. in C.J. Ralph and J.M. Scott (eds.) Estimating numbers of terrestrial birds. Studies in Avian Biology No. 6. Cooper Ornithological Society. Lawrence, Kansas.

Congress of the United States
House of Representatives
Washington, DC 20515-4323

January 10, 2005

#E1-1375
RS

Received
1/10/05

January 10, 2005

Ms. Victoria Rutson, Chief
SEA Section
Surface Transportation Board
1925 K Street S W
Washington, D.C. 20423

Received
1/10/05

Re: FD 34284
Vulcan Materials/SGR project
Medina County, TX

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423

Case#: 2028573

Dear Secretary Williams:

Please find enclosed correspondence from my constituent, Dr. Robert T. Fitzgerald, President of the Medina County Environmental Action Association (MCEAA). Dr. Fitzgerald on behalf of the MCEAA members has requested that I submit the following documentation to the Surface Transportation Board for consideration of the proposed construction of the Vulcan Materials, Southwest Gulf Railroad Company's rail line in Medina County.

I thank you in advance for your consideration and cooperation through this process. Please review this matter and respond to me at my San Antonio district office. My District Director, Mr. Richard Martinez and Constituent Liaison, Gabriel Lozano, are working with me concerning this matter; should you have any questions regarding the MCEAA's enclosed documentation please feel free to contact my San Antonio office.

Dear Ms Rutson:

Enclosed are several items for submission for the EIS for the above referenced project.

This includes the information requested by Ms. Rini Ghosh at the public meeting of December 2, 2004.

We are asking our U. S. Congressman, Henry Bonilla, to submit this to you for us.

Thank you for your consideration.

Sincerely,

Robert T. Fitzgerald

Robert T. Fitzgerald, President
Medina County Environmental Association, Inc.

Sincerely,

Henry Bonilla
Member of Congress

Encl:
Information on historical features, Quihi area - Blue Book
Map of population
File of letters from individuals
Flooding information and photos

HB:gl
Enclosure

Enclosed documents scanned in as
separate documents.

Letters from individuals and map of population
scanned in as separate documents. Original copies
of some maps, photos, and figures submitted in
color. Please contact the Section of Environmental
Analysis to view a color copy.

PLEASE REPLY TO:
 1115 WUNDERBACH, SUITE 300
SAN ANTONIO, TX 78220 (210) 897-9055
 1300 MATAMOROS STREET, SUITE 113B
LAREDO, TX 78040 (956) 726-4892
 111 EAST BROADWAY, SUITE 101
DEL RIO, TX 78840 (830) 774-6547
 107 WEST AVENUE 6, #14
ALPINE, TX 79830 (432) 837-1313
<http://www.house.gov/bonilla>

QUIHI

Quihi is one of the four original towns (all four were settled by the famous Henri Castro and his agents) that was in existence in Medina County in the 1840's, the era of European settlers coming to the new Republic of Texas. The other three towns were D'Hanis, Castroville, and Vandenburg. Vandenburg is no longer in existence. When there was no longer water for the settlers there, they relocated to another area south, New Fountain. In 1848, there were no other towns in Texas that were west of San Antonio except these four towns, as per the 1848 J. De Cordova map of Texas. The historical importance of Quihi cannot be overemphasized.

Quihi's origins go back even further than the 1840's, as it was named by the Indians who inhabited and visited the area. The name "Quihi" (pronounced Kwee-hee) was a derivation of the Indian word for the Mexican eagle which proliferated in the Quihi area because of the abundance of game and water at Quihi Lake. Even before the times of Castro's Settlers in 1844, Quihi was a known place on the route (General Wolls Road, shown on J. DeCordova Map) from Mexico to San Antonio traveled by Mexican soldiers and others. Apparently, the only remaining portion of General Wolls Road is the part that goes through Quihi.

Indeed, the location of many of the country roads in the Quihi and New Fountain area are unchanged since the time of the early settlers. These roads continue to be impassable because the frequent flooding of the creeks in the area makes paving difficult, if not impossible, to keep. The citizens doesn't mind too much though. They just hunker down in their homes and wait for the flood waters on the roads to subside. Many consider it a small price to pay to live in a charming, historic area. They are used to the flooding patterns and have built their homes accordingly, just as the early settlers did. Even a small change in the flooding pattern would be disastrous to the present population, as well as the historic features of Quihi. Almost all of the settlers homes, which are limestone cottages built in the European Alsation style, were built very close to the creeks (in their floodplains) for availability of water. In the immediate Quihi area, the water wells are shallow and many were hand-dug by the settlers, and some still in use today. The creekbed is dotted with artesian springs.

OTHER MAPS

The map of the original townsite of Quihi is being further researched. Some descendants still own their properties in the town. Also, we were very fortunate to be able to include the map of R. W. Balzen. He noted over 200 sites of past and present features of the area.

DATA COMPILED BY THE QUIHI & NEW FOUNTAIN HISTORICAL SOCIETY

A special thanks goes to the Quihi and New Fountain Historical Society for the material in Section 6. The Quihi New Fountain Historical Society (Q&NFHS), which was formed to identify, photograph, and document the historical features of the Quihi/New Fountain area. Fortunately, this area has many descendants alive to relate the stories of their ancestors. Thus far, there are over 60 sites identified and marked on the accompanying map, and is in essence raw data to be further described and otherwise "fleshed out" with the "Quihi Story". This is an ongoing process of talking to the remaining descendants of the early settlers and compiling previously written data, letters, diaries, etc. Several sites and locations have not yet been shown on the list, notably locations of the hand-dug wells, General Wolls Road (CR 4516), other early roads, as well as other structures. The final work will encompass and illustrate the lives and times of the Quihi/New Fountain Communities. Work is underway to obtain official state and federal designation as a historic district. This area must be preserved as a community, for it is a prime example of the early Texas settlers frontier culture.

Alyne Fitzgerald
The Medina County Environmental Association, Inc.

A Compilation of the
History and Historical Features
of Quihi, Medina County, Texas

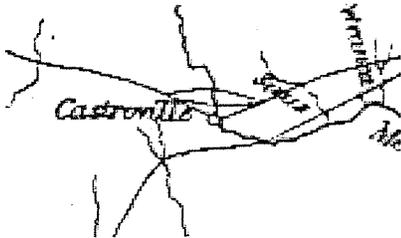
INDEX

1. Map of Medina County in 1848, from J. DeCordova map of Texas
2. Map of Quihi in 1870, as surveyed by Charles DeMontel
3. General Wolls Road
4. "History of the Settlement of Quihi", by Rudolph Schorobiny, 1879
5. "Historical Map of the Quihi Area", by Richard W. Balzen, 1970
6. Survey of Quihi/New Fountain Historical Sites & Features, by the Quihi/New Fountain Historical Society

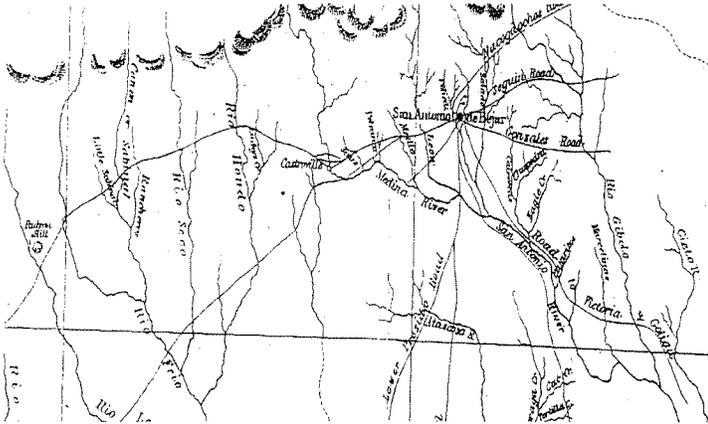
prepared by Alyne Fitzgerald for
The Medina County Environmental Action Association, Inc.
1-8-05

Suggested reading:

"Quihi", pages 132-137 of *The History of Medina County*,
by the Castro Colonies Heritage Association, Inc.
(third printing - 1994)



Detail from US Army Map of Castroville fords in 1846.



Detail of General John E. Wool's Route to the Rio Grande 1846.



INTERSECTION OF
LOWER QUIHI ROAD (CR 365)
AND GENERAL WALLS ROAD (CR 4516)

HISTORY OF THE SETTLEMENT OF QUIHI
By Rudolph Schorobiny

Below we give a very interesting account of the early settlement of Quihi, situated thirty-five miles west of San Antonio, written by Mr Rudolph Schorobiny, one of its best citizens. Mr. S. was the first farmer in that neighborhood to successfully grow a crop of onions in that settlement, and is known for his intelligence and worth. We commend this article to prospective colonists, who can thus learn of the trials of the early settlers in western Texas, and the bright picture of prosperity this little colony presents today.

How different the experience of the immigrant today: he finds no Indians to molest him, and the schoolhouse and church already built, and the path of the wilderness blooming with civilization.

Quihi, Medina Co., Texas,
Sept. 1, 1879

Lorenzo Castro, Esq.,

Dear Sir: I beg to acknowledge receipt of your favor of Aug. 15, as well as of the copies of the *Texas Sun* you had the kindness to send me. In complying with the wish you expressed that I should give you some information concerning the beginning of our settlement at this place, I must rely upon your kind forbearance, as I have to write from memory, not having made any written notes.

In the commencement of March, 1846, the first settlers, numbering about twenty-five families, started for the new colony of Quihi, on the Quihi creek, ten miles west from Castroville. It was a lovely landscape, encircled with mountain ridges of highly fertile soil, with good water, and an abundance of building and fence material. To every family a city lot of twenty acres was gratuitously given by the founder, Mr. H. Castro, apart from the head right of 320 or 160 acres. Mr. Castro appointed two men, James Brown and David Burnham, to provide the colonists with game, which abounded in the neighborhood, and as they were experienced and practical men, to advise and superintend the colonists. A Mexican by the name of Aug. Trevino proved himself very useful as teamster and instructor in cattle raising. The agriculturists were furnished with corn meal and bacon, together with some implements. Everything was progressing finely, and everybody was busy to build houses and plant corn when a dreadful blow was dealt to our Colony. The family of Brinkhoff consisting of five persons located in the so called lower village, were murdered by Comanche Indians, which sad event caused a portion of the colonists to leave the place, and move to San Antonio or other regions.

At this point you will pardon a slight digression from the subject proper, as I must briefly dwell on an episode intimately connected with myself.

THE HISTORY OF THE SETTLEMENT OF QUIHI

In May, 1846, Dr. Acke, the brothers Horn, and myself, started from Houston to Castroville, intending to join Castro's colony; having settled at Quihi, we for a short time tried farming; but none of us possessing either sufficient experience or means, this agricultural society in consequence of trials, disappointments and sickness, quickly dissolved, and we parted. At this time, August 1846, John Connor was forming a company of rangers for the protection of the settlers against the redskins, which company I joined at Castroville, the recruiting station. Two months later we were enlisted in the U. S. army for twelve months, and after having done duty in western Texas and Mexico, we were discharged at the end of one year. Having saved a few hundred dollars from my pay, I settled on my head right in the colony of Quihi, where I married and again began to farm, being, according to the notions of that time well provided with all the means of living. Yet I had lived there hardly three months, when one day in February, 1848, a troop of Lipans and Kickapoos entered our village in broad daylight, during my absence. They murdered Bleasus Meyer, who was engaged in farm work, a few steps from my place, and having robbed our house of everything, they forced my wife to ride away with them. She however, had so much presence of mind, that after the distance of a half mile she jumped from her horse and concealed herself in a neighboring thicket. The Indians fearing pursuit, fired several arrows at her, one of which wounded her in the spine. Still she was left so much strength, that she could reach the colony, where she found good nursing at Mr. Baptiste Schmidt's house, so that she recovered in a short time. Here I consider it my duty to make mention of the kindness of Mr. Castro. From time to time he visited our settlement, making inquiries about the condition of every settler, and trying to alleviate their wants; hence, having become informed of my heavy loss, through the Indians, he not only sympathized with me, but also presented me with a town lot of considerable size in Quihi town, where we dwelt for six years till we removed again to the place where the redskins had plundered us.

Pardon, dear sir, this deviation of mine, whereby I solely intend to do justice to Mr. Castro's often misjudged character, for through a friend of mine, Major Florian Brauneck, who knew Mr. Castro intimately, I have become acquainted with the great difficulties under which the founder of the colony labored; and I remember well that his officers and agents many times failed to execute his generous aims in behalf of the settlements, and frequently preferred their own individual aggrandizement to the prosperity of the colony. Maj. F. Brauneck once expressed himself to me to that effect, that Mr. Castro would never receive sufficient thanks or reparation for the great personal sacrifices and considerable trouble which he incurred in founding his Texas colonies.

At first our colony made but little headway in agriculture, as the settlers lacked suitable draught animals and necessary implements; moreover the continual danger of fear and prevailing insecurity of life and property, caused by Indian raids, caused our settlers to be despondent and apathetic, yet perseverance, as it will everywhere, carried us through our troubles. The military road built from San Antonio to the Rio Grande, via Quihi, soon led

to a marked improvement of our condition; our productions found a good and ready market at the forts which the U. S. Government erected along the Mexican boundary. Our Quihi became a gathering place for the farmers of the neighborhood, and easily and quickly acquired a stately church building, as well as a spacious school. The settlement gradually began to expand; hundreds of acres were put under fence and plow; cattle raising was a paying business, as the military posts required a large amount of beef every year. Altogether, the period immediately preceding the rebellion was one of the highest prosperity for our village and colony. Then came the civil war, and with it a period of progression, as fields and habitations became desolated, and fell a prey to temporary decay. Since then, however, our colony has quickly recovered from its deplorable effects, and has entered on a new era, of which we hope it will endure for many, many years to come. Our village population is increasing steadily; our mode of agriculture is being improved by the appliance of time-saving machines; cattle raising alone suffers somewhat from losses through thieves and raiders. Everybody is busy now—even those who were lazy before, now vigorously take a part in the general activity of our settlement. Thus we look forward to a happy future with hopefulness and cheerful hearts. In conclusion, I may be permitted to state to you the present condition of our colony, as far as regards its extent, its population, and its resources.

In Nov. 1846 ten more families coming from East Frisia, joined the Quihi colony; but not remembering the names of all, I herewith omit them from the names of the original members. These were,—

- | | |
|------------------|---------------|
| BAPTISTE SCHMIDT | JOHN RIEDEN |
| AM. REITZER | JACOB RIFF |
| BL. MEYER | V. BOHNEKAMP |
| H. GERDES | H. WILPERS |
| H. GERSTING | JAMES SIEVERS |
| B. BRUCKS | FRITZ BAUER |
| BRINKHOFF | WENING |
| BRICKMANN | OPUS |
| DEUTERS | JOHN TANCHER |
| H. SCHNEIDER | RENSING |
| GASPER | EISENHAUER |
| LOUIS KORN | DR. ACKE |

Yours respectfully,
RUDOLPH SHOROBINY

The lands which the founder of the colony allotted to the several settlers lie from three to four miles in every direction from the centre, represented by our village of Quihi, altogether an area of more than 3000 acres is now in cultivation, of which two-thirds are planted in corn, the rest in wheat, oats and other cereals and vegetables, and every year additional acres of wild lands are again subjugated and reduced to cultivation. In ordinary seasons the productiveness of our soil is such, that it will bring forth twenty-five to forty bushels of corn; ten to twenty bushels of wheat; fifty to seventy-five bushels of oats, while under propitious weather these gains have often been exceeded. The population may justly consider themselves the most prosperous and active in the whole country. The colonists possess a considerable number of good agricultural machinery, and broken draught animals. They always are in the enjoyment of perfect health, as the climate is so very salubrious and mild, and they live in well-built and comfortable dwellings. Schools and churches are numerous and liberally sustained, as they are justly regarded the promoters of order and intelligence. The whole population of the colony, amounting to about 600 heads is distributed as follows: Quihi 60 families; Soldiers' Camp 20; New Fountain 15; Mumme's Settlement or New Vandenberg 15; sum total 100 families. Finally I beg to subjoin the names of those persons who formed the first beginning of the colony. Many of these have gone to their heavenly rest, among them not a few who have met with an untimely end. Still, there are some yet living, who after hard struggles and severe trials are now enjoying the fruits of their labors in peace and contentment.

The Texas Sun, San Antonio, Texas, March, 1880.

MECHANICAL MAP OF THE QUIHI AREA
Numerical Index

PART VII CHAP. XIX page 1

Present or Past Owner	Index No.	No.	Present or Past Owner	Index No.	No.
Methodist Luth Church	1	1	Fritz Roehle Place	16	1
Barnage, Brick Hall, Pavilion			Leo Boehle	16	1
Old (Original) Quihi Cemetery					
One Room School (not in use)	2	1		18	1
Old Ben Brucks Place	3	1	Herbert Reitzer & Holda me Balzen	19	1
Eikert u Frenie Neumann	4	1	Henry Lindeberg	20	1
Verona (Vernette) place	5	1	Geo Bohmfalk - Joe Karm	21	1
Sieman Rolf - blacksmith shop gone	6	1	J.R. Triplett - (Lindeberg)	22	1
Gissy Aden Place - single woman later Nick Reitzer	7	1	Jon Braifen Place (grave)	23	1
Henry Schulte, bachelor	8	1	Henry Loesberg Place	24	1
Old Bless - Old Frericks store	9	1	Fritz Boehle & Emil Boehle	25	1
Old Grill store			Johann Nietsenhofer	26	1
Fritz Boehle place	10	1	Fritz Borchers	27	1
Centennial Marker of Quihi Water Hole (perhaps Santa Anna W. Hole)	11	1	H. L. Pichot	28	1
Joe Horn - blacksmith shop (gone)	12	1	Eh mie Schmidt	29	1
Quihi Shooting Club	12A	1	Ernest Nietsenhofer	30	1
Old Ernest Balzen Store & Res.	13	1	New Quihi Luth. Cemetery	31	1
August Boehlen Place	14	1	Jack Walsh (daughter of Alma) Brochers	32	1
Ernest Balzen Res. & Res of widow Annie - & Edwin Boehle	15	1	John Henry Heyen	33	1
			Cross Tree (Heinrich Horn Balzen)	34	1
			Geo. H. Heyen	35	1

HISTORICAL MAP OF THE QUIHI AREA
Numerical Index

Part VII Chap. XIX page 2

Present or Past Owner	Index No.	No.	Present or Past Owner	Index No.	No.
Leop Schweers	36	1	Windmill	51	1
William Schweers & Schuwers Cem.	37	1	Polus Oefinger - Annie Dailey	52	1
Henry Schweers (Meat Market 1920)	38	1	Christian Fuos place		
Mimke Mimken Saathoff (burned)	39	1	Christian Oefinger	212	2
Jacob Saathoff	40	1	Andy Oefinger	212	2
	41	1	? Gerdes	54	1
Old Oefinger Place (Schweers Saathoff)	42	1	Fournier Place	55	1
Site of 1st Quihi School (Deutsch-englische Schule) beside a big Oak tree - only stone foundations	43	1	Wayne Marty	56	1
Humble Oil Pipeline Pump Sta also site of Henry Aug Schuohle & Heiligmann house - both gone	44	1	Melvin Balzen	57	1
Heinrich Harm Balzen & Herman B	45	1	W. Schuchle - Ray Dailey	58	1
site of burial of remains of Johannes Oefinger - between Eastermast two of 3 Oaks in an E-W line	46	1	Herman Gerdes Saathoff Horn, Winkler - Jacob Oefinger Walter Bruchot Edwin Schulte Place	59	1
Henry Schuohle	47	1	Fritz Hartman	Brocks	61
Fritz Fuos Place with Jacob Fuos place further in	48	1	Johnny Hartman	Brocks	62
site of Johannes Oefinger Boxing - use near large Oak	49	1	Barn		63
Christian Oefinger Place (Rock) Emil Fuos place further in	50	1	Brocks		64
			Marvin Lee Niebar - Julius Brocks		65
			Marion Brocks	Aug. Brocks	66
			Culpapper	Aug Brocks	67
			Hogan		67A

HISTORICAL MAP OF THE Quilhi Area
Numerical Index,

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Part VI Chap XIX page 3

Present or Past Owner	Index No.	Map No.	Present or Past Owner	Index No.	Map No.
Nelda Beard	68	1	Robt Rief - Dominic Rief	85	3
Jones	68	A	Jim Cain	86	3
Jerome Decker	69	1	Elroy Gardes	87	3
	70	1	J. E. Mueninik	88	3
Walter Saathoff	71	1	Robert Riff	89	3
Harold Hartman	72	1	Mrs Albert Bryant	90	3
Culpepper	72A	1	Billy		
Harry Schweers	73	1	New Fountain Meth. Ch	91	3
Otto Lindenberg	74	1	New Fountain Meth Parish Hall	92	3
Douglas Bohmfalk	75	1	Mueninik Store & Res	93	3
	76	1	Lilly & Nellie Mueninik	94	3
	77	1	New Fountain School - moved away	95	3
	78	1	Alton Hale - Frank Mueninik	96	3
	79	1	Mueninik Cotton Gin Ruins	96B	3
	80	1	Ben Wiemers - Jack Sharp	96A	3
			Jerry Williams - Teddy Wiemers	97	3
				98	3
			Wiemers Oak & Wiemers Place	98A	3
			Ruins being Rebuilt		
			Wesley Wiemers - Geo Wiemers	99	3
			Cletus Horley - Fritz Saathoff	99A	3

HISTORICAL MAP OF THE Quilhi Area
Numerical Index,

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Part VI Chap XIX page 4

Present or Past Owner	Index No.	Map No.	Present or Past Owner	Index No.	Map No.
Marion Mueninik	100	3	Elgin Stiegler - Fritz Stiegler	118	3
Maryn Meyer	100A	1	Rogers	119	3
Albert Redtzer	100B	1	Fritz Stiegler		
D. Brown	101	3	Christian Niethoefter	120	3
	102	3	Chas. Saathoff	121	3
Alfred Saathoff	102	3	Christian Niethoefter	122	3
Alfred Saathoff	103	3	Harvey Stein	123	3
Jimmy Gray - Henry Bohler	102A	3	Schlenz	123	3
Pangs	104	3	Arthur Schlenz	124	3
	105	3	Robert Saathoff - Schneider	125	3
Floras	105	3			
Mrs Nell Richter - Metzger Place	106	3	Ehme Saathoff - Henry Buss	126	3
	107	3	Barn	127	3
Henry Mueninik - Fritz Neumann	108	3	Blank - non Existent	128	3
Fritz Hartman	109	3	Rolf Saathoff - Ehme Saath	129	3
Henry Hartman	109	3			
Clarence Bohler	110	3	Ehme Saathoff	130	3
Jim Gebhart	111	3	Buehle & Phillips - Henry Buss	131	3
Louis Arnold Niethoefter	112	3	Erving Bohmfalk	132	3
Milton Niethoefter	113	3	Douglas Riff	133	3
Robt Niethoefter	113	3	Robert Riff	133A	3
C. J. Heyen	114	3	Louis Bohmfalk	133A	3
Dirk Lindenberg	114	3	Paerner	134	3
Juan Corona	115	3	Henry Anita Saathoff		
Willie Hartmann	115	3	Louis Boehle	135	3
Foster	116	3	Mat Saathoff		
Fritz Bohler	116	3	D. J. Steubing	135A	3
Henry Schulte Sr.	116	3	Geo Karm	135B	3
John Lindenberg	117	3		135B	3
Fletcher Davis	117A	3	Gustav Mueninik	136	3
Ehme Saathoff	117A	3			

HISTORICAL MAP OF THE Quilhi Area

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Part VI Chap XIX page 5

Present or Past Owner	Index No.	Map No.	Present or Past Owner	Index No.	Map No.
Harvey Stein	137	3	Moos	160	6
John Herkmann	138	3	Blackie Tschirhart - Louis Saathoff	161	6
	139	3	Henry Niethoefter	162	6
	140	3	Ernest Mumme	163	6
	141	3	Alton Reed	164	6
Myrlin Mumme - Frank Saathoff	142	3	Horace Britch	165	6
Myrlin Mumme - Fritz Niethoefter	143	3	Elmer Niethoefter	166A	6
- Fritz Niethoefter	144	3	Alvin Britch	166	6
				167	
Clarence Saathoff - L. A. Saathoff	145	3	Prescott	168	6
Henry Mueninik - Emil Werner	145A	3	Johnny Britch	169	6
Albert Bryan - Louis Gardes	145B	3	John Henry Britch	170	6
Willie Boehle - Philip N Boehle	146	3	Elmer Niethoefter	170A	6
Saathoff Place	147	3		171	6
Geo. Boehle	148	3	Henry Winkler	171	6
Fritz Boehle	149	3	Ernest Mumme - Auf Mumme	172	6
Albert Wiemers	150	3	Landsberg School House	173	6
Barn	151	3	W. W. Schmidt		
			Robert Decker	174	6
			? Decker	175	6
			Floyd Griffin	176	6
			Louis Decker	177	6
			H. H. Decker	179	6
			Fohn	180	6

HISTORICAL MAP OF THE Quilhi Area

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Part VI Chap XIX page 6

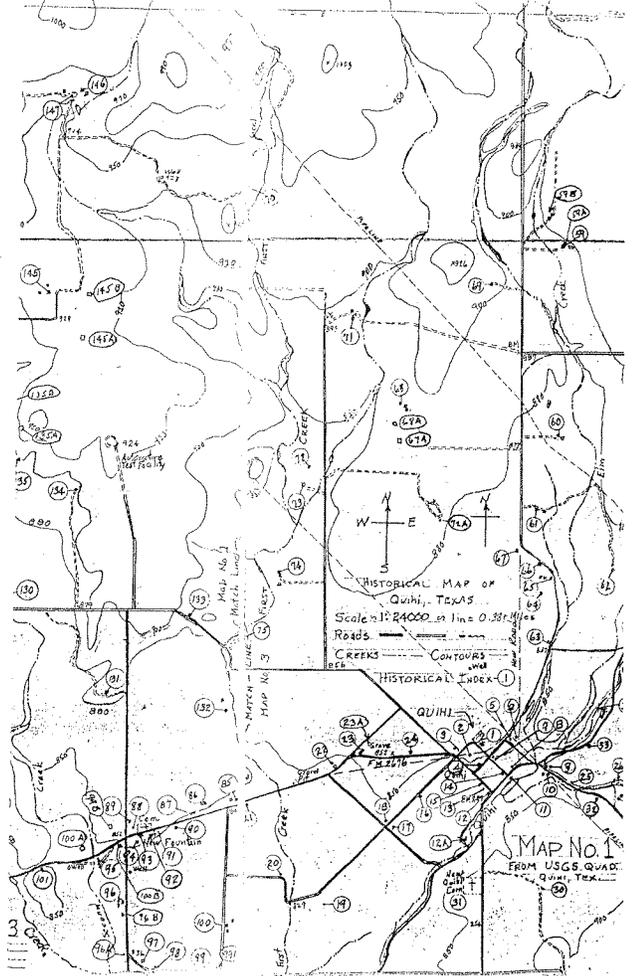
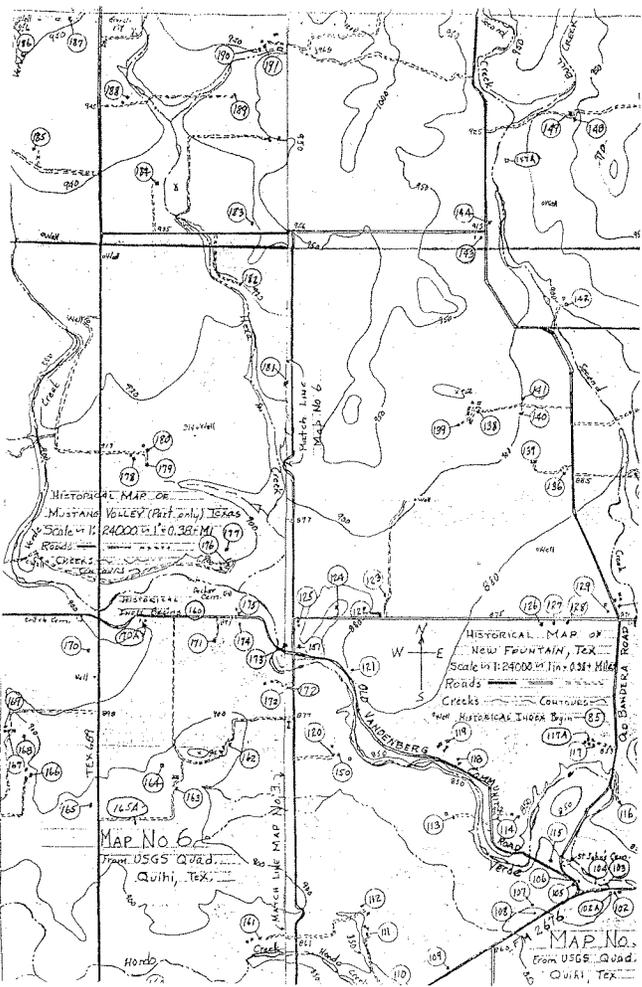
Present or Past Owner	Index No.	Map No.	Present or Past Owner	Index No.	Map No.
Andrew Eckhart - L. Heyen	181	6		201	2
	182	6		202	2
Roy Niethoefter	183	6	C. J. Tschirhart	203	2
Otto Wiemers	184	6	Clinton Martin	204	2
	185	6	Andreas Martin	205	2
	186	6	Approx site where remains of	205A	2
	187	6	Johannes Oefinger were found		
	188	6	Elmer Saathoff	206	2
	189	6	Geo Balzen	207	2
Hunting House	190	6		208	2
Emil Wiemers	190	6			
Charlie Schweers	191	6	Walter Balzen	209	2
D. Wiemers	191	6	Herman Balzen		
			Walter Balzen Pkg & Tin Shop	210	2
			Site of Orig. Harrison Balzen House	211	2
			Walter Balzen Hay Barn & shed	211A	2
			Christian Oefinger	212	2
			Andrew Oefinger	212	2
			Wayne Balzen	213	2
			H. B. Balzen		
			Storm Hill School House	214	2
			Geo. Balzen	215	2
			Theo Balzen		
			Edgar Balzen	215A	2
			Herman Balzen		

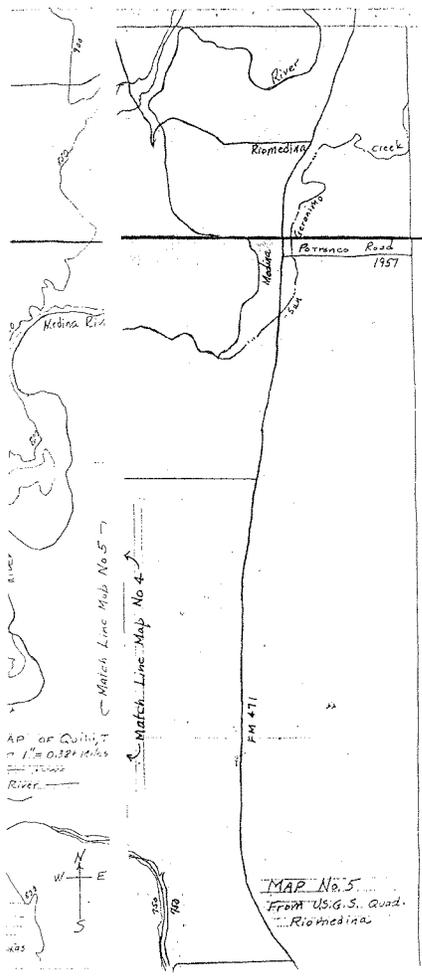
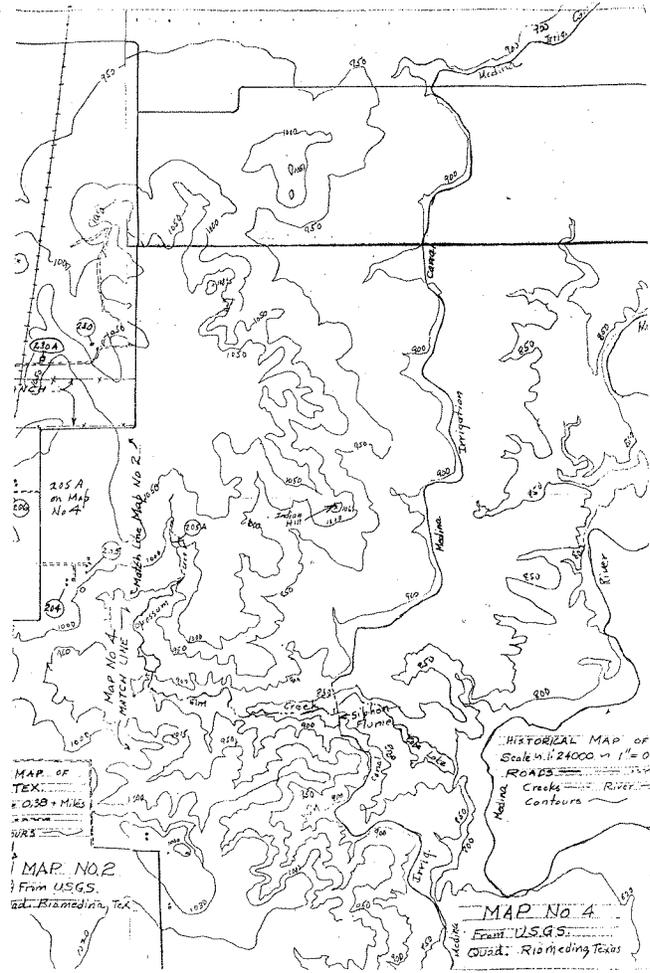
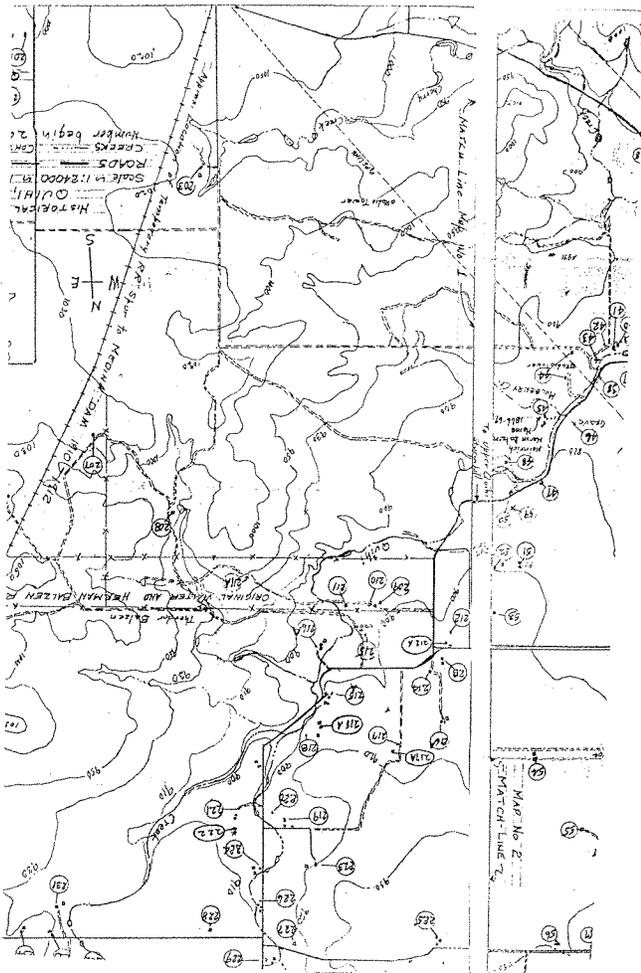
Part II Chap XIX

page 7

Present or Past Owner	Index No.	Map No.	Present or Past Owner	Index No.	Map No.
Milton Balzen	Geo Balzen	216	2		
Harm Gerdes	John Sturm	217	2		
	Harm DeGroot	217A	2		
	Eckhart	218	2		
Louie Oefinger		218A	2		
Pennington	Ben DeJoirno	219	2		
Bennie DeJoirno		220	2		
Old Ben Balzen Place		221	2		
	Fritz Balzen	222	2		
Harry Herman Balzen		223	2		
Mat Saathoff	John Balzen	224	2		
Rutherford	Rose Gerdes	225	2		
	Henry H. Balzen	226	2		
Earl Balzen	Henry Schuchle	227	2		
Clarence Wurzbach		228	2		
Earl Balzen	Schuchle	229	2		
	Dr. Neuman	230	2		
		230A	2		
	Charles Balzen	231	2		
Mace Haby	Rudolph Haby	232	2		
Storl Haby		232A	2		
Hubert C. Balzen	Edwin Balzen	233	2		
Hrs. Edwin Balzen		234	2		

The following 5 pages were submitted as one large map.





The QUIHI and NEW FOUNTAIN HISTORICAL SOCIETY

MISSION STATEMENT

The Quihi and New Fountain Historical Society has been formed to help preserve the community's character, individuality, and vitality by recording the past and documenting the history of Quihi and New Fountain, Medina County, Texas

There is no future without a past

Q & NFHS



February 4, 2004

Preserving America's Heritage

Neecey Schulte
President
Quihi & New Fountain Historical Society
1901 22nd St.
Hondo, TX 78861

Dear Ms. Schulte:

On January 6, 2004, we received your letter regarding the proposed construction of a railroad through the Quihi Creek Flood plain in Medina County, Texas, and its potential impact on historic structures in the Quihi-New Fountain community. As we understand it, the proposed railroad is a 7 mile long rail line intended to serve an aggregate quarry that is yet to be developed. Construction of the railroad will require approval of the Surface Transportation Board (STB), and is thus a federal undertaking requiring review under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470f).

We have discussed the project with Rini Ghosh of the Surface Transportation Board (STB) and she informs us that the project proponent, the Southwest Gulf Railroad Company, is working with the Texas Historical Commission to draft a Programmatic Agreement for this project, and that representatives from the local community have been invited to participate as consulting parties in the development of this document. Programmatic Agreements may be developed for Federal undertakings pursuant to the ACHP's regulations at 36 CFR 800.14(b), to tailor the Section 106 review process to the specifics of a large or complicated project. Because of the high level of local interest and controversy concerning this project, the ACHP has informed STB that we will participate in the consultation on this Programmatic Agreement. We have not yet received a copy of the draft Programmatic Agreement or other information from the STB, but expect that it will be provided soon.

We very much appreciate your concern with the protection of historic values associated with the historic communities of Quihi and New Fountain, and your offer to provide me with a guided tour of the proposed project. Although our agency will at some point want to hear directly from your organization and other local groups, a visit to the project site right now would be premature. Since our responsibility in the Section 106 review process is to provide comments to the Federal agency official (that is, STB), we will need to coordinate any visit to the project area or meeting with local organizations with the STB. Once we have had a chance to review a copy of the proposed Programmatic Agreement and background documentation provided by STB, we will let you know if a site visit is possible. Although we appreciate your offer to cover my travel expenses, I am afraid that our ethics rules prohibit ACHP staff from accepting travel funds from consulting parties other than Federal agencies.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

12136 West Bayaud Avenue, Suite 330 • Lakewood, Colorado 80228
Phone: 303-969-5110 • Fax: 303-969-5115 • achp@achp.gov • www.achp.gov

The QUIHI and NEW FOUNTAIN HISTORICAL SOCIETY

*Survey
Quihi and New Fountain Historic Sites*

Cynthia Lindsey, Chronicler

There is no future without a past

Q & NFHS

Thank you for informing us of your interest in this undertaking and your offer to provide us with a project site tour. If you have any questions, or wish to discuss things further, please feel free to contact me at 303-969-5110 or clegard@achp.gov.

Sincerely,

Carol Legard
Program Analyst
Western Office of Federal Agency Programs

oversized map of
historic sites of Quihi
and New Fountain too
large to scan. Please contact
the Section of Environmental
Analysis to view a copy.

#	Description	Date Completed
1.	Bohlen Place -- originatly an Eckhart place	9/23/03
2.	Stormhill School	1/30/04
3.	Andrew Oefinger -- Old house-has a plaque Christian Oefinger 1918	
4.	Edson & Shirley Oefinger -- Henry Schuehle place-Built 1874 -- sold to Rzee? Then to Andy Oefinger. Old Bader House-Paulus Oefinger lived there.	
5.	Balzen and Schulte Place -- owned by Eric Oefinger	
6.	Oscar Bader Place-built in 1860 by Andrew Oefinger Current owner Furmann.	
7.	Old Willie Schweers Place	9/23/03
8.	Schuehle/Saathoff Place-National Register of Historic Places	9/23/03
9.	C.J. Pichot -- Old Saathoff Place	
10.	Willie Schweers family cemetery.	9/23/03
11.	Willie Schweers old family house.	9/23/03
12.	George Heyen Place- Now owned by Ivy	
13.	Browning house -- now owned by Hosley	
14.	Browning small house w/slits in windows-owned by Hosley.	
15.	Stone house -- caving in -- was grocery store	9/23/03
16.	Home on corner -- next to #15 -- Alfred Schulte	
17.	Old house -- Used to be Post Office and Court House Dog Trot House	9/23/03
18.	Verastigau house -- Arnil Boehle lived there -- Old Dairy	9/23/03

#	Description	Date Completed
39.	Old Shirobiny Hill-house and Cemetery	10/10/03
40.	Old George Wiemer Place-Shirobiny survey	9/23/03
41.	Alfred Saathoff Place-Grossenbachers-Smokehouse Was indian fort-see bullet holes and slit windows	1/30/04
42.	House next to 41. - was Jimmy Gray	
43.	Guinther's Place-rock house falling down	
44.	Old Metzger Place -- Stage Coach Stop	1/30/04
44A.	Old Metzger Place -- Flour Mill	1/30/04
45.	Joe Balzen Farm	1/30/04
46.	New Fountain Church	9/23/03
47.	Frank Fournier Jr.	9/23/03
48.	Gerdes T4 Ranch	9/23/03
49.	Willie Tampke	10/23/03
50.	Leslie & Charlite Crow -- Wiemiers Place	9/23/03
51.	August Brucks Place -- Currently Culpeppers	9/23/03
52.		
53.	Christian Fous house	10/10/03
54.	Amy Saathoff	
55.	Louis Gerdes	10/23/03
56.	Henry Liessberg ?	10/23/03
57.	Heyo Schweers -- current owner Max Walden	10/23/03
58.	Old Muennik Gin	1/30/04
59.	Grave site -- Outside Church yard	

#	Description	Date Completed
60.	Gabehardt, Jim -- Indian house	
61.	Four Mile Water Hole-Gerdes T4 Ranch	1/30/04
62.	William Dorman's Garage	
63.	William Dorman's House	
64.	Quihi Lake	
65.	Sears Catalog Home -- Max Walden	

TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City Quihi Ownership: Public Private
 Property Name Alice & Glenn Bohlen Historic name Eckhart Place
 Address 6220 FM 2676 Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation
 For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1850's Architect/Builder (if known) Eckhart
 Why is this property important to your community? Original settler.

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/Recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? NO If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: Volcan Materials plans to build a quarry & railroad which threatens structure w/ further erosion & flooding
 What do you think would help alleviate the threat? Deny permit for rail line.

4. CONTACT INFORMATION (for person completing form)
 Name Steve Lapp Organization/Affiliation Quihi & New Fountain Historical Soc.
 Address 290 AL 454 City/State/Zip Hondo, TX 78861
 Phone 826 741-3624 Fax _____ Email Steve.lapp@juno.com

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5553 or history@thc.state.tx.us

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

City Hondo, Texas 78861 Ownership Public Private

Historic name Quihi School
Address 676 Hondo, Tex Zip code 78861

National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation
Site name/number for "Property Name" and UTM coordinates or approximate location for "Address" _____

Occupation 1875 Architect/Builder (if known) _____
Important to your community? This is the school I attended as a child and it has lots of memories. It has served as a place for education and a place for socials

Has this property played a role? (check all that apply)
 Archeology Art Commerce Communications Community planning and development
 Education Engineering Entertainment/recreation Ethnic heritage
 Health/medicine Industry Invention Landscape architecture Law Literature
 Performing arts Philosophy Politics/government Religion Science
 Other, specify _____

Threat Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
Yes If yes, approximately how long? 1954

Immediacy of the threat: _____
Alleviate the threat? _____

(for person completing form)
Name Schultz Organization/Affiliation Quihi & New Fountain Historical Society
Address 3201 City/State/Zip Hondo, Tex 78861
Phone _____ Email _____

INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY
Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



BOHLEN House - 6220 FM 2676



ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
County Medina City Hondo, Texas 78861 Ownership Public Private
Property Name Upper Quihi School Historic name _____
Address Hwy 3676 Hondo, Tex Zip code 78861
Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation
For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
Estimated date of construction/occupation 1875 Architect/Builder (if known) _____
Why is this property important to your community? This is the school I attended as a child and it has lots of memories. It has served as a place for education and a place for socials
In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
Is the property currently vacant? Yes If yes, approximately how long? 1954
Briefly describe the nature and immediacy of the threat: _____
What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)
Name Nancy Schultz Organization/Affiliation Quihi & New Fountain Historical Society
Address 1901-3201 City/State/Zip Hondo, Tex 78861
Phone 830-426-2735 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY
Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us

April 1983

UPPER QUIHI SCHOOL

The Upper Quihi School was established in Quihi in 1875, where it remained till 1910 when it was moved to the present place. It is a two-room building conforming to state plans.

For a number of years the school functioned as a rural high school doing nine grades of work, but then due to scarcity of scholastics the school employed but one teacher and was classified by the County Board as an intermediate school doing seven grades of work.

Special attention was given to health, agriculture, and penmanship, though the other branches, such as arithmetic, reading, spelling, history, geography were by no means neglected.

The school entered in County Meets, winning the entire meet one year. Over four hundred students or scholastics attended this school. Thirty teachers taught in the school throughout the years.

The school closed August 30, 1954 when the Upper Quihi School, then in District NO. 5, consolidated with the Hondo and Castroville School District.

The building still remains and is used for community socials and meetings.

2
April 1983

UPPER QUIHI SCHOOL

Upper Quihi School was a two room building with a hall-way in the center used as a library and a stage for programs.

There was a stable near by as the students came in buggies, gigs, horseback or on donkeys. A few of them walked to school.

The water for the school came from a well about one hundred yards across the road. Students were asked to get the drinking water in buckets and place them on the front porch where the cups were dipped into the buckets. Never had more than four tin cups. Everyone shared the cups and luckily nobody got sick from dipping into the bucket and drinking out of the same cup. At a later date the water was piped from the well to the corner of the school house and a fountain installed.

The rest rooms were in the outdoors.

The school house was heated with a wood heater. The wood pile was across the road. The students were asked to get the wood and keep a supply in the room.

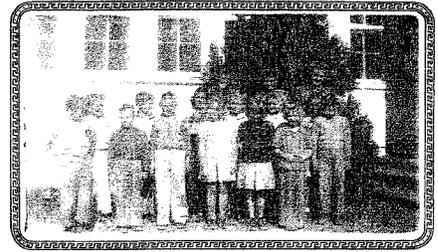
The cleaning of the school was also left up to the students. They were asked to do the sweeping, dusting and cleaning of the blackboards.

The County Superintendent would come to visit the school on occasions. This was a time when all the students were on their best behavior, as most of them were afraid of the superintendent.

The teachers stayed in neighbors homes.

The students had time for play during the morning and afternoon recess and during the lunch hour. Some of the games played were: Hide and Seek, Baseball, Volley Ball, Basketball, Handy Over, Stealing Base, Marbles, Seesaws, Swings, Chin-Bar and Round, Round Take Your Hole.

For fund raising projects they had plays, box suppers, tamale suppers and auctions.



Sturm Hill - Upper Quihi School - 1946



TEXAS HISTORICAL COMMISSION
ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

7

1. IDENTIFICATION
 County Medina City Quihi Ownership: Public Private
 Property Name Henry Schweers/Joanna Muennink
 Address County Road 365 (no #) Hondo, TX Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1858-59 Architect/Builder (if known) Gaston Meyer
 Why is this property important to your community? This property, along with many other homes in the Quihi area, was built by German immigrants sponsored by Henry Castro in 1840-1850. They represent unique examples of architecture of frontier life. Collectively these homes should be preserved before they are razed.

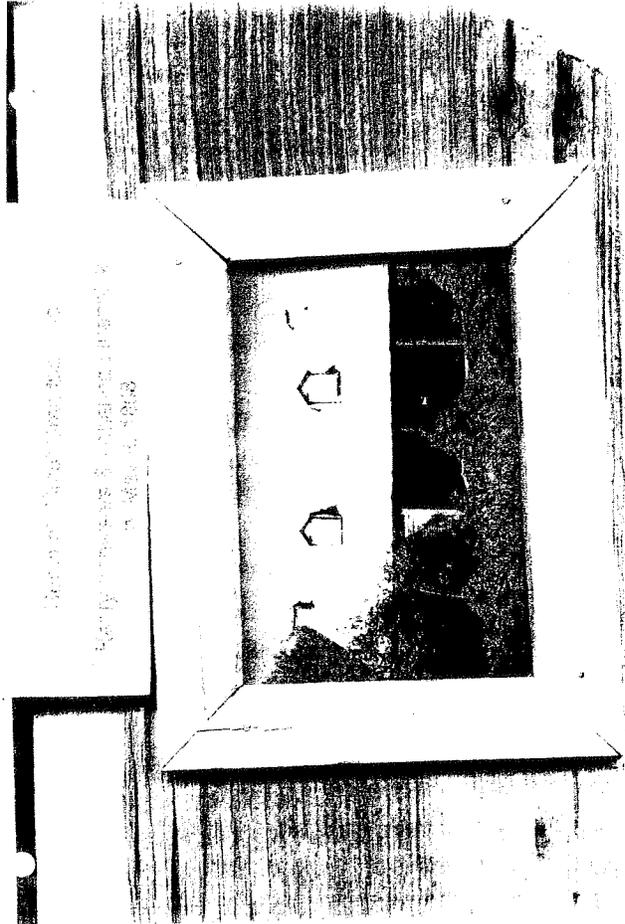
In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? yes If yes, approximately how long? since about 1926
 Briefly describe the nature and immediacy of the threat: Vulcan Materials & its subsidiary SW Gulf RR are planning to construct a rail line near this & neighboring Alsatian homes & make them vulnerable to flooding & destruction by vibration.
 What do you think would help alleviate the threat?
The solution is to not build the rail line or move its location.

4. CONTACT INFORMATION (for person completing form)
 Name Dr. Robert Fitzgerald Organization/Affiliation Medina County Environmental Action Association, Inc.
 Address 202 County Road 450 City/State/Zip Hondo, Tx 78861
 Phone 830-741-5049 Fax 830-426-2060 Email amfitz@earthlink.net

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



TEXAS HISTORICAL COMMISSION
ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

8

1. IDENTIFICATION
 County Medina City Quihi Ownership: Public Private
 Property Name Lindsay Farms Historic name Schuele-Saathoff House
 Address 190 CR 4512 Hondo, TX Zip code 78861
 # TX-88-00034
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1850 Architect/Builder (if known) Schuele family
 Why is this property important to your community? A stone structure associated with the first 19th Century German settlers in this area. The house is an example of the architectural and cultural traditions of the European settlements of southwest Texas.

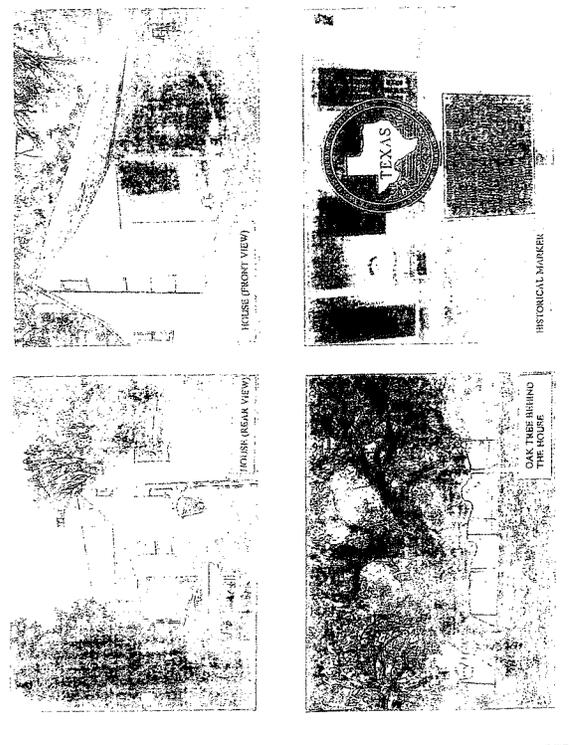
In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? yes If yes, approximately how long? 3 yrs.
 Briefly describe the nature and immediacy of the threat: The Southwest Gulf Railroad has proposed to run trains a short distance from my house. Will cause structural & historic site damage.
 What do you think would help alleviate the threat? Re-route rail line to areas which does not have significant architectural and cultural artifacts.

4. CONTACT INFORMATION (for person completing form)
 Name Cynthia Lindsay, owner Organization/Affiliation Quihi New Fountain Historical Society
 Address PO Box 93 City/State/Zip Hondo, TX 78861
 Phone 741-7071 Fax N/A Email clachi@aol.com

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City Hondo Ownership: Public Private

Property Name Seathoff-Pichot Historic name

Address CR 4512, Hondo, Second Zip code 78861

Historical designations (if any): National Register (Individually) National Register District, name Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1850-60 Architect/Builder (if known) Unknown

Why is this property important to your community? It has been a home with lots of memories along with the heritage of this community.

In what aspect(s) of Texas history has this property played a role? (check all that apply)

- Agriculture Architecture Archeology Art Commerce Communications Community planning and development Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature Maritime history Military Performing arts Philosophy Politics/government Religion Science Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation

Is the property currently vacant? _____ If yes, approximately how long? _____

Briefly describe the nature and immediacy of the threat: _____

What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)

Name Nancy Schultz Organization/Affiliation _____

Address 1901-22nd St City/State/Zip _____

Phone 830-426-3735 Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@the.state.tx.us Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-1553 or history@the.state.tx.us

being out of survey No. 7 in the name of A. Bartz, Abstract No. 92, and also 3/4 acres out of the N.E. part of the L. Ruth, Survey No. Ten (10), Abstract No. 468, making in all 7/4 acres, more or less, being described by notes and bounds, as follows: Beginning at a stake and fence corner on the South bank, of the Quilhi Creek, the N.E. corner of said Survey No. 7, A. Bartz; Thence South with the East boundary lines of said Surveys No. 7 and 10, 1010.1 varas to a stake and fence corner; Thence West 6.8 varas to a stake; Thence South 128 varas to a stake for S.E. corner; Thence S. 37 degrees 40' W. 108 varas to a stake 34 feet North of the McQuatter's field; Thence West 29 varas to a stake; Thence North 47 varas to a stake; Thence East 27.7 varas to a stake; Thence North 322 varas to a stake; Thence West 343.8 varas to a stake under fence in East line of the Ernest Niethenhofer field for upper S.W. corner; Thence North 866.5 varas to a stake for N.W. corner; Thence East 450 varas to the place of beginning. Also, if the road along North line is abandoned, then these lands are to extend into the center of Quilhi Creek.

To have and to hold the above described land and premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Alice Pichot, her heirs and assigns, forever. And I do hereby bind myself, my heirs, executors and administrators to warrant and forever defend, all and singular the said premises unto the said Alice Pichot, her heirs and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

However, this deed is made upon the condition that the said grantee, Alice Pichot, her heirs or assigns, shall pay to me an annual sum of Eighty (\$80.00) Dollars during the balance of my life, the first of such annual installments to be due and payable on or before the 1st day of January 1947, and one of such installments shall be due and payable on or before the 1st day of January of each year thereafter until my death. If and when grantee, her heirs or assigns, shall fail to pay any of said annual installments when due, this deed, at my option, shall immediately terminate and be of no further force and effect, and the land, premises and improvements covered by and included in this deed, shall automatically revert back, without any judicial proceedings, to me, my heirs and assigns; and from and after the date of such default in the payment of any of said annual installments, the possession of said land, premises and improvements covered by and included in this deed, the said grantee, her heirs or assigns, shall be as a tenant at will subject to removal therefrom in an action of forcible entry and detainer and an order of possession issued thereunder.

After my death, this deed shall become absolute and the title to the land, premises and improvements covered by this deed shall be free and clear of the aforesaid condition and of all liens, rights and encumbrances existing by virtue hereof.

Witness my hand this 19th day of November, 1946.

Louise Seathoff

The State of Texas, } County of Medina, } Before me, the undersigned authority, on this day personally appeared

The State of Texas, } County of Medina, } Know all men by these presents: That I, Louise Seathoff, a feme sole, widow, of Jacob S. Seathoff, deceased, of Medina County, Texas, for and in consideration of the sum of One Dollar and the love and affection that I have for my daughter, Alice Pichot, wife of C.J. Pichot, and subject to the condition hereinafter stated, have granted, sold and conveyed, and by these presents do grant, sell and convey unto the said Alice Pichot, of Medina County, Texas, as her separate property all that certain tract or parcel of land situated in Medina County, Texas, lying on the waters of Quilhi Creek, known and designated on the Maps and Records of Medina County, as Sub-division No. One (1), containing seventy one (71) acres, more or less, being out of Survey No. 7 in the name of A. Bartz, Abstract No. 92, and also 3/4 acres out of the N.E. part of the L. Ruth, Survey No. Ten (10), Abstract No. 468, making in all 7/4 acres, more or less, being described by notes and bounds, as follows: Beginning at a stake and fence corner on the South bank, of the Quilhi Creek, the N.E. corner of said Survey No. 7, A. Bartz; Thence South with the East boundary lines of said Surveys No. 7 and 10, 1010.1 varas to a stake and fence corner; Thence West 6.8 varas to a stake; Thence South 128 varas to a stake for S.E. corner; Thence S. 37 degrees 40' W. 108 varas to a stake 34 feet North of the McQuatter's field; Thence West 29 varas to a stake; Thence North 47 varas to a stake; Thence East 27.7 varas to a stake; Thence North 322 varas to a stake; Thence West 343.8 varas to a stake under fence in East line of the Ernest Niethenhofer field for upper S.W. corner; Thence North 866.5 varas to a stake for N.W. corner; Thence East 450 varas to the place of beginning. Also, if the road along North line is abandoned, then these lands are to extend into the center of Quilhi Creek.

To have and to hold the above described land and premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Alice Pichot, her heirs and assigns, forever. And I do hereby bind myself, my heirs, executors and administrators to warrant and forever defend, all and singular the said premises unto the said Alice Pichot, her heirs and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

However, this deed is made upon the condition that the said grantee, Alice Pichot, her heirs or assigns, shall pay to me an annual sum of Eighty (\$80.00) Dollars during the balance of my life, the first of such annual installments to be due and payable on or before the 1st day of January 1947, and one of such installments shall be due and payable on or before the 1st day of January of each year thereafter until my death. If and when grantee, her heirs or assigns, shall fail to pay any of said annual installments when due, this deed, at my option, shall immediately terminate and be of no further force and effect, and the land, premises and improvements covered by and included in this deed, shall automatically revert back, without any judicial proceedings, to me, my heirs and assigns; and from and after the date of such default in the payment of any of said annual installments, the possession of said land, premises and improvements covered by and included in this deed, the said grantee, her heirs or assigns, shall be as a tenant at will subject to removal therefrom in an action of forcible entry and detainer and an order of possession issued thereunder.

After my death, this deed shall become absolute and the title to the land, premises and improvements covered by this deed shall be free and clear of the aforesaid condition and of all liens, rights and encumbrances existing by virtue hereof. Witness my hand this 19th day of November, 1946. Louise Seathoff

The State of Texas, } County of Medina, } Before me, the undersigned authority, on this day personally appeared:

Louise Seathoff, a feme sole, widow of Jacob S. Seathoff, deceased, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, at Hondo, Texas, this 19th day of November, 1946.

Frank X. Vance Notary Public in and for Medina County, Texas.

Filed for record the 30th day of November, A.D. 1946 at 3:20 o'clock P.M.

Witness my hand the 2nd day of December, A.D. 1946 at 2:45 o'clock P.M.

G.A. Jurgens County Clerk, Medina County, Texas.

10

TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County MEDINA City QUIHI, TEXAS Ownership: Public Private
 Property Name SCHWEERS Historic name SCHWEERS
 Address COUNTY ROAD 4512 Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation _____ Architect/Builder (if known) 1848
 Why is this property important to your community? One of original colonist of the area

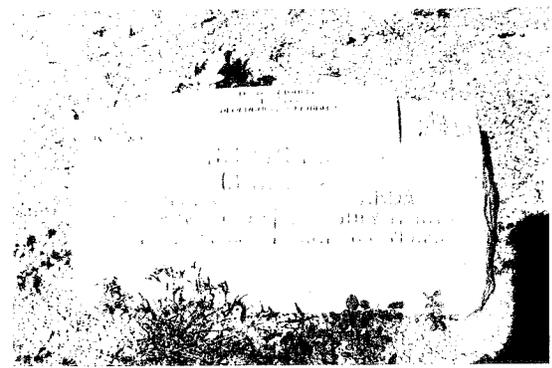
In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Political/government Religion Science
 Social history Transportation Other, specify Part of Castro colonists to Medina County

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? Yes If yes, approximately how long? 1 year
 Briefly describe the nature and immediacy of the threat: Vulcan Materials Corp - Gravel Train
 What do you think would help alleviate the threat? Stop this threat to this historic community

4. CONTACT INFORMATION (for person completing form)
 Name VERLYN MANGOLD, MEMBER Organization/Affiliation New QUIHI AND New Fountain Historical
 Address 5411 Pawtucket City/State/Zip San Antonio Texas Society _____
 Phone 1-210-344-9124 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City Quihi Ownership: Public Private
 Property Name Schweers' Homestead Historic name _____
 Address 685 County Road 365 Hondo, TX Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name none
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1870 Architect/Builder (if known) unknown
 Why is this property important to your community? This property along with many other homes, built by the original German settlers in this area, represents unique architecture. Also, these homes, schools, and churches represent an important part of early Texas history.

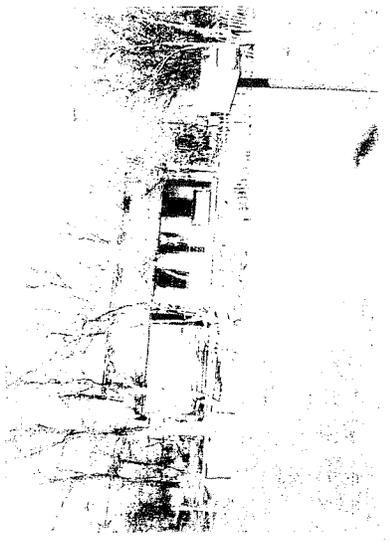
In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Political/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? YES If yes, approximately how long? 23 years
 Briefly describe the nature and immediacy of the threat: Vulcan Materials & its subsidiary SW Gulf RR are planning to construct a rail line near this & neighboring Alsatian homes & make them vulnerable to flooding & destruction by vibration from trains.
 What do you think would help alleviate the threat? The solution is to not build the rail line or move its location from this ar.

4. CONTACT INFORMATION (for person completing form)
 Name Dr. Robert Fitzgerald Organization/Affiliation Medina County Environmental Action
 Address 202 County Road 450 City/State/Zip Hondo, Texas 78861
 Phone (830) 741-5040 Fax (830) 426-2060 Email amfitz@earthlink.net

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

City _____ Ownership: Public Private

Historic name _____

Zip code _____

National Register (Individually) National Register District, name _____

Recorded Texas Historic Landmark State Archeological Landmark Local designation _____

name/number for "Property Name" and UTM coordinates or approximate location for "Address."

Architect/Builder (if known) _____

community? _____

has this property played a role? (check all that apply)

Archeology Art Commerce Communications Community planning and development

Education Engineering Entertainment/recreation Ethnic heritage

Health/Medicine Industry Invention Landscape architecture Law Literature

Performing arts Philosophy Politics/government Religion Science

Other, specify _____

Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation

If yes, approximately how long? _____

cause of the threat: _____

is the threat? _____

person completing form:

Organization/Affiliation _____

City/State/Zip _____

Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@hsc.state.tx.us
 History Programs Division, Texas Historical Commission, 512463-5853 or history@hsc.state.tx.us



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City Quin Ownership: Public Private

Property Name _____ Historic name Grell Store

Address 435 300 Rd. 4516 Zip code 78861

Historical designations (if any): National Register (Individually) National Register District, name _____

Recorded Texas Historic Landmark State Archeological Landmark Local designation _____

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1900s Architect/Builder (if known) _____

Why is this property important to your community? if it could be restored to a useful structure its history would continue.

In what aspect(s) of Texas history has this property played a role? (check all that apply)

Agriculture Architecture Archeology Art Commerce Communications Community planning and development

Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage

Exploration/settlement Health/Medicine Industry Invention Landscape architecture Law Literature

Maritime history Military Performing arts Philosophy Political/government Religion Science

Social history Transportation Other, specify building was a store

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation

Is the property currently vacant? yes If yes, approximately how long? _____

Briefly describe the nature and immediacy of the threat: Flooding caused by proposed rail construction in quarry

What do you think would help alleviate the threat? Relocate quarry + Rail from proposed site or deny all permits

4. CONTACT INFORMATION (for person completing form)

Name Judy Dittmar Organizational/Affiliation Quin/Quin Foundation Historical Socy

Address 3180 FM 2476 City/State/Zip Hondo, TX 78861

Phone 337-447-3674 Fax _____ Email jdittmar@quinsociety.net

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@hsc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512463-5853 or history@hsc.state.tx.us



ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City Quilich Ownership: Public Private
Property Name Verastegui Historic name The Beeble Building
Address 4371 CC RD 4512 Zip code 78861

Historical designations (if any): National Register (Individually) National Register District, name
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

2. PROPERTY HISTORY

Estimated date of construction/occupation 1862 Architect/Builder (if known) L.B. Beeble
Why is this property important to your community? It has such amazing history and if cleaned up and restored could continue on one of the first sites in Quilich was used as a residence, school and courthouse. It is right on the road and could be a great addition to the town.
In what aspect(s) of Texas history has this property played a role? (check all that apply) Ethnic heritage
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
Is the property currently vacant? No If yes, approximately how long?
Briefly describe the nature and immediacy of the threat as in neighboring Verastegui house it is between two creeks, proposed quarry and rail will most definitely create much flooding.
What do you think would help alleviate the threat? denying all permits to quarry/railroad project

4. CONTACT INFORMATION (for person completing form)

Name Judy Dorman Organization/Affiliation Quilich/New Foundation Historical Society
Address 3980 Elm Court City/State/Zip Hondo, TX 78861
Phone 817/411/1801 Fax Email jldorman

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY
Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@the.state.tx.us
Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@the.state.tx.us



ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City Quilich Ownership: Public Private
Property Name Verastegui Property Historic name L.B. Beeble Place
Address 4371 CC RD 4512 Zip code 78861

Historical designations (if any): National Register (Individually) National Register District, name
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

2. PROPERTY HISTORY

Estimated date of construction/occupation 1862 Architect/Builder (if known)
Why is this property important to your community? It is a reminder of our past and our heritage. This property is beautifully restored as it should be and will continue as a reminder to future generations.
In what aspect(s) of Texas history has this property played a role? (check all that apply) Ethnic heritage
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
Is the property currently vacant? No If yes, approximately how long?
Briefly describe the nature and immediacy of the threat: proposed quarry & railroad could cause major flooding - most of proposed is in flood zone - name has creek on both sides
What do you think would help alleviate the threat? to stop the quarry/railroad project by denying permits

4. CONTACT INFORMATION (for person completing form)

Name Judy Dorman Organization/Affiliation Quilich/New Foundation Historical Society
Address 3980 Elm Court City/State/Zip Hondo, TX 78861
Phone 817/411/1801 Fax Email jldorman

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY
Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@the.state.tx.us
Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@the.state.tx.us



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City Quih Ownership: Public Private

Property Name George Manis Historic name Louis Boehle Home

Address 7384 Co. Rd. 4506 Zip code 78801

Historical designations (if any): National Register (Individually) National Register District name

Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1865 Architect/Builder (if known) -

Why is this property important to your community? Home of one of the first settlers - could be restored and contribute to the care of the city to remind us of our heritage and the continuing history

In what aspect(s) of Texas history has this property played a role? (check all that apply)

Agriculture Architecture Archeology Art Commerce Communications Community planning and development

Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage

Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature

Maritime history Military Performing arts Philosophy Politics/government Religion Science

Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation

Is the property currently vacant? Yes If yes, approximately how long? many years

Briefly describe the nature and immediacy of the threat: Minor flooding due to riprap quarry and drain in area area is almost entirely a flood zone

What do you think would help alleviate the threat? drainage all permits a project

4. CONTACT INFORMATION (for person completing form)

Name Judy Dutton Organization/Affiliation Medina County Historical Society

Address 3981 FM 2676 City/State/Zip Merida TX 78041

Phone 379/741364 Fax _____ Email j.dutton@medcountysoc.com

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us

Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us

No. 030: The State of Texas } You are now here present that I
 Louis Heth County, Medina } Louis Heth of the County of Medina
 and State of Texas, for and in consideration of the sum
 to Louis Heth of } \$500 Dollars to me in hand paid by Louis Boehle
 of the County of Medina and State of Texas the receipt
 whereof is hereby acknowledged, before the signing and sealing
 and delivery of these presents, have granted, bargained,
 sold, released and conveyed, and by these presents do grant,
 bargain, sell, and release convey and deliver unto the said
 Louis Boehle his heirs and assigns, all that tract or parcel
 of land lying and being in the County of Medina, containing
 five acres more or less, bounded and described as follows,
 to wit: Beginning at a stake set on the Western line of
 survey No. 10, District No. 1, on the Quieh creek, at 202
 varas South from its N. W. corner, thence South 35 varas
 to a stake, from which an line 10 inches in diameter
 9 1/2 x 40 varas, thence East 47 1/2 varas to a stake,
 from which a line 12 in. in diameter bears S 37
 W. 11 varas, being the S. W. corner of a survey of 20 acres
 made for John Riden, thence North 35 varas, to
 a stake, from which a line 12 inches in diam.,
 bears N. 8 1/2 W. 10 varas, thence West 47 1/2 varas, to the
 place of beginning. Said survey No. 10 of 350 acres, having
 been granted to me by the Government of the State of
 Texas, by letter Patent No. 562, 4th. 6 July recorded in
 the County Clerk Office of Medina County, in Book No.
 1, on page 386. Together with all and singular the
 right, members, benefits and appurtenances to the
 same belonging, or in anywise incident or appurtenant
 to the same and to hold all and singular the premises above
 mentioned unto the said Louis Boehle his heirs and
 assigns forever. And I do hereby bind myself, my heirs,
 executors and administrators, to warrant and forever defend,
 all and singular the said premises unto the said Louis
 Boehle his heirs and assigns against every person, whomsoever
 lawfully claiming or to claim the same, or any part
 thereof. In testimony whereof, I have hereunto subscribed
 my name and affixed my seal, using a scroll for my

BOEHLE HOME, LOUIS



Front of Louis Boehle Home

Serial Number: NRS79-21839

Property Name: LOUIS BOEHLE HOME

Property Address: Quih Road

Architect/Builder:

Owner: John Henry Boehle

County: Medina

City/Rural: Quih

Block: E-4

Lot: 2

UTM Coordinates:

USGS Map:

Construction Date: 1865

Period: TCW

Style: Pioneer Alsatian

Theme: AAPAL

Description: Stone and stuccoed, board and shingles; 86' x 29'; one and 2-stories; gable roof; 2-bedrooms on second floor; Pioneer Alsatian style with typical Saltbox Silhouette and 3-chimneys; following European precedent, living quarters an stable separated by a narrow passage and connected by a second story accessible only by a narrow passage and connected by a second story accessible only by exterior stairs.

Building Material: Wall: stuccoed stone

Building Material: Roof: standing seam metal

Physical Condition: ruinous

Site: Original: 1

Site: Moved: 0

Site: Date Moved:

Alterations: ?

Significance: Good example of Alsatian type residence in Quih.

Area of Significance: architecture

Level of Significance: local

Designate: HABS, HSI

Original Use: residence/storage/stables

Present Use: storage

Relationship to Surroundings

Acres/Boundary Description

Bibliographic Data: See County File for architectural drawings.

See Info/Correspondence Files

Recorded By: BCN 9/80

Informant:

Date: 7/21/72

Photo Data: 2 b/w (7/21/72); 323,784

Continuation:

ALFRED WALSH
TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City Quiki Ownership: Public Private
 Property Name ALFRED WALSH Historic name Survey No. 23 to James Du
 Address 3990 FM 2676 Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name: _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 6-25-1838 Architect/Builder (if known) James Allison
 Why is this property important to your community? This is an historical home in the Quiki area needs to be preserved.

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? NO If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: Possible floods contributed by the possibility of a new RR track
 What do you think would help alleviate the threat? The RR track not being built and the vibrations of a new coal quarry

4. CONTACT INFORMATION (for person completing form)
 Name Jimmy Walsh Organization/Affiliation Whitaker Foundation
 Address 342 RDSB City/State/Zip Hidalgo, TX, 78127
 Phone 210-674-6778 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512-463-5553 or history@thc.state.tx.us



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City Quiki (Hous. P.O.) Ownership: Public Private
 Property Name Shavano Ruin Historic name Miss Reitzner Home
 Address CR 4520 Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name: _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1856 Architect/Builder (if known) Elmo Aden
 Why is this property important to your community? It is one of the first houses built and is intended for restoration. It is the center of the community.

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? Yes If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: flooding caused by construction of proposed quarry & railroad
 What do you think would help alleviate the threat? Relocation of Quarry & Proposed Site is due to cause major flooding of the whole community and definitely this site. Major reformation in flood zone.

4. CONTACT INFORMATION (for person completing form)
 Name Jimmy Dittmar Organization/Affiliation Miss. Co. Exp. Order House
 Address 3900 FM 2676 City/State/Zip Quiki (Quiki), TX 78861
 Phone 830-438-2814 Fax _____ Email jdittmar@comcast.net

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512-463-5553 or history@thc.state.tx.us

View Atlas Data

Page 1 of 2

Residence, small stone house



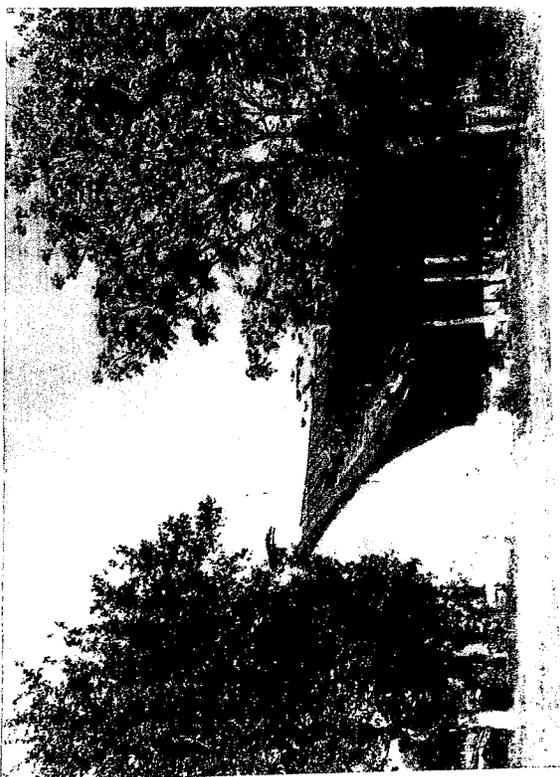
Front of Small Stone House



Home built by Elmo Aden in 1856. Photo was taken about 1966. Shown on cover now property of Mrs. Leticia Renner

Serial Number NRS79-21842
 Property Name SMALL STONE HOUSE
 Property Address Quiki, one block from church
 Architect/Builder _____
 Owner Miss F. Reitzner (?)
 County Medina
 City/Rural Quiki
 Block E-4
 Lot 5
 UTM Coordinates _____
 USGS Map _____
 Construction Date ca. 1856 See attached photos
 Period TC
 Style Pioneer Alsatian
 Theme AAPAL
 Description 1 1/2-story, stuccoed stone double, Alsatian house, outside stairway on east side of house; house probably built in 2 parts: rectangular plan. Sillbox extension at rear on 1 over front porch with wooden posts central and end-wall chimney. 6/6 light windows.

Building Material: Wall stone/stucco
 Building Material: Roof standing seam metal
 Physical Condition poor
 Site: Original 1
 Site: Moved 0
 Site: Date Moved _____
 Alterations: ?
 Significance: Good example of Alsatian residence in Quiki
 Area of Significance: architecture
 Level of Significance: local
 Designate: H-S1
 Original Use: residence
 Present Use: vacant
 Relationship to Surroundings: _____



TEXAS HISTORICAL COMMISSION
ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City Quicks (Hondo P.O.) Ownership: Public Private
 Property Name Condal Home Historic name Meyer Place
 Address Co. Rd Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation
 For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1876 Architect/Builder (if known) Mr. Newman
 Why is this property important to your community? a place that could be and is probably suitable for restoration.

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? Yes If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: Very low area - any flooding worse than what we've had will destroy home. Proposed quarry will have no sculpt, increase flood waters - the majority of Quicks are in flood zone
 What do you think would help alleviate the threat? relocate quarry to where it will not destroy such a historical area

4. CONTACT INFORMATION (for person completing form)
 Name Judy Dittmar Organization/Affiliation Med. Co. Enviro. Act. ex. Assoc.
 Address 3920 FM 2676 City/State/Zip Hondo, TX 78861
 Phone 830.741.3074 Fax _____ Email jolittmar@swsommnet.net

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY
 Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



TEXAS HISTORICAL COMMISSION
ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City Quicks Ownership: Public Private
 Property Name Reidberg School Historic name _____
 Address Hwy 2676, Hondo, TX 78861 Zip code _____
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation
 For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1870 Architect/Builder (if known) _____
 Why is this property important to your community? It's very important for the community because of the gatherings and meetings we still have. It brings back many memories. It was across the Quicks Court House and Quicks had have a J.P. Court there who was office.

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? Yes If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: _____
 What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)
 Name Nancy Schmitt Organization/Affiliation Quicks & Reidburg Historical Society
 Address 1901 - 32nd St. City/State/Zip Hondo, TX 78861
 Phone 830-426-3735 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY
 Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



TEXAS HISTORICAL COMMISSION
ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

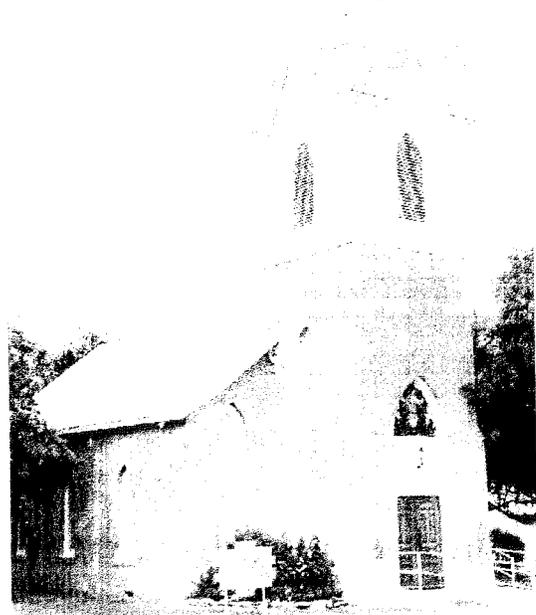
1. IDENTIFICATION
 County Medina City Quicks Ownership: Public Private
 Property Name Bethlehem Lutheran Church
 Address 3961 FM 2676 Honda, Tex Zip code 78561
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation
 For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1852 Architect/Builder (if known) Martin J. Aarathoff
 Why is this property important to your community? Because it served as a place to worship our God. I have been a member of the church since birth and this was the place my husband and I married in 1955.
 In what aspects of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? no If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: none
 What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)
 Name Nancy DeWalt Organization/Affiliation Quicks & Newsum's Historical
 Address 1901 23rd St City/State/Zip Honda, Tex 78561
 Phone 361-26-3785 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY
 Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City Bevill Ownership: Public Private
 Property Name Bethlehem Lutheran Church Cemetery
 Address 3961 - Fm. 2676 Honda, Texas Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1863 Architect/Builder (if known) Martin J. Baatloff
 Why is this property important to your community? Because it served as a place to worship our God. I have been a member of this church since birth and this was the place my husband and I married in 1955.
 In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT

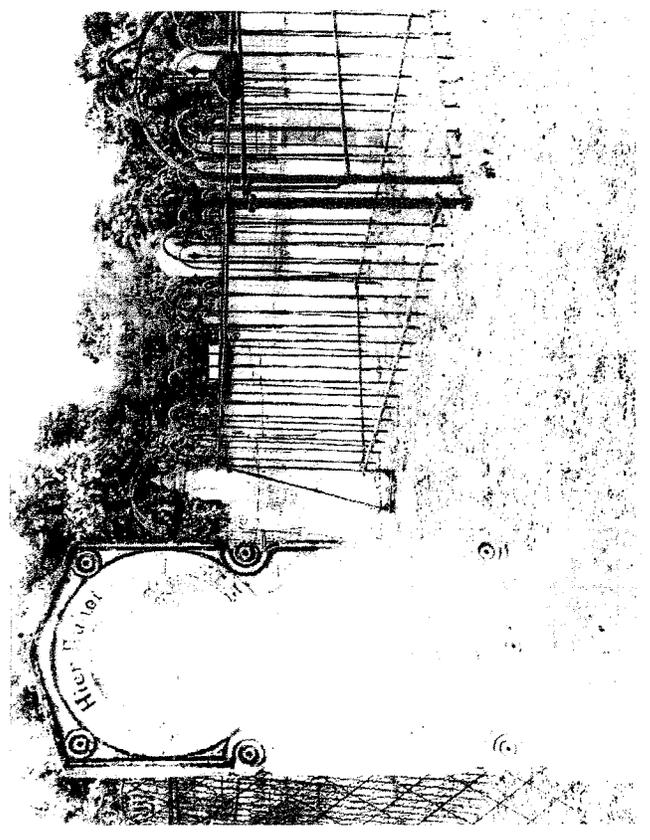
Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? No If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: none
 What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)

Name Nancy DeWitt Organization/Affiliation Quicks & Newkumers Historical Society
 Address 1411 - 22nd St City/State/Zip Honda, Tex 78861
 Phone 361-426-3735 Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City Honda Ownership: Public Private
 Property Name Beth & Horace Baatloff
 Address Hwy. 2676, Honda, Texas Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1899 Architect/Builder (if known) _____
 Why is this property important to your community? Because it is a Texas Home (Registered) and it is a relative of this homestead
 In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? No If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: _____
 What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)

Name Nancy DeWitt Organization/Affiliation _____
 Address 1411 - 22nd St City/State/Zip Honda, Tex 78861
 Phone 361-426-3735 Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



1. endura books

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TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City Quinich (Hondo P.O.) Ownership: Public Private

Property Name Thurbin Barber Home Historic name Barber Home

Address 255 CR 453 Zip code 78861

Historical designations (if any): National Register (Individually) National Register District, name

Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1870's Architect/Builder (if known)

Why is this property important to your community? Another historical landmark beautifully restored & kept in very good condition by grandson of original owner.

In what aspect(s) of Texas history has this property played a role? (check all that apply)

Agriculture Architecture Archeology Art Commerce Communications Community planning and development

Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage

Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature

Maritime history Military Performing arts Philosophy Political/government Religion Science

Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation

Is the property currently vacant? No If yes, approximately how long? _____

Briefly describe the nature and immediacy of the threat: Very low lying area - creek floods in background. ANY diversion of water caused by proposed quarry would destroy this landmark. The restrictions mentioned would not solve this issue.

What do you think would help alleviate the threat? Put quarry elsewhere - this whole area is in flood zone.

4. CONTACT INFORMATION (for person completing form)

Name Judy Dittmar Organization/Affiliation Med. Co. Environmental Assoc.

Address 3980 FM 2676 City/State/Zip Hondo, TX 78861

Phone 830743674 Fax _____ Email jdittmar@questcom.net

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
Questions? Contact the History Programs Division, Texas Historical Commission at 512463-5853 or history@thc.state.tx.us



1. endura books

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TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City Quinich (Hondo P.O.) Ownership: Public Private

Property Name Ramon Garcia Historic name Boobie Place (first school)

Address CR 4520 Zip code 78861

Historical designations (if any): National Register (Individually) National Register District, name

Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1840s Architect/Builder (if known)

Why is this property important to your community? One of first homes - first school - has been remodeled but old part remains as it was.

A landmark - history lives here

In what aspect(s) of Texas history has this property played a role? (check all that apply)

Agriculture Architecture Archeology Art Commerce Communications Community planning and development

Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage

Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature

Maritime history Military Performing arts Philosophy Political/government Religion Science

Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation

Is the property currently vacant? No If yes, approximately how long? _____

Briefly describe the nature and immediacy of the threat: This house is flooded with over bigger floods. Proposed quarry would surely divert creeks and flood the entire community - destroy historic landmark.

What do you think would help alleviate the threat? Relocate the proposed quarry + rail road. Proposed restrictions would not solve the problem.

4. CONTACT INFORMATION (for person completing form)

Name Judy Dittmar Organization/Affiliation Med. Co. Env. Action Assoc.

Address 3980 FM 2676 City/State/Zip (Quinich) Hondo, TX 78861

Phone 830743674 Fax _____ Email jdittmar@questcom.net

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
Questions? Contact the History Programs Division, Texas Historical Commission at 512463-5853 or history@thc.state.tx.us



Black & White of Colored Picture



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City New Fountain Ownership: Public Private
 Property Name Wiener's Gate Historic name Wiener's Gate
 Address 7117 45th Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name
 Recorded Texas Historic Landmark State Archeological Landmark Local designation
 For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1954 Architect/Builder (if known) _____
 Why is this property important to your community?
See photograph attached
In the photo above
 In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? no If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: _____
 What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)
 Name Travis Ruder Organization/Affiliation _____
 Address 450 CR 351 City/State/Zip Newtown, Tex 78861
 Phone 830 456 2219 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City New Fountain Ownership: Public Private
 Property Name Blasing House Historic name Wiener's House
 Address 930 CR 451 Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name
 Recorded Texas Historic Landmark State Archeological Landmark Local designation
 For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1900 Architect/Builder (if known) _____
 Why is this property important to your community?
2 brothers and their two
sisters lived here. One brother got
married and moved out, the other three
lived there until they died. Then Mark
and I bought it and recently
sold it to the
Blasing.
 In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? no If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: _____
 What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)
 Name Travis Ruder Organization/Affiliation _____
 Address 450 CR 351 City/State/Zip Newtown, Tex 78861
 Phone 830 456 2219 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City Hondo, P.O. New Mountain Ownership: Public Private
 Property Name Belle Home Historic name John Mumme Home, Belle Home, P.O.
 Address 202676 Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1870s Architect/Builder (if known) _____
 Why is this property important to your community? Historical landmark. New Mountain is vital community to Quiki. Building is beautifully restored and a definite beauty spot along the road. Home has been used as crop store
 In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT

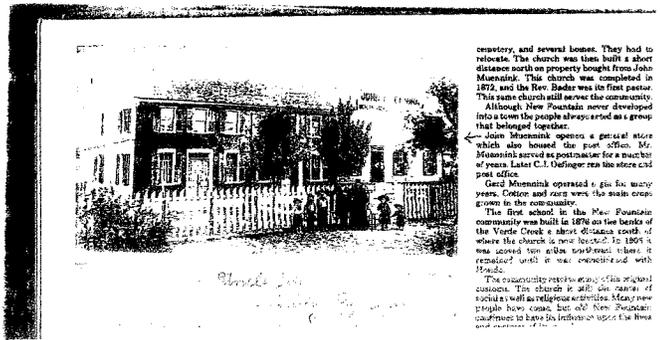
Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? No If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: Proposed quarry will remove truck traffic and cause disruption of roads which will in turn lead to destroy property and buildings. Also, quarry will cause erosion of hillside.
 What do you think would help alleviate the threat? Relocation of quarry & construction of road to divert traffic away from area.

4. CONTACT INFORMATION (for person completing form)

Name Judy Dickson Organization/Affiliation Medina Co. Action Assoc.
 Address 3807m 2676 City/State/Zip Hondo (Quiki) TX 78861
 Phone 3374 3074 Fax _____ Email jdickson@excelsior.net

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/461-5853 or history@thc.state.tx.us



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City Hondo, Texas Ownership: Public Private
 Property Name D. Weirich Historic name Rudolph Schorobiny Place
 Address 810 County Road 4545 Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1846 Architect/Builder (if known) _____
 Why is this property important to your community? Original land owner, Rudolph Schorobiny, one of the first settlers of Quiki in Castro's colony. Mr. Schorobiny was a Mexican War Veteran.
 In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? No If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: Limestone Quarry blasting and railroad may cause damage of remaining structure and hard dug, rock lined well.
 What do you think would help alleviate the threat? No Quarry - No Railroad

4. CONTACT INFORMATION (for person completing form)

Name Joe R. Walzen Organization/Affiliation Quiki-New Fountain Historical Society
 Address 780 E 334 Hondo, Tex. City/State/Zip 78861
 Phone 426-3553 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/461-5853 or history@thc.state.tx.us

HOME - RANCH - BUSINESS

SecondSite Security

Digital Video Surveillance System

Watch your property over an ordinary phone line.

June 2, 2003

MCEAA Treasurer
 202 CR 450
 Hondo, TX 78861

Dear MCEAA,
 I support your efforts to stop the rail line coming through the Quiki area. From what I can tell from the map my property lies in the path of Alternate 1. I don't think this will be a problem because as a private pilot I searched for a way to put a landing strip on my property. The only level place is a runs through the field in front of the house and across a ridge that runs diagonal through the property. This is the same route that I assume who ever proposed the Alternate 1 determined from topographical maps. What is not shown on the map is that we call the ridge Cemetery Ridge because the original landowners, Rudolph Schorobiny and his wife are buried in the middle of the ridge. Add this to the fact that the Schorobiny's are the first Hungarian settlers in Texas, as noted in the display in the Institute of Texas Cultures in San Antonio. It would not be hard to get Historical Land mark status for the property. So I doubt this would be a viable route for the spur.

If they choose to move to the east to by-pass Cemetery Ridge they will run into another problem. In the early 1900's 15-20 Indians died of measles. The residence of Quiki would not allow them to be buried in the Quiki cemetery. Michael Schorobiny, Rudolph's bachelor brother and the first judge of Medina county, convinced Rudolph to allow the Indians to be buried on the property. This area lies just east of the proposed Alternate 1 route. This is in tax records because we don't pay taxes on these two cemetery areas.

I am not an attorney but I agree with your statement in your brochure that there is a good case for abuse of eminent domain powers. This is clearly a private enterprise project that would not benefit the general public.
 Keep me informed and I am willing to help.

Sincerely,

 Bill Weirich

MEMBERSHIP APPLICATION

Name Bill Weirich Number in Household 2
 Address 910 CR 4545 Hondo, TX - Medina - 78861 Phone 562 72248
 PHONE home 210-474-0208 work 846-4334 cell 210-946-4224 fax 210-451-8499

Would you volunteer for any of the following:
 Phone _____ Committee projects Website _____ Office _____ other

Dues are \$10.00 per household each year. Please make check payable to: MCEAA, and send with this coupon to: Alyne Fitzgerald, MCEAA Treasurer, 202 CR 450, Hondo, TX 78861.

Rudolph Schorobiny

Rudolph Schorobiny from Zips Comitát, Hungary was among the first settlers of Quihi in Castro's Colony. In 1846 Mr. Schorobiny received his 320 acres of land. He did not settle at that time, however. He joined a company of Texas Rangers for a short while. He then joined a regiment of mounted riflemen and fought in the Mexican War.

After the war Mr. Schorobiny returned to Quihi and settled on the Quihi Creek where he farmed and raised stock. In November of 1847 he married. Three months later a band of Indians robbed his home and carried off his wife. Mrs. Schorobiny jumped from her horse and hid in a pecan grove. Several Indians shot arrows at her and wounded her badly in two places. The Indians thought she was dead and thought they were being followed so they did not scalp her. She was able to drag herself to the settlement where she finally recovered.

At the present time, part of the Schorobiny home still stands, along with a rock-lined, hand-dug, 80 foot well. Mr. & Mrs. Schorobiny are buried in a cemetery on the property. Nearby, there is a small, unmarked grave, probably their young daughter. There are also 15 or 20 friendly Indians, who had measles and died, buried on the property. The settlers did not want the Indians in their cemetery, so Mr. Schorobiny donated the land for their burial.

Mr. Schorobiny drew a pension as a Mexican War Veteran. He lived his life under five flags. Those were the Hungarian, the Republic of Texas, the Lone Star, the Confederate, and the United States flags.

*Rudolph Schorobiny
Pvt. Co. A J.H. Connor Co
Bell's Regt. Texas M.T.D. INF.
Mexican War
Born 1-25-1817
Died 4-28-1908*



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TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City New Fountain - Quihi Ownership Public Private
 Property Name Wiemers Homestead Historic name same
 Address 290 County Road 454 HONDO, TX Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1854 Architect/Builder (if known) John Henry Wiemers
 Why is this property important to your community? This is the homestead of one of the first pioneers in Medina County. This family produced well over 1000 descendants, spread throughout Texas and the United States.
 In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify First Cane mill in county.

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? NO If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: A Medina County quarry plans to build a railroad spur nearby, threatening further erosion and flooding.
 What do you think would help alleviate the threat? Denial of permits for rail spur.

4. CONTACT INFORMATION (for person completing form)

Name Steve Lapp Organization/Affiliation Quihi and New Fountain Hist. Socy.
 Address 290 CR 454 City/State/Zip HONDO TX 78861
 Phone 830 741 3624 Fax _____ Email stevelapp@juno.com

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us

Reflections A Pictorial History of Medina County, Texas

71

Metzger home at New Fountain. After the railroad bypassed New Fountain, the Metzgers built the first permanent home in Hondo.



Metzger family, (back) Fred, Louise, Charles, (front) George, Frederick, Will, Louisa (holding Paul), Anna.



George H. Wiemers family home, (l-r) Geo. H. and Ida J. Wiemers, (front) Milton, Marvin and Edwin. George was born in the older part of the house in 1873. The new part was built in 1907.



Weipers-Roberts House

1. 1/20/2008
2nd County Hwy 194

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City Abledo Ownership: Public Private
 Property Name Alfred Seathoff Historic name
 Address 2538 Fm 2676 Hondo, Tex Zip code 78861
 Historical designations (if any): National Register (individually) National Register District, name
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

2. PROPERTY HISTORY
 Estimated date of construction/occupation Early 1900s Architect/Builder (if known)
 Why is this property important to your community? It is a historic site, as you can see on the old building, the holes in the house was to shoot Indians and defend themselves.

In what aspects of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? NO If yes, approximately how long?
 Briefly describe the nature and immediacy of the threat:
 What do you think would help alleviate the threat? no quarry or railroad

4. CONTACT INFORMATION (for person completing form)
 Name Nancy Schulte Organization/Affiliation
 Address 1901 22nd St City/State/Zip Hondo, Texas 78861
 Phone 330-426-3735 Fax Email

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

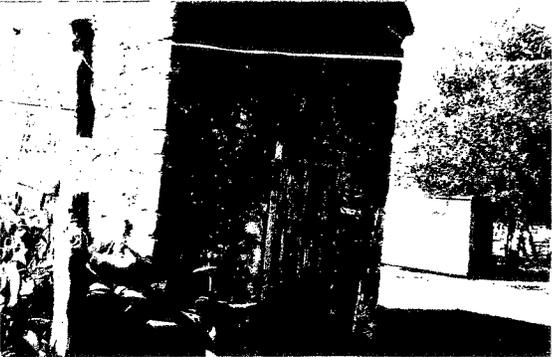
Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-3853 or history@thc.state.tx.us

(U.S. Int. Rev. Stamps \$1.40) estate of Josie Miller Roscoe, Deceased.
 The State of Tennessee, County of Knox. Before me, a notary public, on this day personally appeared Robert F. Atkins, administrator with the will annexed of the estate of Josie Miller Roscoe, deceased, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.
 Given under my hand and seal of office this 21 day of September A. D. 1944.
 Mildred E. Mohr Notary Public Knox Co., Tenn. Mildred E. Mohr Notary Public
 Filed for Record the 11th day of October A. D. 1944 at 9:45 o'clock A. M.
 Recorded the 13th day of October A.D. 1944 at 8:30 o'clock A. M.
 S. A. Jungman Clerk County Court, Medina County, Texas

WARRANTY DEED, Rolf Seathoff and wife to Alfred Seathoff.
 The State of Texas, County of Medina. Know all men by these presents: That we, Rolf Seathoff and wife, Evelyn Seathoff, of Medina County, Texas, for and in consideration of the sum of Ten Dollars and other good and valuable consideration to us in hand paid by Alfred Seathoff, the receipt of which is hereby fully acknowledged and confessed, have granted, sold and conveyed, and by these presents do grant, sell and convey unto the said Alfred Seathoff, of Medina County, Texas, all that certain tract or parcels of land situated in Medina County, Texas, containing seventy seven acres of land, more or less, out of original survey No. 22, in the name of Wm. Bryan, lying and being situated on the waters of the Verde Creek, a tributary of the Hondo River. Said land consisting of three separate tracts or parcels, and being situated about five miles N. 30 degrees E. from Hondo, Texas, and said land being described in three tracts, as follows:
 FIRST TRACT. Containing 74.5 acres, and beginning at a stake in the South line of the Hondo-New Fountain Road at a point where it crosses the center of said Verde Creek; Thence with fence along the South line of said Hondo-New Fountain Road S. 54 degrees W. at 36 varas to the West high bank of said Verde Creek, 59.7 varas, N. 87 degrees W. 198 varas, N. 84 degrees W. 70 varas to a 36" L. O. tree (this point being the Northwest corner of the Fritz D. Neuman house lot); Thence with fence S. 6 degrees 30' W. 80 varas to a stake and fence corner; Thence with fence N. 87 degrees W. 39.6 varas to a stake and fence corner; Thence with fence S. 16 degrees W. 51.8 varas to a stake and fence corner; Thence with fence S. 54 degrees E. 235.6 varas to a stake and fence corner; Thence with fence S. 45 degrees W. 534.6 varas to a stake and fence corner in North line of a private lane; Thence with fence along North line of said private lane S. 46 degrees 10' E. 479.9 varas to a stake and fence corner; Thence with fence N. 46 degrees 10' E. at 606.6 varas a rock set in ground, at 630 varas the Southwest high bank of;

said Verde Creek, 612.6 varas to a stake in center line of the Verde Creek; Thence upstream of said Verde Creek with its meanders, N. 34 degrees W. 192.6 varas, N. 21 degrees 30' W. 120.6 varas, N. 4 degrees 30' W. 118.8 varas, N. 29 degrees 50' W. 198 varas to the place of beginning.
 TRACT TWO. Containing 2 acres. Beginning at a stake in the North line of the Hondo-New Fountain Road, distant 241.2 varas S. 85 degrees E. from the conjunction of the Hondo-New Fountain Road and the New Fountain-Vandenburg Road; Thence along the East line of a 25 foot lane (water right road) North at 40 varas the South high bank of the Verde Creek, 75.6 varas to a 10" Bordeaux tree in the Bed of the Verde Creek; Thence down stream of said Verde Creek with its meanders, S. 83 degrees E. 99 varas, S. 84 degrees E. 59.7 varas to another Bordeaux tree; Thence S. 2 degrees W. at 28 varas to North high bank of the Verde Creek, 77.4 varas to a stake in the North line of the Hondo-New Fountain Road; Thence along the North line of said Hondo-New Fountain Road N. 82 degrees 40' W. 156.6 varas to the place of beginning.
 TRACT THREE. Containing one-half acre. Being a portion of a parcel of land formerly known as a "Lot in the Village of New Fountain". Beginning at a stake in the North line of the Hondo-New Fountain road, distant 111.8 varas S. 85 degrees E. from the conjunction of the Hondo-New Fountain Road and the New Fountain-Vandenburg Road; Thence N. 6 degrees E. 49.7 varas to the South high bank of the Verde Creek; Thence along the South high bank of said Verde Creek S. 74 degrees E. 70.5 varas to a stake; Thence S. 16 degrees W. 36.7 varas to a stake in the North line of the Hondo-New Fountain Road; Thence along North line of said Hondo-New Fountain Road N. 85 degrees W. 65.5 varas to the place of beginning.
 These three tracts being the same land conveyed to the undersigned, Rolf Seathoff from Sophie Neuman, et al, by deed dated September 5th 1944, and of record in the Deed Records of Medina County, Texas, in Vol. 128, on pages 203 to 205, to which reference is herein made for further description of same.
 To have and to hold the above described land and premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Alfred Seathoff, his heirs and assigns, forever. And we do hereby bind ourselves, our heirs, executors and administrators to warrant and forever defend all and singular the said premises unto the said Alfred Seathoff, his heirs and assigns, against every person whomsoever, lawfully claiming or to claim the same or any part thereof.
 Witness our hands this 30th day of September 1944.
 (U.S. Int. Rev. Stamps \$1.40) Rolf Seathoff
 Evelyn Seathoff
 The State of Texas, County of Medina. Before me, the undersigned authority, on this day personally appeared Rolf Seathoff and wife, Evelyn Seathoff, both known to me to be the persons whose names are subscribed to the foregoing instrument, and they each acknowledged to me that they executed the same for the purposes and consideration therein expressed. And the said Evelyn Seathoff, wife of the said Rolf Seathoff, having been examined by me privily and apart from her said husband, and having the same fully explained to her, she, the said Evelyn Seathoff, acknowledged such instrument, to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.
 Given under my hand and seal of office at Hondo, Texas, this 30th day of September 1944.
 (Seal) Frank A. Vance Notary Public in and for Medina County, Texas
 Filed for Record the 11th day of October A. D. 1944 at 1:20 o'clock P. M.
 Recorded the 13th day of October A. D. 1944 at 10:30 o'clock A. M.
 S. A. Jungman Clerk County Court, Medina County, Texas

46 degrees 10' E. at 606.6 varas a rock set in ground, at 630 varas the Southwest high bank of



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County Medina City Abledo Ownership: Public Private

Property Name Alfred Loathoff Historic name _____

Address 3538 Fm 2676 Abledo, Tex Zip code 78861

Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation Early 1900s Architect/Builder (if known) _____

Why is this property important to your community? It has a historic site, as you can see on the old building, the holes in the house was to shoot Indians and defend themselves.

In what aspect(s) of Texas history has this property played a role? (check all that apply)

Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation

Is the property currently vacant? No If yes, approximately how long? _____

Briefly describe the nature and immediacy of the threat: _____

What do you think would help alleviate the threat? No quarry or railroad

4. CONTACT INFORMATION (for person completing form)

Name Nancy Schultz Organization/Affiliation _____

Address 1901-22nd St City/State/Zip Abledo, Texas 78861

Phone 830-426-3737 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County _____ City _____ Ownership: Public Private

Property Name _____ Historic name _____

Address _____ Zip code _____

Historical designations (if any): National Reg
 Recorded Tex Local designation

For archeological sites, enter site name/number: _____ No location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation _____ Arch

Why is this property important to your community? _____

In what aspect(s) of Texas history has this property played a role? (check all that apply)

Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation

Is the property currently vacant? _____

Briefly describe the nature and immediacy of the threat: _____

What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION

Name _____ Organization/Affiliation _____

Address _____ City/State/Zip _____

Phone _____ Fax _____ Email _____

PLEASE

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us

TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City New Mountain (Hondo Co.) Historic name New Mountain Place - Hondo
 Address Co. Rd. 251 + 72070 Hondo Zip code 78861
 Historical designations (if any): National Register (individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1865 Architect/Builder (if known) _____
 Why is this property important to your community? Definitely a landmark. Beautiful homes and grounds. Each new owner improves beauty.
Historical landmarks
New Mountain and Quibi are older communities - within 2 miles of each other.
 In what aspect(s) of Texas history has this property played a role? (check all that apply) Each side of the two basins spots of rock
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/Medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? NO If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: Failed bridge and destruction of roads that will be caused by proposed quarry.
 What do you think would help alleviate the threat? Proper engineering, better road construction, better road design, better drainage, etc. Also, a 1/2 mile creek - 4' deep - crosses bridge on property - will cause divert into creek into flood zone (quarry) - will be built up + could flood this entire area.

4. CONTACT INFORMATION (for person completing form)
 Name John Dittmar Organization/Affiliation Med. Co. Exp. Adv. Assoc.
 Address 4800 SW 2600 City/State/Zip Hondo, TX 78861 (New Mountain)
 Phone 8307613674 Fax _____ Email jdittmar@bwses.com

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-3853 or history@thc.state.tx.us

148570

"NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER."

WARRANTY DEED WITH VENDOR'S LIEN

Date: September 30, 2003
 Grantor: JOHN C. WINKLER aka JOHN CHARLES WINKLER and wife, VIRGINIA V. WINKLER
 Grantor's Mailing Address (including county): 1209 Shady Lane, Hondo, Medina County, Texas 78861
 Grantee: KENNETH M. SMITH and wife, ARLENE B. SMITH
 Grantee's Mailing Address (including county): 815 Washington Street, Castroville, Medina County, Texas 78009
 Consideration: TEN AND NO/100 (\$10.00) DOLLARS and two (2) notes of even date executed by Grantee, which will be described in this paragraph and referred to as the first lien note and second lien note. The first lien note is in the principal amount of TWO HUNDRED FOURTEEN THOUSAND AND NO/100 (\$214,000.00) DOLLARS, is dated September 30, 2003, payable to the order of COMPASS BANK. This first lien note is secured by a first and superior deed of trust of even date from Grantee to PAT RILEY, Trustee. The second lien note is in the principal amount of FIFTY THREE THOUSAND, FIVE HUNDRED AND NO/100 (\$53,500.00) DOLLARS and is payable to the order of COMPASS BANK. The note provides for acceleration of maturity and payment of attorney's fees in the event of default in payment of that note, default in payment of the first lien note, or breach of any covenants of the deeds of trust securing either the first lien or second lien notes. The second lien note is secured by a second and inferior vendor's lien and superior title retained in this deed and by a second and inferior deed of trust of even date from Grantee to PAT RILEY, Trustee.

Property (including any improvements): A 2.90 acre tract of land, more or less, being situated 4.2 miles N 63° E of Hondo, in Medina County, Texas, and being out of Survey No. 22, Abstract No. 56, Wm. Bryan, original Grantor, being all of a 1.37 acre tract conveyed from Nell F. Richter to John C. Winkler, et ux, by deed dated October 4, 1979, and recorded in Volume 291, Page 283 of the Deed Records of Medina County, Texas, and all of a Lot in New Fountain conveyed from Ida M. Thayer, et al. to John C. Winkler by deed dated February 13, 1985, and recorded in Volume 7, Page 851 of the Official Public Records of Medina County, Texas, and of the 22.22 foot land left between the two tracts as described in Deed recorded in Volume 8, Page 691, Deed Records, and

WARRANTY DEED WITH VENDOR'S LIEN
 WINKLER - PAGE NO. 1
 Vol. 506 Pg. 464

being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes.

Exceptions to Conveyance and Warranty:

- Electric Service Line as shown on survey dated August 18, 2003, as prepared by John M. Howard, Registered Professional Land Surveyor.
- Any claim or right of adjoining property owner to that strip of land lying between the fence and the boundary line on the east side of the property as shown on survey dated August 18, 2003, as prepared by John M. Howard, Registered Professional Land Surveyor.
- 22.22 Foot Lane as shown on survey dated August 18, 2003, as prepared by John M. Howard, Registered Professional Land Surveyor.
- Rights to and possession of the Bethlehem Lutheran Church of Quibi to that certain 0.37 acre overlap as shown on survey dated August 18, 2003, as prepared by John M. Howard, Registered Professional Land Surveyor.

Reservations from Conveyance and Warranty: None

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to warranty.

The vendor's lien against and superior title to the property are retained until the note described herein is fully paid according to its terms, at which time this deed shall become absolute.

When the context requires, singular nouns and pronouns include the plural.

COMPASS BANK has advanced and paid to Grantor in cash that portion of the purchase price of the property that is evidenced by the first lien note. In consideration of that payment, Grantor retains a first and superior vendor's lien against and superior title to the property and transfers them to COMPASS BANK without recourse on Grantor. Grantor retains a second and inferior vendor's lien against and superior title to the property to secure the second lien note and agrees that this second lien is and shall remain subordinate and inferior to all lien securing the first

lien note, regardless of the frequency or manner of renewal, extension or alteration of any part of the first lien note or the liens securing it.

John C. Winkler aka JOHN CHARLES WINKLER
Virginia V. Winkler aka VIRGINIA V. WINKLER

THE STATE OF TEXAS §
 COUNTY OF MEDINA §

This instrument was acknowledged before me on this 30 day of October, 2003, by JOHN C. WINKLER aka JOHN CHARLES WINKLER.

Mary L. Laughinghouse
 Notary Public, State of Texas
 Comm. Exp. Nov. 30, 2004

THE STATE OF TEXAS §
 COUNTY OF MEDINA §

This instrument was acknowledged before me on this 1st day of October, 2003, by VIRGINIA V. WINKLER.

Mary L. Laughinghouse
 Notary Public, State of Texas
 Comm. Exp. Nov. 30, 2004

AFTER RECORDING RETURN TO:
 KENNETH M. SMITH, ET UX
 815 Washington Street - 110 CL 257
 Castroville, Texas 78009 Hondo TX 78861

PREPARED IN THE LAW OFFICE OF:
 NUNLEY, DAVIS, JOLLEY & HILL, L.L.P.
 P. O. Box 422
 Hondo, Texas 78861

1370007000-70997664-46 Winkler-Smith-WARRANTY DEED WITH VENDOR'S LIEN-vp468ff/8,503/03

WARRANTY DEED WITH VENDOR'S LIEN
 WINKLER - PAGE NO. 1
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WARRANTY DEED WITH VENDOR'S LIEN
 WINKLER - PAGE NO. 1
 Vol. 506 Pg. 466

STATE OF TEXAS
COUNTY OF MEDINA
PREPARED FOR: John C. & Virginia V. Winkler
- Galliers, Kenneth M.
Arlene B. Smith - Boyers

FIELD NOTES TO DESCRIBE

A 2.90 Acre Tract of land being situated 4.2 miles N 63° E of
Hondo in Medina County, Texas, and being out of Survey No. 22,
Abstract No. 58, Wm. Bryan, original grantee, being all of a
1.37 Acre Tract conveyed from Nell F. Richter to John C. Winkler,
at and by deed dated October 4, 1979 and recorded in Volume 231,
Page 283 of the Deed Records of Medina County, Texas, and all of
a lot in New Fountain conveyed from Ida M. Thayer, et al to John
C. Winkler by deed dated February 13, 1985 and recorded in Volume
7, Page 85 of the Official Public Records of Medina County,
Texas and of the 72.72 Foot Lane left between the two tracts as
described above as per deed recorded in Volume 8, Page 55 Deed
Records, and being more particularly described as follows:

BEGINNING: At an 8" concrete post found in the Northeast line of
County Road 231 for the West corner of a Parcel of
Land (Volume 57, Page 371, Official Public Records)
and the South corner of said 1.37 Acre Tract and of
this tract:

THENCE: N 61° 41' 07" W 144.42 feet with a concrete and
 wrought-iron fence and the North line of County Road
231 to a 1.3" x 1.3" concrete post found for an angle
point of this tract;

THENCE: N 52° 29' 15" W 332.92 feet with the North line of
said road to a 5/8" iron pin set for the West corner
of said 206.75 1/2 Acre Tract and of this tract;

THENCE: S 25° 01' 16" W 331.55 feet with the Southeast line
of a 55.55 Foot Lane (Volume 8, Page 74 Deed
Records, not apparent on the ground), at 302.87 feet
pass a 5/8" iron pin set for reference, continuing to
the centerline of the Verde Creek for the North
corner of this tract;

THENCE: N 61° 41' 07" W 144.42 feet to a point for the East
corner of said 1.37 Acre Tract and of this tract;

THENCE: S 25° 01' 16" W 331.55 feet, at 40.00 feet pass an 8"
concrete post, continuing in general with fence and
the Northwest line of said Parcel of Land (Volume 57,
Page 371 Official Public Records to the POINT OF
BEGINNING.

Bearings shown herein are geodetic from GPS observations.

I hereby certify that the foregoing field
note description and accompanying plat were
prepared from an actual survey performed on
the ground, under my supervision and that to
the best of my belief and knowledge they are
true and correct.

This the 15th day of August, 2003.

John C. Winkler, Notary Public
402 State Highway 373 S
Hondo, Texas 78861
(830) 424-4776

EXHIBIT "A"
Page 1 of 1 Pages Vol. 506 Pg. 467

NOTICE

Prepared by the State Bar of Texas for use by Lawyers only. Reviewed 1-1-76.
To select the proper form, fill in blank spaces, strike out form provisions or
insert special terms constitutes the practice of law. No "standard form" can
meet all requirements.

WARRANTY DEED WITH VENDOR'S LIEN

84646
THE STATE OF TEXAS }
COUNTY OF MEDINA } KNOW ALL MEN BY THESE PRESENTS:

That I, NELL F. RICHTER, a single woman,
of the County of Medina and State of Texas for and in
consideration of the sum of Ten and No/100

DOLLARS
and other valuable consideration to the undersigned paid by the grantees herein named, the receipt of which
is hereby acknowledged, and the further consideration of the execution and delivery by grantees of
their one certain promissory note of even date herewith, in the principal sum of Fifty-
Five Thousand and No/100 Dollars (\$55,000.00), payable to the order of grantor in monthly
installments and bearing interest as therein provided, containing the usual clauses provid-
ing for acceleration of maturity and for attorney's fees,

the payment of which note is secured by the vendor's lien herein retained, and is additionally secured by a deed
of trust of even date herewith to Francis C. Richter, III Trustee,
have GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY unto

JOHN C. WINKLER and wife, THELMA E. WINKLER
of the County of Medina and State of Texas, all of the following described real
property in Medina County, Texas, to-wit:

1.37 acres of land, more or less, out of Subdivision No. 20, Survey No. 22,
W. Bryan, Medina County, Texas, and being more fully described by metes and
bounds, as follows:

- at a stake in the North line of Quishi-Vandenberg Road S. 57 deg. 15'
- to a stake for its S.E. corner which is 36.5 vrs. N. 57 deg. 15'
- conjunction of the Hondo-Vandenberg Road;
- 25 deg. 15' E. 84.2 vrs. to stake on the West bank of Verde Creek
- E. corner;
- along the West bank of said creek, N. 44 deg. W. 74.1 vrs. to a stake
- N. corner;
- 27 deg. 35' W. 100 vrs. to the place of beginning.

TO HOLD the above described premises, together with all and singular the rights and
anywise belonging unto the said grantee, their heirs and assigns
hereby bind myself, my heirs, executors and administrators to
EVER DEFEND all and singular the said premises unto the said grantee, their
and every person whomsoever lawfully claiming or to claim the same or any part
I agreed that the VENDOR'S LIEN, as well as the Superior Title in and to the above
tained against the above described property, premises and improvements until the above
interest thereon are fully paid according to the face, tenor, effect and reading thereof,
is absolute.

this 4th day of October, A.D. 1979
Nell F. Richter
(NELL F. RICHTER)

(Acknowledgment)
I, the undersigned authority, on this day personally appeared Nell F. Richter
whose name is subscribed to the foregoing instrument, and acknowledged to me
and to the undersigned authority, that she executed the same for the purposes and
consideration therein expressed.

Notary Public in and for Medina County, Texas
My commission expires 2-18-2004
Charleen Schaeble
(Printed or stamped name of notary)

9th DAY OF OCTOBER, A. D. 1979 AT 4:40 O'CLOCK P. M.
5th DAY OF OCTOBER, A. D. 1979 AT 2:00 O'CLOCK P. M.
CORNELIA M. KOCH
CLERK COUNTY COURT MEDINA COUNTY, TEXAS
BY: Theresa N. Boudreau DEPUTY

FILED IN MY OFFICE
ELVA MIRANDA
OCT 01 '03 PM 3:42
COUNTY COURT, MEDINA CO., TEXAS

OCT 01 2003
Elva Miranda
COUNTY CLERK
MEDINA COUNTY, TEXAS

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Structure, Stage Stop (?)

Serial Number: NRS79-21838
 Property Name: STAGE STOP (?)
 Property Address: near Quihi, rural
 Architect/Builder: ?
 Owner: ?
 County: Medina
 City/Rural: rural, Quihi
 Block: E-4
 Lot: 1
 UTM Coordinates:
 USGS Map:
 Construction Date:
 Period: TCW
 Style: Pioneer Alsatian
 Theme: TCSC/AAPAL
 Description: 2 story, mixed sandstone and limestone, Alsatian structure with stone lintels and quoins, once used as stage stop; beautiful framing-note columns and beams of barn which has massive intel over door, many windows closed with concrete; main house has casement windows and double doors; gable roof with end-wall chimney; rectangular plan, barn is rectangular; measures 17 x 22
 Building Material: Wall: stone/stone
 Building Material: Roof: ? - barn: metal
 Physical Condition: good/poor
 Site: Original: 1
 Site: Moved: 0
 Site: Date Moved:
 Alterations: probably altered
 Significance: Good example vernacular stone residence (Alsatian) in rural Quihi.
 Area of Significance: architecture
 Level of Significance: local
 Designate: HSI
 Original Use: stage stop/barn
 Present Use: ~~stage stop/barn~~
 Relationship to Surroundings:
 Acreage/Boundary Description:
 Bibliographic Data:
 See:
 Info/Correspondence:
 Files:
 Recorded By: BCN 9/80
 Informant:
 Date: 7/21/72
 Photo Data: 3 b/w (7/21/72); 323,783
 Continuation:



Manager Home former stagecoach stop # 1



http://atlas.state.tx.us/scripts/viewform.asp?atlas_num=3001005008&site_name=Struct... 8/20/2003

TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County: Medina City: New Stanton Ownership: Public Private
 Property Name: _____ Historic name: Wetmore flour mill
 Address: Co Rd 351 & FM 2676, Hondo Zip code: 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation: 1870's Architect/Builder (if known): unknown
 Why is this property important to your community?: original flour mill - has been restored

In what aspect(s) of Texas history has this property played a role? (check all that apply)

- Agriculture Architecture Archeology Art Commerce Communications Community planning and development
- Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
- Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
- Maritime history Military Performing arts Philosophy Politics/government Religion Science
- Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? No if yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: Invasion of traffic & destruction of roads will demolish building
 What do you think would help alleviate the threat? signage - no railroad

4. CONTACT INFORMATION (for person completing form)

Name: Judy Rotmer Organization/Affiliation: TAHF HO
 Address: 3980 FM 2676 City/State/Zip: _____
 Phone: 307-741-3674 Fax: _____ Email: _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us





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TEXAS HISTORICAL COMMISSION
ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County MEDINA City HONDO Ownership: Public Private
 Property Name BALZEN PARK Historic name _____
 Address 780 COUNTY ROAD 354 Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1910 Architect/Builder (if known) JOE HERMAN BALZEN
 Why is this property important to your community? WAS CONSTRUCTED IN 1910 ON LAND PURCHASED IN 1881.

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Political/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? NO If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: TO CONSTRUCTION AND HISTORICAL VALUE OF HOUSING WHICH WAS RECORDED IN 1982 AND IS NOW SET TO BE DEMOLISHED BY GRANTING OF JOE HERMAN BALZEN'S PROPOSED LIMESTONE QUARRY AND RAILROAD IS A GREAT THREAT TO QUARRY -- NO RAILROAD
 What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)
 Name JOE HARRIS BALZEN Organization/Affiliation QUINN & IRBY FOUNDATION HISTORICAL SOCIETY
 Address 780 COUNTY ROAD City/State/Zip HONDO, TEX. 78861
 Phone 4263557 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-3553 or history@thc.state.tx.us

1910
 1910



46

TEXAS HISTORICAL COMMISSION
ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City New Fountain Ownership: Public Private
 Property Name Southwest TX Conference Historic name New Fountain United Methodist Church
 Address 2980 FM 2676, Hondo, TX Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1858-1859 Architect/Builder (if known) FIRST building built by the church members
 Why is this property important to your community? Land donated by Friedrich Muennink and John Weimers, To build a house of worship of God's Holy Word, the first church building also served as schoolhouse and the preacher (J.H. Shaper) also served as teacher. The activities of the community still center around New Fountain Church.

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Political/government Religion Science
 Social history Transportation Other, specify Immigrants from Germany and Alsace-Lorraine. The church has been in existence for 145 years.

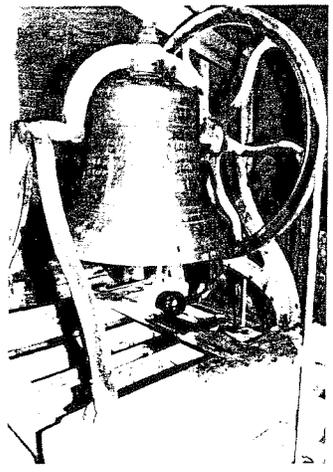
3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? NO If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: A huge quarry (with railroad and/or trucks) is to be built by a large national Co. The destruction of heritage is tantamount to a crime.
 What do you think would help alleviate the threat? Deny permit of quarry and railroad.

4. CONTACT INFORMATION (for person completing form)
 Name Joyce M. Landrum Organization/Affiliation Q & NF Historical Society
 Address 776 C.R. 354 City/State/Zip Hondo, TX 78861
 Phone 830-426-8295 Fax _____ Email landrum@hillcountry.net

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-3553 or history@thc.state.tx.us

Our Heritage



On August 17, 1835, Col. Wm. B. Travis appealed to the Board of Missions for missionaries and preachers to come to "dispense the tidings of salvation." In 1843 Rev. John W. DeVilbiss was sent by the Ohio Conference to fill a missionary field including all of West Texas above Gonzales and west of the Guadalupe River. The earliest record of any Methodist activity in Medina County was in 1854, when Rev. Gustave Elley, a Texas Conference minister was appointed to Castroville. While there his pastoral duties took him occasionally to the beautiful, fertile valley of the Verde Creek, later known as New Fountain. The Methodist Annual Conference meeting in New Orleans was made aware of the need for missionary work among the German immigrants in this area. In 1857 Rev. DeVilbiss preached to an enthusiastic group at Soldiers' Camp near the Verde Creek. In 1858, Rev. John A. Shaper was sent to work among the German people. His efforts resulted in the organization of the Ebenezer Methodist Church, New Fountain German Mission, Rio Grande Mission Conference and Louisiana Mission Conference. The organization was held in the home of John Wiemers as were Sunday Services and mid-week prayer services. Weather permitting, the congregation met under the Wiemers Oak.

The first sanctuary was approximately 16 x 20 ft with a crude adjacent shelter for the parsonage. Rev. Jacob Kern was the first minister to serve and also teach school. A deluge from torrential rains swept down the Verde Creek, flooding the building. The

minister and family were saved by going to the small attic. Even the cemetery was damaged. Fourteen years later, the dream of a new church became a reality. Homes were built, land cleared, crops were produced and livestock increased. The people developed a sense of well-being and they determined to face the problem of paying for the new church. On May 6, 1861 the stewards agreed to establish a fund consisting of cattle, the proceeds of sales to be used by the congregation for the support of the minister and church maintenance. The donations of cattle were branded "711" and marked under the left ear. In 1872, under the leadership of Rev. Jacob Bader, the original part of this sanctuary was completed.

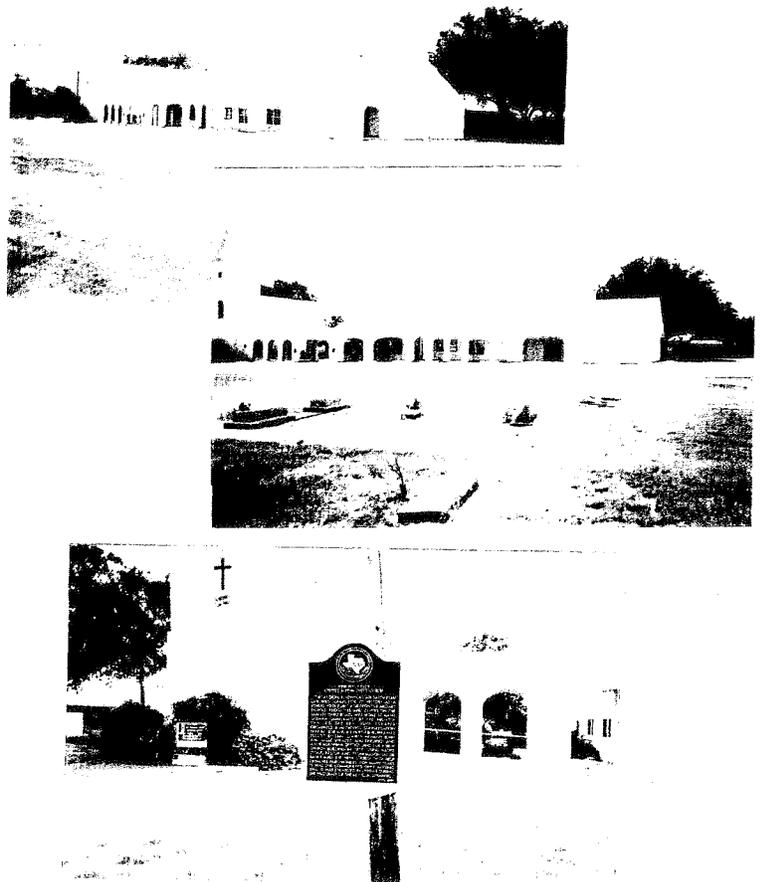
In 1878, the vestibule and steeple for the belfry were added. The bell for the congregation was cast by Henry McShane & Co., Baltimore, Md., in 1880 with the following inscription: Ebenezer Kirchen Glocke, M.E. Church S. 1880; Seien Rul den Armen Sundern. Eine Mahnung Gotteskindern. Amen! Ebenezer Church Bell, M.E. Church S. 1880. A call to the poor sinner. A reminder to God's children. Amen!

The Civil War had been a hardship for all. In 1875 a two-room parsonage was built on three acres east of the church. In 1895, the parsonage was renovated and more rooms were added. During 1900 and 1901 extensive repairs were made to the sanctuary which included a choir loft.

The \$22,000 Educational Building was erected between 1947-49. In 1954, \$4,200 was bequeathed for a new parsonage. Several renovations and additions have made it a very comfortable home. In the late '60s funds from the Ben Balzer estate were used to remodel the sanctuary and erect the pavilion and barbecue area.

In the fall of 1991 we moved into a new Educational Building which we are now using to capacity.

The real history of the New Fountain Church is not written in records or monuments but is alive in the spirit of these witnessing from this congregation and will be evident in the coming generations.



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City Hondo Ownership Public Private
 Property Name Frank's Lounier's ranch Historic name Henry Herdes ranch
 Address 5465 CR 2676 Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation
 For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1850 Architect/Builder (if known) _____
 Why is this property important to your community? see attach

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

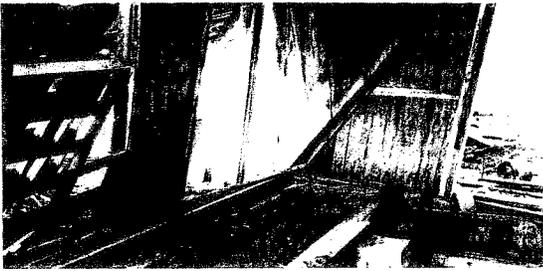
3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? yes If yes, approximately how long?
 Briefly describe the nature and immediacy of the threat: railroad for lime stone quarry
 What do you think would help alleviate the threat? lime stone quarry be located where it will not affect wild life & people

4. CONTACT INFORMATION (for person completing form)
 Name Archie Herdes Organization/Affiliation Quincy New Fountain Historical Society
 Address 450 CR 351 City/State/Zip Hondo, TX 78861
 Phone 830 456 289 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@the.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission, at 512/463-5553 or history@thc.state.tx.us

ictures and 2 This house was built around 1850, it had a loft in it where the kids slept. It was occupied by my great-grand parents, Henry Herdes (1832-1917) and Anke Herdes (1839-1924) When he died one morning they made a pine box to put him in and taken him to Litch to be buried (about 6 miles) they dug a grave, buried him and were back home before dark. After he died his son and his wife lived there (Ben 1877 to 1963 and Frieda Herdes 1881 to 1952) Later this land & house was sold to Ernest Wendle on a hand shake. When Gus Boehme bought it, to his surprise there was no deed, so a deed was written and the Herdes heirs signed a release. Property is currently owned by Frank Lounier, Jr.



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TEXAS HISTORICAL COMMISSION
ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City Hondo Ownership: Public Private
 Property Name GERDES T4 ranch Historic name same
 Address 450 CR 351 Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation _____
 For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1891 Architect/Builder (if known) Mr. Boehme
 Why is this property important to your community? see attach

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify wild life

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? no If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: lime stone quarry and railroad
 What do you think would help alleviate the threat? if the quarry be located where it will not be possible to wild life. Lime stone is very plentiful all over that world.

4. CONTACT INFORMATION (for person completing form)
 Name Archie Herdes Organization/Affiliation Guthrie Foundation Historical Society
 Address 450 CR 351 City/State/Zip Hondo, Tex
 Phone 830-451-2819 Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY
 Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5553 or history@thc.state.tx.us

ictures and 2

This house was built around 1850, it had a loft in it where the birds slept. It was occupied by my great-grand parents, Henry Hudke (1832-1917) and Anke Herdes (1839-1934) When he died one morning they made a pine box to put him in and taken him to Quik to be buried (about 6 miles) they dug a grave, buried him and were back home before dark. After he died his son and his wife lived there (Ben 1877 to 1963 and Frieda Herdes 1881 to 1952)

Later this land & house was sold to Ernest Bendle on a hard shake. When Gus Boehme bought it, to his surprise, there was no deed, so a deed was written and the Herdes have signed a release.

Property is currently owned by Frank Gournier Jr.

48

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Medina Co.

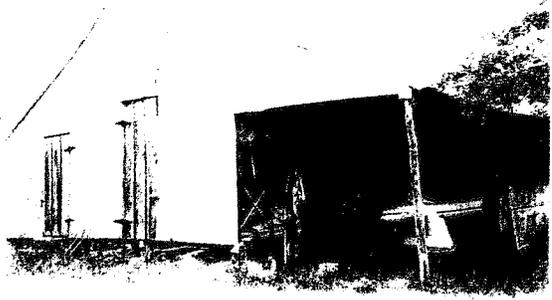
Gerdes T4 Ranch
 Location of Ranch: Ten miles northeast of Hondo

Dates of ownership	Name	Relationship to current owner
1881-1899	Paul Oefinger Sr.	Great-grandfather
1899-1910	Paul Oefinger Jr.	Grandfather
1910-1923	William and Emille Oefinger Sauthoff	Uncle, aunt
1923-1928	Paul Oefinger Jr.	Grandfather
1928-1969	Herman and Elsie Oefinger Gerdes	Parents
1969-1986	Archie Gerdes	

Paul Oefinger, a German immigrant, bought land from Ivan Baptiste Schmidt. Oefinger had several employees with Indians. During one raid on all the horses were stolen. Paul Jr., the oldest child, was hidden and the bed for protection. Paul's wife, Anna Marie, had nine other children: Sophia, Anne Marie, Katharina, Christina, Cassia, Jr., etc. Carl and another son named Jatch who died in early childhood. A barn and part of the founder's house, both more than 100 years old, are still used.

Acres in original parcel: 320. Acres still retained: 320
 Crops or livestock raised: 1881 - Cotton and cattle; 1986 - Murze, corn, and cattle.

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TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

IDENTIFICATION

County Medina City Hondo Ownership Public Private

Property Name Arvid J. Schult Historic name _____

Address 1901-22nd St Hondo Zip code 78861

Historical designations (if any): National Register (individually) National Register District, name _____

Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1904 Architect/Builder (if known) Unknown

Why is this property important to your community? This property was purchased by my Grandpa and is my home place since 1937. Even though I live in Hondo, the place is still home with cattle guards and a good place to relax.

In what aspect(s) of Texas history has this property played a role? (check all that apply) A good place to relax

Agriculture Architecture Archeology Art Commerce Communications Community planning and development

Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage

Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature

Maritime history Military Performing arts Philosophy Politics/government Religion Science

Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation

Is the property currently vacant? No If yes, approximately how long? _____

Briefly describe the nature and immediacy of the threat: _____

What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)

Name Arvid J. Schult Organization/Affiliation _____

Address 1901-22nd St Hondo City/State/Zip Hondo, Tex 78861

Phone 800-426-3733 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5553 or history@thc.state.tx.us



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The State of Texas
County of Medina

Know all men by these presents: That I, W. F. Tampke of Medina County, Texas, for and in consideration of the natural love and affection which I have and bear for my young friends, Walter Saathoff and wife, Myrtle Saathoff, have given, granted and conveyed, and by these presents do give, grant and convey unto the said Walter Saathoff and Myrtle Saathoff, of Medina County, Texas, two certain tracts of land situated in Medina County, Texas, described in two tracts, as follows:

First tract. 266 acres, more or less, out of Survey No. Four (4), in the name of H. Castro, and being described by metes and bounds, as follows:

Beginning at the N.E. corner of said Survey No. 4, H. Castro for N.E. corner of this tract;

Thence West 1900 varas to a stake for N.W. corner of said Survey No. 4, H. Castro, for N.W. corner of this tract;

Thence South 791 varas to the N.W. corner of a tract of other land, for S.W. corner of this tract;

Thence East 1900 varas to the East boundary line of said Survey No. 4, H. Castro, for S.E. corner of this tract;

And thence North 791 varas to the place of beginning, This being the same tract of land conveyed to the undersigned by deed of conveyance from Henry Schweers, Jr., and wife, Lillie Schweers, by deed dated March 15, 1904, and of record in the Deed Records of Medina County, Texas, in Vol. 36, on page 357, to which deed and its record reference is herein made for further description of same.

Second tract. 523.4 acres, more or less, being described as 202 acres, more or less, out of Survey No. 91, in the name of Spring Creek Irrigation Co.; and being 321.4 acres, more or less, being the East 1/2 of Section 330, Certificate No. 1,901, B. S.

By G. Saathoff, as assignee of said H. N. Burgin. The said 202 acres, more or less, being the remaining portion of 222 288 acres conveyed to the undersigned by deed dated April 30, 1937,

from Fritz Stiegler and wife, Ida Stiegler, and on record in the deed records of Medina County, Texas, in Vol. 108, on page 623, and the undersigned conveyed to Walter L. Saathoff July 5th, 1938, a tract containing 86 acres, of record in the Deed Records of Medina County, Texas, in Vol. 112 on page 191. Reference is herein made to said two deeds of conveyance and their records for further description of what is conveyed herein.

Said lands being conveyed together with all and singular the rights, members and appurtenances to the same in any manner belonging.

To have and to hold said land and premises to them, the said Walter Saathoff and Myrtle Saathoff, their heirs and assigns forever.

Witness my hand this 3rd day of October, 1946.

W. L. Saathoff

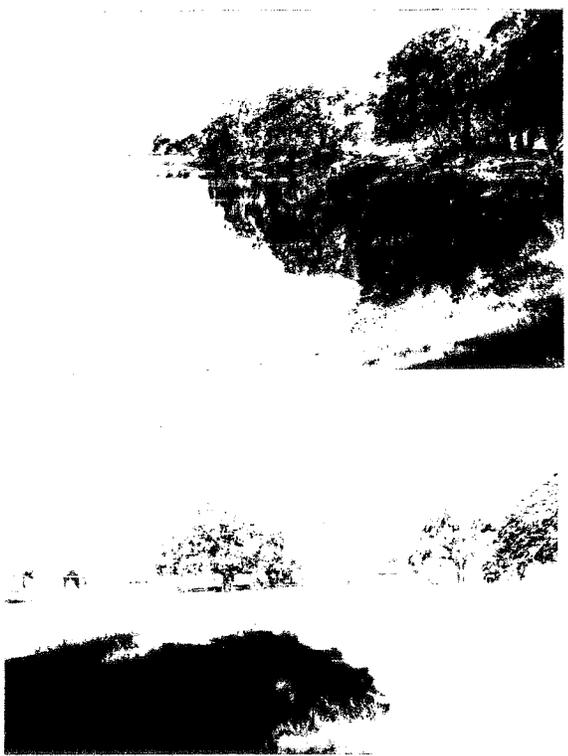
Before me, the undersigned authority, on this day personally appeared *W. L. Saathoff*, a single man, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, at Hondo, Texas, this 3rd day of October, 1946.

W. L. Saathoff
Notary Public in and for Medina County, Texas.

This title of page County of Medina. About all this is true. That the County of Medina is not the same as the County of Medina, Texas, in Vol. 108, on page 623, and the undersigned conveyed to Walter L. Saathoff July 5th, 1938, a tract containing 86 acres, of record in the Deed Records of Medina County, Texas, in Vol. 112 on page 191. Reference is herein made to said two deeds of conveyance and their records for further description of what is conveyed herein.

Arroyo Johnson
Call Johnson
The State of Texas }
County of Medina }
Arroyo Johnson, of the County of Medina, Texas, do hereby certify that the above and foregoing is a true and correct copy of the original of the same as the same appears in the records of the County of Medina, Texas, in Vol. 108, on page 623, and the undersigned conveyed to Walter L. Saathoff July 5th, 1938, a tract containing 86 acres, of record in the Deed Records of Medina County, Texas, in Vol. 112 on page 191. Reference is herein made to said two deeds of conveyance and their records for further description of what is conveyed herein.





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TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County MEDINA City New Fountain - Quin Ownership: Public Private
 Property Name Leslie and Charlotte Crew Historic name Wiemers Home
 Address 1601 County Road 451 Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1860 Architect/Builder (if known) Probably John Henry Wiemers
 Why is this property important to your community? Beautifully restored example of pioneer homestead in Medina Co. Many pecan and oak trees along Lerie Creek.

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify First New Fountain Methodist Church was built on this property.

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? NO If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: A Medina Co. quarry plans to build a railroad spur nearby, threatening further erosion and flooding.
 What do you think would help alleviate the threat? Denial of permits for rail spur.

4. CONTACT INFORMATION (for person completing form)
 Name Steve Lapp Organization/Affiliation Leslie and New Fountain Hist. Socy.
 Address 290 CR 454 City/State/Zip Quin TX 78861
 Phone 711-3624 Fax _____ Email Steve.lapp@juno.com

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@the.state.tx.us
 Questions? Contact the History Program: Division, Texas Historical Commission at 512/463-5853 or history@the.state.tx.us



Wiemers-Williams Restoration at 1601 CR 451



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TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City Quin Ownership: Public Private
 Property Name _____ Historic name Remi Marquis
 Address _____ Zip code _____
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1876 Architect/Builder (if known) Remi Marquis
 Why is this property important to your community? Historical value of Early Settlers homestead.

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? NO If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: possible blasting, flooding, and rotation, due to quarry, rail line development &
 What do you think would help alleviate the threat? No Quarry or Rail line.

4. CONTACT INFORMATION (for person completing form)
 Name Nancy Culpepper Organization/Affiliation Quin & New Fountain Historical Socy
 Address 4535 FM 2670 City/State/Zip Quin TX 78861
 Phone 830 741 4600 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@the.state.tx.us
 Questions? Contact the History Program: Division, Texas Historical Commission at 512/463-5853 or history@the.state.tx.us

said County, duly commissioned and qualified, this day came H. Castro to me known, who acknowledged to me that he had signed, sealed and delivered the foregoing instrument of writing and he declared the same to be his act and deed for the purposes and considerations therein expressed.

To certify which I herunto sign name and affix the impress of my official seal at office in San Antonio this 4th day of March A.D. 1894.

(S.S.) J. Wilson Cooke
Gov. W.D.C.



(The State of Texas)
County of Bexar) Personally appeared before me, the undersigned authority, Lorenzo Castro, to me well known, who to me acknowledged that he signed and delivered the instrument of writing on the reverse hereon and he declared the same to be his act and deed for the purposes and considerations therein stated.

In testimony whereof I herunto sign my name and affix the impress of my official seal at office in San Antonio this 6th day of Aug. A.D. 1894.

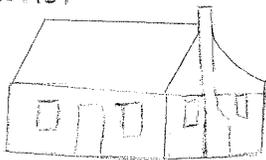
(S.S.) Geo. W. Childs
Notary Public Bexar Co. Tex.



Remo Manque's was a little French man that was a Stonemason in Castrovilla. He purchased this property in 1876. He proceeded to dig a well, He reached water at 30 feet. -

I was told He took the Rock that was left over from his Stonemason work & used it to build his home. It was a Alsation style approx 25x25 with an Attic room that was accessible by an outside Stair. It had a total of 2 Rooms

Later the House was remodeled by Aug. Brucks. the roof was redone into a hip roof & the upstairs was deleted. A front Bed room was Added in 1911 and when a Grandfather moved in Another bed room was Added in 1928. Electricity was Added in 1929



How it looked originally



ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County: Hidalgo City: Edinburg Ownership: Public Private
Property Name: Edinburg Hotel Historic name: Edinburg Hotel
Address: 1000 E. Edinburg Zip code: 78841
Historical designations (if any): National Register (Individually) National Register District, name:
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

2. PROPERTY HISTORY

Estimated date of construction/occupation: 1900 Architect/Builder (if known):
Why is this property important to your community? It is a historic building that has been restored and is now a museum.
In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Political/government Religion Science
 Social history Transportation Other, specify:

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
Is the property currently vacant? no If yes, approximately how long?
Briefly describe the nature and immediacy of the threat:
What do you think would help alleviate the threat?

4. CONTACT INFORMATION (for person completing form)

Name: Joe Smith Organization/Affiliation:
Address: 1000 E Edinburg City/State/Zip:
Phone: 361-2222 Fax: Email:

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5553 or history@thc.state.tx.us



ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County: Medina City: Hondo Ownership: Public Private
Property Name: Joseph Steven Johnson House Historic name:
Address: Rt 1, Box 27A Hondo, Tex Zip code: 78861
Historical designations (if any): National Register (Individually) National Register District, name:
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

2. PROPERTY HISTORY

Estimated date of construction/occupation: 1918 Architect/Builder (if known):
Why is this property important to your community? It is an old home of the community which is being restored and remodeled under the project fund the time. It's a nice place on RR 2676
In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Political/government Religion Science
 Social history Transportation Other, specify:

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
Is the property currently vacant? no If yes, approximately how long?
Briefly describe the nature and immediacy of the threat:
What do you think would help alleviate the threat?

4. CONTACT INFORMATION (for person completing form)

Name: Nancy Schultz Organization/Affiliation:
Address: 1001 22nd St City/State/Zip: Hondo, Texas 78861
Phone: 361-426-3735 Fax: Email:

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5553 or history@thc.state.tx.us

DEED OF TRUST

Date: January 25, 1994. 67339
Grantor: Joseph Steven Johnson
Grantor's Mailing Address (including county): 134 Purr, San Antonio, Bexar County, Texas 78201.
Trustee: Hattie Bryant Canion
Trustee's Mailing Address (including county): Route 1 Box 27A, Hondo, Medina County, Texas 78861.
Beneficiary: Hattie Bryant Canion.
Beneficiary's Mailing Address (including county): Route 1 Box 27A, Hondo, Medina County, Texas 78861.
Note(s)
Date: January 25, 1994.
Amount: TWENTY-FIVE THOUSAND AND NO/100 (\$25,000.00) DOLLARS.
Maker: Joseph Steven Johnson.
Payee: Hattie Bryant Canion.
Final Maturity Date: as provided in the note.
Terms of Payment (optional): as provided in the note.
Property (including any improvements):

2.538 Acres of land being apart Lot No. 64 within Survey No. 22, Wm. Bryan, Abst. No. 50, in Medina County, Texas, located about 6 miles N. 56° E. of Hondo, Medina County, Texas and being described by metes and bounds as follows:
29.218 acres of land being a part of Lot No. 64, within Survey No. 22, Wm. Bryan, Abst. No. 50, located about 6 miles N. 56° E. of Hondo, Medina County, Texas, said tract being a part of a 55 1/2 acre tract conveyed to Louis A. Gerdes by Mrs. Theresa Gerdes by deed dated May 8, 1918, and recorded in Vol. 55, page 300, Medina County Deed Records, and being described by metes and bounds as follows:

THENCE: S 08-01-33 E 367.72 feet to a 5/8" iron pin set by corner post on the Northwest R.O.W. line of said P. M. Highway 2676 and the Southeast line of said 29.218 Acre tract of land for the Southeast corner of this survey;

THENCE: Along fence, the Northwest R.O.W. line of said P. M. Highway 2676, and the Southeast line of said 29.218 Acre Tract of land, S 73-26-00 W 258.28 feet to the POINT OF BEGINNING.

Reservations from and Exceptions to Conveyance and Warranty:

1. This conveyance is made and accepted subject to all restrictions, covenants, rights-of-way, easements, and oil, gas and other mineral reservations, if any, affecting the above-described property, that are valid, existing and properly of record filed in Medina County, Texas.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

The vendor's lien against and superior title to the property are retained until each note described is fully paid according to its terms, at which time this deed shall become absolute.

When the context requires, singular nouns and pronouns include the plural.

Hattie Bryant Canion
 HATTIE BRYANT CANION, Grantor

THENCE with an old fence, a Southerly line of this tract, S 78° 55' 06" W 539.204 feet to a 5/8" iron pin, an interior corner of this tract;

THENCE with an East line of this tract, S 00° 03' 00" W 339.236 feet to a 5/8" iron pin, the SE corner of this tract, in the Northerly ROW of said P.M. Highway No. 2676 and in the southerly line of said Tract 3;

THENCE with the Southerly line of this tract and of said Tract 3, the Northerly ROW of said P. M. Highway No. 2676, S 73° 45' 00" W 224.00 feet to the PLACE OF BEGINNING.

A survey of 1.976 Acres of land situated about 6 N 56° E of Hondo, in Medina County, Texas, out of Survey No. 22, Abstract No. 50, William original Grantee, being a portion of that certain Acre Tract of land conveyed by Deed to Elroy from Hattie Bertha Bryant, dated April 28, 1971, recorded in Volume 233 on Page 632 of the Deeds of Medina County, Texas and being more fully described by metes and bounds as follows:

BEGINNING: At a 5/8" iron pin found by corner post on the Northwest R.O.W. line of P. M. Highway 2676 and the Southeast line of said 29.218 Acre Tract of land for the lower Southeast corner of a certain 0.000 Acre Tract of land conveyed by contract of sale and Purchase to Carl S. Kelly from the Veterans Land Board of Texas, dated June 17, 1980, recorded in Volume 295 on Page 79 of the aforementioned Deed Records and the Southwest corner of this survey from which a 5/8" iron pin found by corner post for the southwest corner of said 29.218 Acre Tract of land bears S 73-31-28 W 22.85 feet;

THENCE: Along fence and the lower East line of said 20.000 Acre Tract of land, N 00-03-00 E 399.24 feet to a 5/8" iron pin found by corner post on an interior corner of said 20 Acre Tract of land and the Northwest corner of this survey;

THENCE: Along fence and the upper South line of said 20.000 Acre Tract of land, N 78-52-29 E 199.62 feet to a 5/8" iron pin set by corner post for the northeast corner of this survey;

DEED WITH VENDOR'S LIEN - Page 3

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WARRANTY DEED WITH VENDOR'S LIEN - Page 4

Vol. 213 P. 534

67338

WARRANTY DEED WITH VENDOR'S LIEN

Date: January 25, 1994.

Grantor: Hattie Bryant Canion, out of her sole and separate property and owning, occupying and claiming other property as homestead

Grantor's Mailing Address (including county):
 Route 1 Box 27A, Hondo, Medina County, Texas 78861.

Grantee: Joseph Steven Johnson

Grantee's Mailing Address (including county):
 134 Furr, San Antonio, Bexar County, Texas 78201.

Consideration:

TEN AND NO/100 (\$10.00) DOLLARS and a note of even date that is in the principal amount of TWENTY-FIVE THOUSAND AND NO/100 (\$25,000.00) DOLLARS and is executed by Grantee, payable to the order of HATTIE BRYANT CANION. The note is secured by a vendor's lien retained in favor of HATTIE BRYANT CANION in this deed and by a Deed of Trust of even date from Grantee to HATTIE BRYANT CANION, Trustee.

Property (including any improvements):

2.538 Acres of land being apart Lot No. 64 within Survey No. 22, Wm. Bryan, Abst. No. 50, in Medina County, Texas, located about 5 miles N. 56° E. of Hondo, Medina County, Texas and being described by metes and bounds as follows:

29.218 acres of land being a part of Lot No. 64, within Survey No. 22, Wm. Bryan, Abst. No. 50, located about 6 miles N. 56° E. of Hondo, Medina County, Texas, said tract being a part of a 55 1/2 acre tract conveyed to Louis A. Gerdes by Mrs. Theresa Gerdes by deed dated May 8, 1918, and recorded in Vol. 55, page 100, Medina County Deed Records, and being described by metes and bounds as follows:

BEGINNING at an iron pin, found in place, in fence corner, said point being the N. E. Corner of Lot No. 64 of the Louis A. Gerdes property and of this tract;

THENCE with fence, the East line of Lot No. 64, S. 00° 02' W. 1806.2 feet to an iron pin, found in place, in fence corner, the S. E. corner of this tract, said point being on the Northerly R.O.W. of FM Highway No. 2676;

THENCE with the Northerly R.O.W. of said Highway, S. 73° 45' W. 775.3 feet to an iron pin and fence corner, said point being on the West line of Lot No. 64, and the Northerly R.O.W. of said Highway;

THENCE with fence, N. 00° 03' E. 1819.29 feet to an iron pin and fence corner, the N.W. corner of this tract, and the N. W. Corner of Lot No. 64;

THENCE with fence, the North line of Lot No. 64, the North line of the Louis A. Gerdes property, the North line of this tract, N. 89° 45' E. 743.7 feet, to the place of beginning.

MEMO: 24.704 acres of land, being a part of Lot No. 64, within Survey No. 22, William Bryan, Abstract No. 50, in Medina County, Texas, located about 6 miles N 56° E of Hondo, Medina County, Texas, said tract being part of 29.218 acre tract called Tract 3 in a partition deed dated April 28, 1971, from Hattie Bertha Bryant to Elroy Gerdes, recorded in Medina County Deed Records in Vol. 233, page 632, and being more particularly described by metes and bounds as follows:

BEGINNING at an iron pin, the SW corner of this tract and of said Tract 3, set in the West line of said Lot No. 64 at its intersection with the Northerly ROW of P.M. Highway No. 2676;

THENCE with a fence, the West line of this tract and of said Tract 3, also the West line of said Lot No. 64, N 00° 03' 00" E 1819.29 feet to a 5/8" iron pin and fence corner, the NW corner of this tract, also of said Tract 3;

THENCE with a fence the North line of this tract and of the said Tract 3, N 89° 45' 00" E 743.7 feet to an iron pin, the NE corner of this tract and of Tract 3;

THENCE with a fence, the East line of this tract and of Tract 3, S 00° 02' 00" W 1256.977 feet to a 5/8" iron pin;

WARRANTY DEED WITH VENDOR'S LIEN - Page 2

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WARRANTY DEED WITH VENDOR'S LIEN - Page 1

Vol. 213 P. 531

THE STATE OF TEXAS } 56311
COUNTY OF MEDINA } KNOW ALL MEN BY THESE PRESENTS:

THAT I, ELROY GERDES, of Medina County, Texas, pursuant to the terms of the Will of Louis A. Gerdes, Deceased, which was probated in the County Court of Medina County, Texas, on the 22nd. day of December, 1970, in cause No. 3499, styled Estate of Louis A. Gerdes, Deceased, HAVE GRANTED AND CONVEYED, and by these presents DO GRANT AND CONVEY, unto Hattie Bertha Bryant, of Medina County, Texas, all of my interest in the following described property situated in Medina County, Texas, to-wit:

TRACT NO. ONE: 22.599 acres of land, being a part of the West one-half of Lot No. 64, and a South portion of Lot No. 64, within Survey No. 22, Wm. Bryan, Abst. No. 50, and located about 6 miles N. 56° E. of Hondo, Medina County, Texas, said tract being a part of a 5 1/2 acre tract conveyed to Louis A. Gerdes by Mrs. Theresa Gerdes by deed dated May 8, 1928, and recorded in Vol. 55, page 300, Medina County Deed Records, and being described by metes and bounds as follows:

BEGINNING at an iron pin under fence, said point being the S. W. corner of the West one-half of Lot No. 64, the S. W. corner of the Louis A. Gerdes property and in the North line of an old Road;

THENCE with fence, the West property line of the Louis A. Gerdes property N. 00° 01' E. 991.46 feet to a point under fence for a N. W. corner of this tract, said point being a N. W. corner of a certain 3.0 acre tract conveyed to Albert W. Bryant and wife by Louis A. Gerdes by deed dated October 20, 1949, and recorded in Vol. 141, page 102, Medina County Deed Records;

THENCE with the South line of said 3.0 acre tract, a North line of this tract, N. 79° 13' E. 318.9 feet to a point for the S. E. corner of said 3.0 acre tract, and an interior N. E. corner of this tract;

THENCE with the West line of said 3.0 acre tract, a West line of this tract, N. 09° 01' E. 408.24 feet to a fence corner part of a N. W. corner of this tract, said point being in the Southern R. O. W. of FM Highway No. 2876;

THENCE with the Southern R. O. W. of said Highway, the North line of this tract, N. 73° 45' E. 458.51 feet to an iron pin and fence corner, the N. E. corner of this tract, said point being on the East line of Lot No. 64;

(The State of Texas)
County of Medina } Know all Men by these presents: That I, Mrs. Theresa Gerdes, the surviving widow and widow of Dirk Gerdes, also known as Dietrich Gerdes, deceased, for myself, and as sole legatee and executrix of the Estate of said Dirk Gerdes, deceased, duly qualified as such in Probate Case No. 370, of Medina County, Texas, as per proceedings recorded in the Minutes of said Court in Book C No. 12 page 278, 279, 281, 282, 283 and 284, of the County of Medina and State of Texas, for and in consideration of the sum of One Thousand (\$1,000.00) Dollars to me cash in hand paid, by Louis A. Gerdes: Have granted, sold and conveyed, and by these presents do grant, sell and convey unto the said Louis A. Gerdes of the County of Medina, and State of Texas, all that certain tract and parcel of land, situated in Medina County, Texas, and a part of and out of Survey No. 22, Abstract No. 50, patented to Wm. Bryan, and known as the homestead of 55 1/2 acres, more or less, of said Dirk Gerdes, deceased, and more fully described in deed from James & Harris, to Dietrich Gerdes, dated February 21st, 1871, as recorded in Book A No. 9, page 278, Medina County Deed Records for 33 acres, and in deed from Jann H. Gerdes to Dietrich Gerdes, dated November 16th 1871, as recorded in Book A No. 9, page 144, Medina County Deed Records for 22 1/2 acres, and containing in the aggregate 55 1/2 acres of land, and being the same land now bounded on the East by lands of George M. Gerdes, on the North by lands of George Bohrfalk, on the West by lands of Louis A. Stiegler and John Buehnirk, and on the South by a lane or road running east and west, said land lying North and South of the Quith and Hondo City Public Road.

To have and to hold the above described premises together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Louis A. Gerdes, his heirs and assigns forever; reserving however the right to occupy and live in the house now occupied by me as my home on said premises during my life time, and I do hereby bind myself, my heirs, executors and administrators to warrant and forever defend, all and singular the said premises unto the said Louis A. Gerdes, his heirs and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Witness my hand at New Mountain, Texas, this 8th day of May, A. D. 1970.
(U. S. Documentary Stamp \$1.00 cancelled)
the State of Texas)
County of Medina) Before me, S. A. Jungman, Clerk of the County Court in and for Medina County, Texas, on this day personally appeared Mrs. Theresa Gerdes, a feme sole, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office, this 8th day of May, A. D. 1970.
(L. S.) S. A. Jungman
Clerk of the County Court in and for Medina County, Texas.
I for Record this 8th day of May, A. D. 1970, at 1:00 o'clock P. M.
Recorded this 13th day of May, A. D. 1970, at 2:40 o'clock A. M.
S. A. Jungman
Clerk County Court, Medina County, Texas.

55
this tract, South 183.12 feet to the place of beginning.

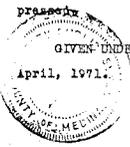
TO HAVE AND TO HOLD the above described premises, together with all and singular, the rights and appurtenances thereto in any wise belonging, unto the said Hattie Bertha Bryant, her heirs and assigns, forever. And I do hereby bind myself, my heirs, executors and administrators TO WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Hattie Bertha Bryant, her heirs and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under me.

WITNESS MY HAND this 28th day of April, 1971.

Elroy Gerdes
Elroy Gerdes

THE STATE OF TEXAS
COUNTY OF MEDINA
Before me, the undersigned authority, on this day personally appeared Elroy Gerdes, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 28th day of April, 1971.



Thomas C. Ruff
Notary Public, Medina County, Texas.

FILED FOR RECORD THE 28th DAY OF APRIL, A. D. 1971 AT 10 O'CLOCK A.
RECORDED THIS THE 7th DAY OF APRIL, A. D. 1971 AT 8:00 O'CLOCK A. M.
HENRY SCHULTE
CLERK COUNTY COURT, MEDINA COUNTY, TEXAS
Deputy



ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

IDENTIFICATION

County Medina City Hondo Ownership: Public Private
 Property Name Loeberg - Stewart Historic name
 Address High 2676 Hondo, Texas Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1900 1800 1900 1800 1900 1800
 Why is this property important to your community? It is a historic site to me on High 2676 since I drive it daily.

In what aspect(s) of Texas history has this property played a role? (check all that apply)

- Agriculture Architecture Archeology Art Commerce Communications Community planning and development
- Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
- Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
- Maritime history Military Performing arts Philosophy Politics/government Religion Science
- Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation

Is the property currently vacant? _____ If yes, approximately how long? _____

Briefly describe the nature and immediacy of the threat: _____

What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)

Name Nancy Schulte Organization/Affiliation _____
 Address 1901-22nd St City/State/Zip _____
 Phone 361-426-3735 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512-463-5853 or history@thc.state.tx.us

(Seal) H. E. Haase
 Notary Public, Medina Co., Texas.
 Filed for Record the 3rd day of May, A. D. 1921, at 3 o'clock P. M.
 Recorded this 7th day of May, A. D. 1921, at 4:00 o'clock P. M.
 S. A. Jungman
 Clerk County Court, Medina County, Texas.

WARRANTY DEED P. P. Seekatz to James E. Carter and A. R. Sparger.
 The State of Texas
 County of Medina) Know all men by these presents: That I, P. P. Seekatz, of the County of Medina State of Texas, for and in consideration of the sum of Three Hundred and Fifty (\$350.00) Dollars, to me paid, and secured to be paid, by James E. Carter, and A. R. Sparger, as follows:
 Fifty (\$50.00) Cash paid, upon delivery of deed, and the balance in five promissory note, of even date with this deed, due respectively as follows, to-wit:
 Note No. 1st, for \$60.00 dated August 1st, 1920, and due August 1st, 1921, bearing 6 per cent interest.
 Note No. 2, for \$60.00 dated August 1st, 1920, and due August 1st, 1922, bearing 6 per cent interest.
 Note No. 3, for \$60.00 dated August 1st, 1920, and due August 1st, 1923, bearing 6 per cent interest.
 Note No. 4, for \$60.00 dated August 1st, 1920, and due August 1st, 1924, bearing 6 per cent interest.
 Note No. 5, for \$60.00 dated August 1st, 1920, and due August 1st, 1925, bearing 6 per cent interest.

It is expressly understood that payments shall be made every quarter and credited on the notes, have granted, sold and conveyed, and by these presents do grant, sell and convey, unto the said James E. Carter, and A. R. Sparger, of the County of Medina, State of Texas, all that certain tract or parcel of land, situated in the County of Medina State of Texas, and described by metes and bounds as follows, to-wit:
 One acre of land out of Survey No. 20, D. Harvey Grant, Beginning at stake in N. V. I. Co. 1084 line on West side of road. Thence with 1084 line as follows S. 39° E. 25.6 Feet S. 94.5' N. 47.3° E. 36.44' W. 46.6' S. 45.0' E. 12.7' S. 12.8' E. 42.2' S. 72.1' E. 46.4' to stake Thence N. 45° W. 294.1' to stake from where a Cedar Stump Brs. N. 50° E. 9'. Thence N. 45° E. 104.7' to stake from where a Cedar Stump Brs. N. 85.70' E. 25.4'. Thence S. 45° E. 200.0' to the place of beginning. Said parties are to fence said lot and shall use the same only for residence purposes and shall not sell to negroes.

To have and to hold the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said James E. Carter and A. R. Sparger, their heirs and assigns forever; and I do hereby bind myself, my heirs, executors and administrators, to warrant and forever defend, all and singular the said premises unto the said James E. Carter and A. R. Sparger, their heirs and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof.

Witness my hand at Centerville, Texas, this 1st day of August, A. D. 1920.
 (U.S. Int. Rev. Stamp 50¢) Frank P. Seekatz
 The State of Texas)

County of Medina) Before me, Peter Hoop, Justice of the Peace and Ex-officio Notary Public in and for Medina County, Texas, on this day personally appeared Frank P. Seekatz, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.
 Given under my hand and seal of office, this 1st day of August, A. D. 1920.



For the purposes and consideration therein expressed, and that she did not wish to retract it.
 Given under my hand and seal of office, at Hondo, Texas, this the 14 day of February, A. D. 1921.
 (Seal) J. G. Newton
 Notary Public, Medina Co., Texas.
 Filed for Record the 3rd day of May, A. D. 1921, at 1:40 o'clock P. M.,
 Recorded this 7th day of May, A. D. 1921, at 10:30 o'clock A. M.
 S. A. Jungman
 Clerk County Court, Medina County, Texas.
 EXTENSION OF LIFE Henry J. Loeberg and wife to John G. Buhlen.
 The State of Texas)
 County of Medina) Whereas, one certain Vendor's Lien dated March 13th, 1917, executed by Henry J. Loeberg and wife, Pauline J. Loeberg, payable to the order of John G. Buhlen, which is fully described in a certain Warranty deed duly recorded in Record _____ Book A No. 54, Page 120 etc., of the County of Medina, Texas, said note having been executed as a part payment and a Vendor's Lien on the following described lot or parcel of land situated in the County of Medina Texas:
 About Sixty-six (66) acres of land out of Survey No. 23, granted to J. Allison, more fully described in said deed above mentioned. There has been paid on said Note the sum of \$300 three hundred Dollars leaving a balance due of Fifteen hundred Dollars, \$1,500.00.
 And whereas, Henry J. Loeberg and wife, of the County of Medina, State of Texas, is now the owner of said real estate and now obligated to pay the above described note and John G. Buhlen, of the County of Medina, State of Texas, is the legal and equitable holder of said note and at the request of said obligor has agreed to extend the time of payment of said note for a period of one year from this date March 13th, 1921.
 Now therefore, for and in consideration for the extension of the term of payment of said note this day made by the legal holder of said note, he hereby ratify and offers the extension of said note and the lien on the above described real estate.
 Witness our hands this 21st day of April, A. D. 1921.
 (U.S. Int. Rev. Stamp 50¢) Henry J. Loeberg
 Pauline J. Loeberg
 The State of Texas)
 County of Medina) Before me, H. E. Haase, a Notary Public in and for Medina County, Texas, on this day personally appeared Henry J. Loeberg, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.
 Given under my hand and seal of office, this 3 day of May, A. D. 1921.
 (Seal) H. E. Haase
 Notary Public, Medina Co., Texas.
 The State of Texas)
 County of Medina) Before me, H. E. Haase, a Notary Public, in and for Medina County, Texas, on this day personally appeared Pauline J. Loeberg, wife of Henry J. Loeberg, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said Pauline J. Loeberg, acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.
 Given under my hand and seal of office, this 3 day of May, A. D. 1921.

TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County MEDINA City _____ Ownership: Public Private
 Property Name Waldorfville home Historic name Hiyo SCHWERS
 Address 655 CR 345 Zip code 78161
 Historical designations (if any): National Register (Individually) National Register District name
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1872 Architect/Builder (if known) _____
 Why is this property important to your community? REPRESENTS THE METAMORPHIS FROM A HUNTER/GATHERER CIVILIZATION TO A EUROPEAN STYLE COMMUNITY OF INDUSTRIALIZED, EDUCATED POPULACE.

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify GERMAN IMMIGRATION TO TEXAS IN 19TH CENTURY.

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? yes If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: PROPOSED RAILROAD WILL TOTALLY CHANGE THE CHARACTER OF ENTIRE COMMUNITY & CAUSE FLUING.
 What do you think would help alleviate the threat? MOVE PROPOSED RAILROAD FURTHER EAST TO A LESS POPULATED AREA.

4. CONTACT INFORMATION (for person completing form)

Name MAX WILCOX BAKER CASAS Organization/Affiliation Public Education Historical Society
 Address 655 CR 345 City/State/Zip Hondo, TX 78161
 Phone 512-791-3419 Fax _____ Email WILCOXB@DYNED.TXSC.COM

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

IDENTIFICATION

County Medina City New Fountain Ownership: Public Private
 Property Name Old Muenink Gin Historic name _____
 Address _____ Zip code _____
 Historical designations (if any): National Register (Individually) National Register District name
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1800 Architect/Builder (if known) John & George Muenink
 Why is this property important to your community? First cotton gin in Medina County - first building in Medina County to have electricity and first telephone.

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? yes If yes, approximately how long? unknown
 Briefly describe the nature and immediacy of the threat: only foundation remains
 What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)

Name Judy Dietrich Organization/Affiliation Q.H.F.H.S.
 Address _____ City/State/Zip _____
 Phone _____ Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@thc.state.tx.us

OLD MUENNINK GIN
1800



Old Muenink Gin, Medina County landmark for many years, was destroyed by a storm just 2 days after this picture was taken.

The Gin was founded and started by John and George Muenink of Hondo. It was located in New Fountain, a small community near Hondo. It was the first cotton gin in Medina County. It also had the very first tin roof in Medina County. Back when the gin was being built, one day Indiana attacked it. When they shot their arrows at it they hit the tin, which made a noise from the arrows, they got scared and ran off. The Muenink Gin was the first building in Medina County to have electricity, other utilities and the very first telephone. The original telephone had five numbers only, and two mercantiles. One set in New Fountain and the other in Hondo. They had phones in each of the houses and both gins. They also had one at one of the mercantiles.

* for story only - not destan



59

TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County _____ City _____ Ownership: Public Private

Property Name _____ Historic name _____

Address _____ Zip code _____

Historical designations (if any): National Register (individual) National Register District, name _____

Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation _____ Architectural style _____

Why is this property important to your community? _____

In what aspect(s) of Texas history has this property played a role?

Agriculture Architecture Archeology Art Commerce and development

Conservation Economics Education Engineering

Exploration/settlement Health/medicine Industry

Maritime history Military Performing arts Politics

Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (e.g., fire, flood, vandalism, arson) Major alteration Relocation

Is the property currently vacant? _____ If yes, approximately _____

Briefly describe the nature and immediacy of the threat: _____

What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)

Name _____ Title _____

Address _____ State/Zip _____

Phone _____ Fax _____

PLEASE INCLUDE A CURATOR'S PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: _____ 1276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Commission at 512-463-5853 or history@thc.state.tx.us



60

TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County _____ City _____ Ownership: Public Private

Property Name _____ Historic name _____

Address _____ Zip code _____

Historical designations (if any): National Register (individual) National Register District, name _____

Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation _____ Architectural style _____

Why is this property important to your community? _____

In what aspect(s) of Texas history has this property played a role?

Agriculture Architecture Archeology Art Commerce and development

Conservation Economics Education Engineering

Exploration/settlement Health/medicine Industry

Maritime history Military Performing arts Politics

Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (e.g., fire, flood, vandalism, arson) Major alteration Relocation

Is the property currently vacant? _____ If yes, approximately _____

Briefly describe the nature and immediacy of the threat: _____

What do you think would help alleviate the threat? _____

4. CONTACT INFORMATION (for person completing form)

Name _____ Title _____

Address _____ State/Zip _____

Phone _____ Fax _____

PLEASE INCLUDE A CURATOR'S PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: _____ 1276, Austin, TX 78711-2276 or help@thc.state.tx.us
 Questions? Contact the History Programs Division, Commission at 512-463-5853 or history@thc.state.tx.us

#60?

lose to #41 #42



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION
 County Medina City _____ Ownership: Public Private
 Property Name Archie Gerdes Tr Ranch (Historic name Four Mile Water Hole)
 Address 450 CR351 HONDO TX Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 THIS SPRING FED POOL LOCATED ON THE GERDES RANCH WAS THE WATER SOURCE FOR TX RANGERS + US CAVALRY TROOPERS WHOSE WIFE (OR PATRIOT) LOOKING FOR INDIANS THAT WERE KILLED THEIR HORSES ARCHITECTURE (if known) IN THE AREA
 Why is this property important to your community? THIS SITE IS NOTED IN HISTORICAL REFERENCE IT HAS NEVER GONE DRY EVEN IN SEVERE DROUGHT CONDITIONS

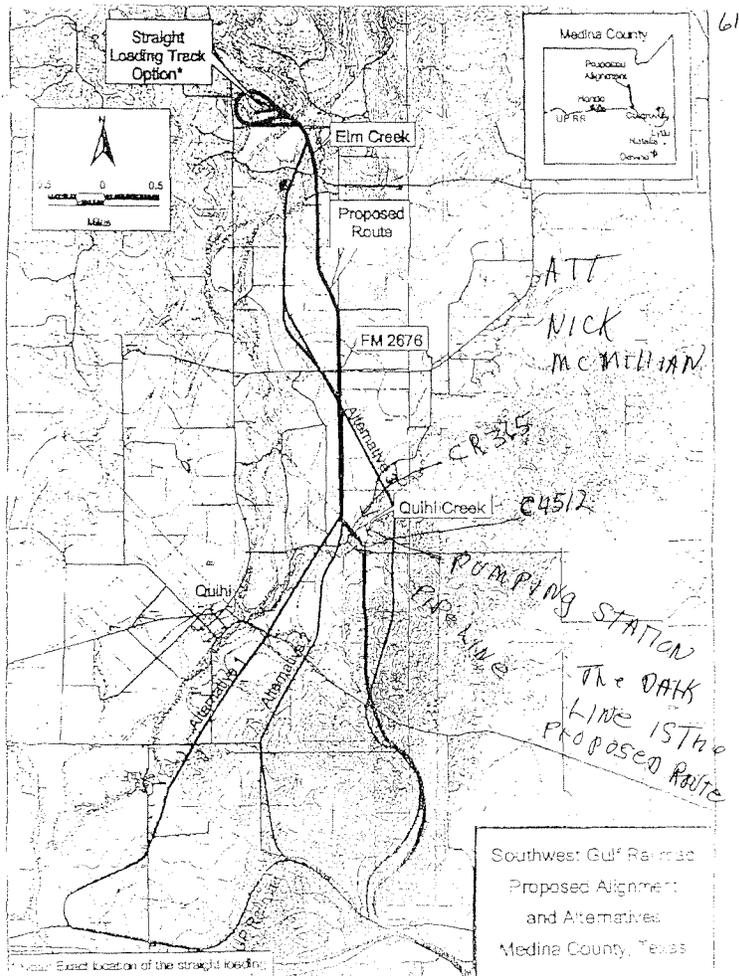
In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? NO If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: VULCAN MATERIALS (SGR) HOPE PASSES VERY NEAR THIS SITE ON THE GERDES RANCH CONSTRUCTION OF A RAILROAD IN THIS LOCATION WOULD DESTROY THIS SITE
 What do you think would help alleviate the threat? RELOCATE THE RAILROAD

4. CONTACT INFORMATION (for person completing form)
 Name Archie Gerdes Organization/Affiliation Quilhi-NEW FOUNTAIN HIST
 Address 450 CR351 City/State/Zip HONDO TX 78861
 Phone 476-2877 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@the.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@the.state.tx.us



For the protection of the settlers in the mid 1800's, the U.S. Cavalry had a camp on the Verde Creek, near the junction of the Verde and Hondo Creeks. They would send out scouts daily to find Indians. They would ride up as far as this waterhole, which was four miles from the soldiers camp to water their horses. It is a spring-fed waterhole which has never gone dry. It has always been known as the four mile waterhole.



TEXAS HISTORICAL COMMISSION

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

IDENTIFICATION
 County Medina City Gallo Ownership: Public Private
 Property Name Wm. Ockman Residence (Historic name GERTH JANSSEN GERDES HOUSE)
 Address FM 2676 Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY
 Estimated date of construction/occupation 1907A (Architect (if known) GERTH JANSSEN GERDES)
 Why is this property important to your community? SON GEORGE GERDES
THIS HOUSE WAS BUILT BY ORIGINAL SETTLERS GERTH GERDES FROM LUMBER SALVAGED FROM A FARMER DWELLING OWNED BY HIM. IT WAS SOLD TO RELOCATE THE COURTHOUSE IN 1948

In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT
 Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? NO If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: THE PROPERTY HOME LIES IN A FLOOD PLAIN SUPPLIED BY THE GULL CREEK. THIS STRUCTURE WITH FLOODING
 What do you think would help alleviate the threat? RELOCATE THE RAILROAD

4. CONTACT INFORMATION (for person completing form)
 Name Robert Tupper Organization/Affiliation Med. County Environmental Act. 455
 Address 202 CR 450 City/State/Zip HONDO TX 78861
 Phone 741-5048 Fax 476-2000 Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@the.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@the.state.tx.us

ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

1. IDENTIFICATION

County MEDINA City NEAR FOUNTAIN Ownership: Public Private
 Property Name William Porman (Garage) Historic name BLACKSMITH SHOP
 Address FM 2676 HONDO TX Zip code 78861
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation 1880 Architect/Builder (if known) JOE HORN
 Why is this property important to your community? LATE 1800'S EARLY 1900'S BLACKSMITH SHOP WHICH SERVED THE LOCAL COMMUNITY OF NEAR FOUNTAIN & QUIKI FOR MANY YEARS. IT IS STILL STANDING & IS NOW USED AS A GARAGE FOR Wm. PORMAN
 In what aspect(s) of Texas history has this property played a role? (check all that apply)
 Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT

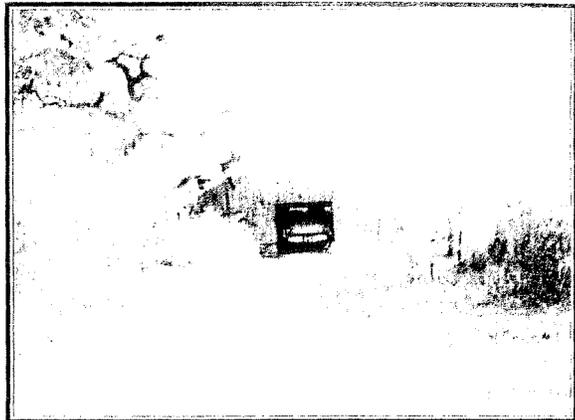
Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? NO If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: A proposed Railway (SGR) IS BUILT THROUGH THE QUIKI CREEK flood plain. THE ASPECT OF FLOODING IS IMMINENT
 What do you think would help alleviate the threat? MOVE THE RAILROAD ROUTE OUT OF THE FLOOD PLAIN

4. CONTACT INFORMATION (for person completing form)

Name Robert Fitzgerald Organization/Affiliation Med. County Environ. Act. Ass.
 Address 202 CR 456 City/State/Zip HONDO TX 78861
 Phone 830-741-5040 Fax 426-2060 Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@the.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@the.state.tx.us



ENDANGERED HISTORIC PROPERTY IDENTIFICATION FORM

IDENTIFICATION

County Medina City Quiki Ownership: Public Private
 Property Name Quiki Lake Historic name Quiki Lake
 Address _____ Zip code _____
 Historical designations (if any): National Register (Individually) National Register District, name _____
 Recorded Texas Historic Landmark State Archeological Landmark Local designation

For archeological sites, enter site name/number for "Property Name" and UTM coordinates or approximate location for "Address."

2. PROPERTY HISTORY

Estimated date of construction/occupation _____ Architect/Builder (if known) _____
 Why is this property important to your community? Quiki Lake the first settlement in Quiki before any homes were built.

In what aspect(s) of Texas history has this property played a role? (check all that apply)

Agriculture Architecture Archeology Art Commerce Communications Community planning and development
 Conservation Economics Education Engineering Entertainment/recreation Ethnic heritage
 Exploration/settlement Health/medicine Industry Invention Landscape architecture Law Literature
 Maritime history Military Performing arts Philosophy Politics/government Religion Science
 Social history Transportation Other, specify _____

3. ENDANGERMENT

Threat: Neglect Development Damage (i.e. natural disaster, vandalism, arson) Major alteration Relocation
 Is the property currently vacant? _____ If yes, approximately how long? _____
 Briefly describe the nature and immediacy of the threat: The flood plain will be altered and it will affect the water flow
 What do you think would help alleviate the threat? Keep railroad away from wet lands

4. CONTACT INFORMATION (for person completing form)

Name Cynthia Lindsey Organization/Affiliation Quiki River Association Historical
 Address PO Box 93 City/State/Zip Hondo TX 78861
 Phone 830-741-1041 Fax _____ Email _____

PLEASE INCLUDE A CURRENT PHOTOGRAPH OF THE PROPERTY

Submit to: Texas Historical Commission, Attn: HELP, P.O. Box 12276, Austin, TX 78711-2276 or help@the.state.tx.us
 Questions? Contact the History Programs Division, Texas Historical Commission at 512/463-5853 or history@the.state.tx.us



Quihi Lake at Quihi, Texas



received
11/11/05

FLOODING
IN THE
QUIHI FLOODPLAIN
MEDINA COUNTY, TEXAS

The Medina County Environmental Action Association, Inc.
202 CR 450, HONDO, TX 78861
www.dontmesswithquihi.com
Phone 830-741-5040
Fax 830-426-2060

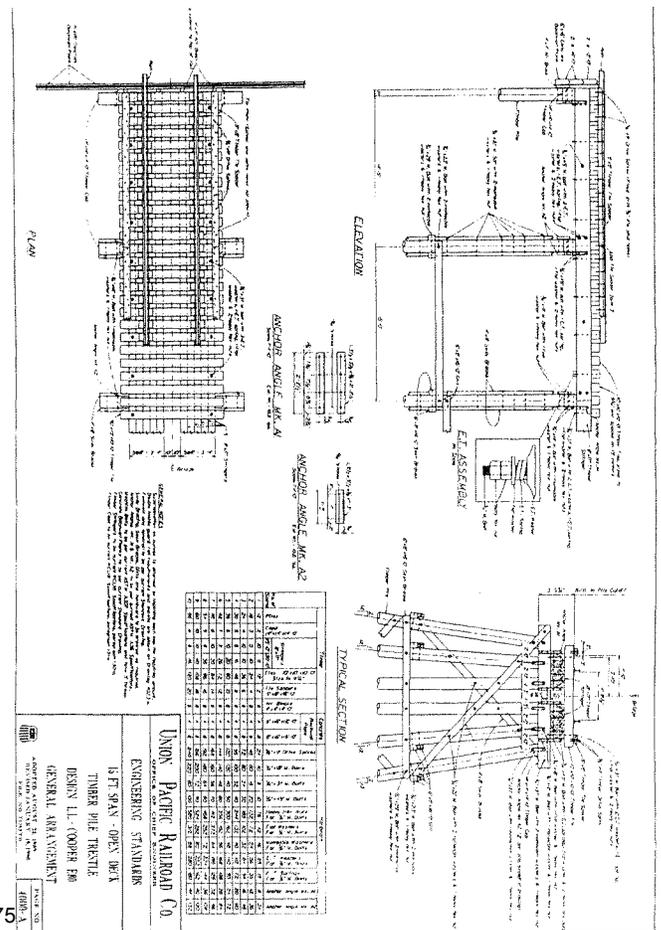
FLOODING IN THE QUIHI FLOODPLAIN
MEDINA COUNTY, TEXAS

1. Photos of debris that regularly comes down the creeks in Quihi.
2. Map with numbered index of accompanying flood photos.
3. Numbered photos of roads flooded.

Note: Flooding occurs regularly in the Quihi area floodplain. During 2004, there were at least 5 floods: April 24, May 1, June 28, November 17, and November 22.

A trellis bridge, like the one Vulcan/SGR proposes to build in the floodplains, will catch debris create a dam which will flood the area upstream, and when released will flood the area downstream. Included is the diagram that Vulcan has presented for consideration of a trellis bridge.

MCAA, Inc., for your Home, Health, and Heritage





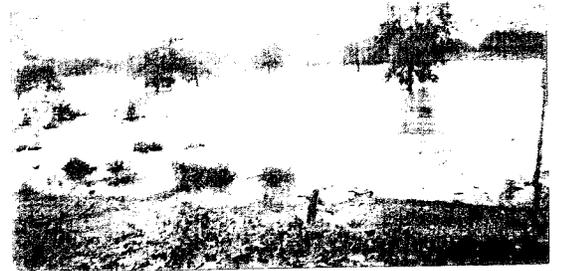
MUCH DEBRIS COMES OUT OF THE PASTURES AND FLOATS DOWN THE CREEKS DURING FLOODS, AND STAYS IN THE TREES AND FENCES FOLLOWING FLOODING IN THE QUIHI FLOODPLAIN



Oversized map of Floodplain area too large to scan. Please contact the Section of Environmental Analysis to view a copy.



Quihi Creek. 6/22/97



Flooding of Quihi Creek at CR 365 on the Proposed Route



**Flooding of Quihi Creek at CR 365
on the Proposed Route**



**Flooding CR 365 on Quihi Creek
on the Proposed Route**



Flooding CR 365 near Alternate Route #3



Flooding of Quihi Creek at CR 4512



**Flooding of Quihi Creek on CR 365 and CR 4512
at old Henry Schweers Alsatian house**

FLOODING ON CR 365 AT PIPELINE CROSSING
 Site of SGR Proposed Route Crossing CR 365
 (Note: pipeline crossing signs)
 (Note: water level has receded, high water mark on telephone pole)



FLOODING ON CR 365 AT PIPELINE CROSSING
 Site of SGR Proposed Route Crossing CR 365
 (Note: pipeline crossing signs)
 (Note: water level has receded, high water mark on trees)

Flooding CR 365 on Quihi Creek



Flooding CR 365 on Quihi Creek



Flooding of Quihi Creek at CR 365 and CR 450

**FLOODING ON 4-24-04
CR 365 (south of CR 450)**



**This is part of Vulcan's
"ALL TRUCKS" ROUTE**

**FLOODING ON 4-24-04
CR 4516 & CR 365**

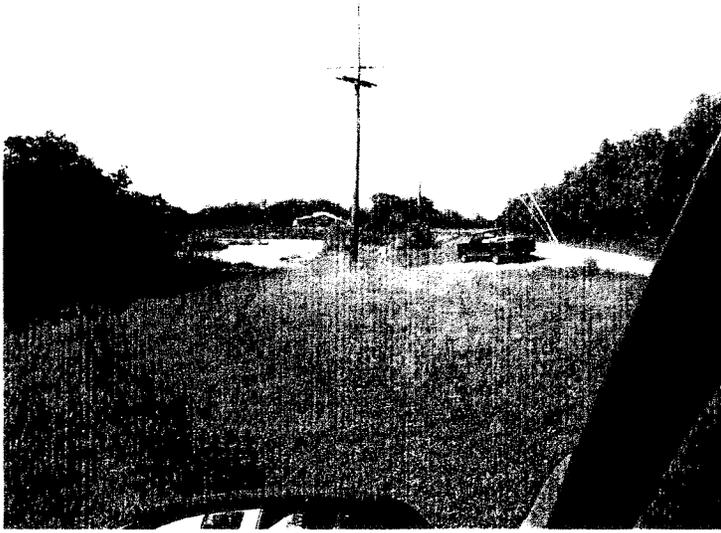


Flooding of Quihi Creek at intersection of
Castroville Road CR 4516 and CR 365
and CR 4517 - at Quihi Lake

**This is part of Vulcan's
"ALL TRUCKS" ROUTE**



Flooding of Quihi Creek at intersection of
Castroville Road CR 4516 and CR 365
and CR 4517 - at Quihi Lake



4/12/09



Flooding of Cherry Creek on CR 4516



Flooding of Cherry Creek on CR 4516



4/12/09

Flooding of Cherry Creek on CR 4516



4/19/09

Flooding of Cherry Creek on CR 4516



4/19/09

Flooding of Cherry Creek on CR 4516

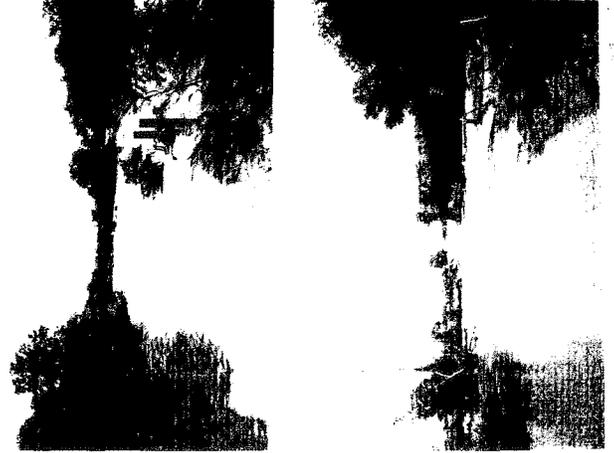


4/19/09

Flooding of Cherry Creek on CR 4516



Flooding of Cherry Creek on CR 4516

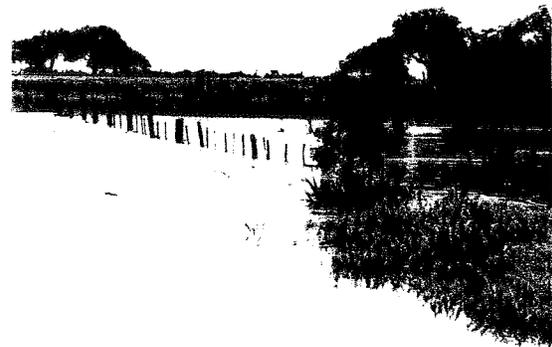




CR 450 - ELM CREEK FLOODING 7-6-2003
Flood waters were as high as the top of fence



CR 450 - ELM CREEK FLOODING 7-6-2003
Flood waters were as high as the top of fence



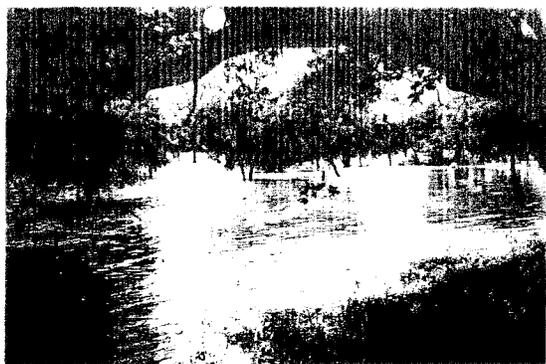
CR 450 - ELM CREEK FLOODING 7-6-2003
Flood waters were as high as the top of fence



Flooding of Elm Creek at CR 450 & FM 2676

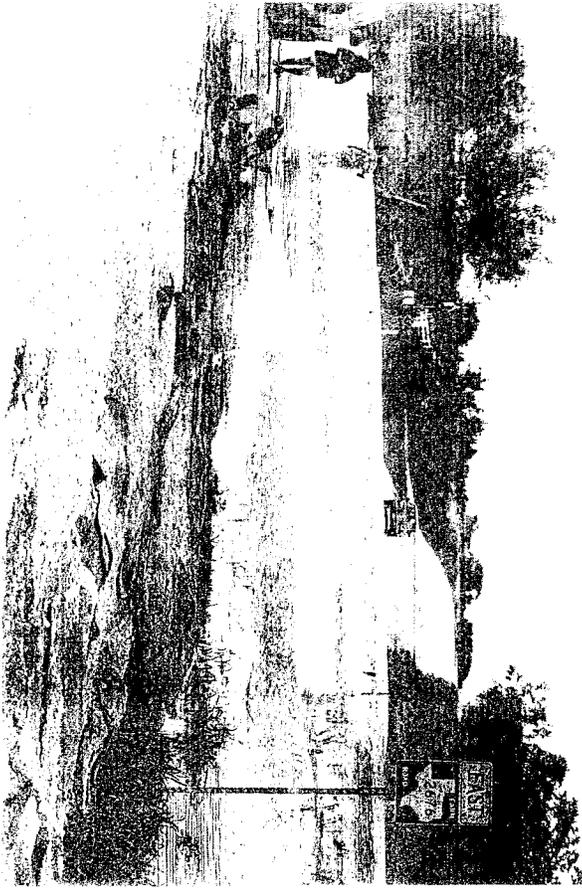


Flooding of Hartman's slough on CR 450



Flooding of Elm Creek at CR 351 & FM 2676

Flooding of Elm Creek at CR 351 & FM 2676



Flooding of Elm Creek on CR 351



ELM CREEK AT GERDES' ↓



11-17-64





January 10, 2005

Surface Transportation Board
Case Control Unit
Washington, DC 20423
Attention: Rini Ghosh
STB Docket No. FD 34284

RE: Draft EIS for Southwest Gulf Railroad Company construction and operation of a seven mile line of railroad in Medina County, Texas.

Dear Ms. Ghosh:

This letter is in response to your request for review of the Draft Environmental Impact Statement (DEIS) prepared by the Surface Transportation Board's Section of Environmental Analysis (SEA) to identify the impacts associated with the construction and operation of a seven mile line of railroad in Medina County, Texas. Texas Parks and Wildlife Department (TPWD) staff have reviewed the document and offer the following comments concerning the project.

The proposed project involves Southwest Gulf Railroad (SGR) constructing a single-track rail line in Medina County, Texas to connect a proposed Vulcan Construction Materials, LP (VCM) quarry and the Union Pacific Railroad Company (UP) Del Rio Subdivision at milepost 250 near Dunlay, Texas. The proposed seven mile line would primarily transport limestone from the proposed VCM quarry, but may provide transport services to other industries in the future. Four of fifteen alternative routes and the no-build alternative were considered in preparation of the DEIS. Of the build alternatives, the Proposed Route, Alternative 2, and Alternative 3 are of similar lengths (approximately seven miles), would traverse similar terrain, and would result in similar impacts upon natural resources in the area.

Mitigation for impacts associated with proposed project may be classified as those voluntarily agreed upon by the applicant, SGR, and those strongly recommended by the Surface Transportation Board based on information provided by natural resource agencies and other interested parties. Voluntary mitigation includes: performing maintenance and fueling activities outside of the Edward's Aquifer Recharge Zone, designing and locating bridges and culverts in areas that will avoid or minimize impacts in floodplains, coordinating with the U.S. Army Corps of Engineers regarding mitigation for impacts to jurisdictional waters and wetlands, implementing a Water Pollution Abatement Plan and a Storm Water Pollution Prevention Plan, and maintaining native grasses and shrubs inside the rails right-of-way (ROW). The SEA has provided 45 additional mitigation recommendations and has requested specific suggestions regarding appropriate

To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations.

Ms. Ghosh
Page 3
January 10, 2005

Section 4.6 BIOLOGICAL RESOURCE IMPACTS

Section 4.6.2 Construction Impacts

Comments preciously provided by this agency regarding the preservation of natural buffers, impacts to vegetation, and mitigation for loss of mature vegetation are still applicable.

The entire seven mile long, 40 foot wide rail ROW would be enclosed with fencing. No information regarding the height or the mesh size of the proposed fence was provided. This information should be provided in the final EIS. TPWD recommend at least a nine foot tall fence with fine mesh wire (1x1 to 2x2 inch) on the bottom one-third to one-half to prevent small and large animals from accessing the rail ROW. However, to allow wildlife the ability to continue moving across the landscape, wildlife underpasses should be incorporated in project plans. Placing culverts in areas likely to be used by amphibians, reptiles, and small mammals and using fine mesh fencing to direct wildlife into the culverts would allow them to pass safely under the rail. Whenever possible, similar techniques should be implemented at larger culverts and at bridges to allow larger mammals to continue moving safely through areas they are currently able to move through.

An updated county list of the rare, threatened and endangered species with the potential to occur in Medina County is attached and should be included in the Final EIS. Also, as recommended in a previous correspondence with this agency, TPWD's Natural Diversity Database (formerly the Biological and Conservation Data System) should be consulted for current information regarding State listed species that may occur in the project area. Please contact Celeste Brancel, 3000 S. IH-35, Suite 100, Austin, Texas 78704, for this information. A \$50 fee may be charged by TPWD for this review service.

Section 4.14 RECREATIONAL AND VISUAL RESOURCE IMPACTS

Section 4.14.2 Proposed Rail Line

SGR has agreed to maintain native grass and shrubs inside the rail ROW to allow the rail to blend with the surrounding area. TPWD appreciates this proposed action and recommends mowing grasses only in essential use areas in order to allow native grasses to prosper within the ROW.

Ms. Ghosh
Page 2
January 10, 2005

mitigation for impacts associated with this project. TPWD concurs with the proposed mitigation recommended by SEA to the applicant and appreciates incorporating mitigation recommendations provided by this Department in previous correspondence.

In addition to the recommended mitigation for potential impacts to the fish, wildlife and habitat resources managed by this agency, the Department also offers the following recommendations.

Section 4.5 WATER RESOURCE IMPACTS

Section 4.5.3 Surface Water

SEA recommends that SGR design bridges to span the entire width of creeks and streams in the construction corridor. TPWD supports this design recommendation since bridges constructed to span creeks and wetlands avoid impacts to the waterbodies and stream bank stability and minimize changes to the hydrology at the crossings. In addition to the benefits of this design mentioned in the DEIS, elevating bridges and avoiding impacts to riparian vegetation also allows wildlife to continue to travel through established corridors along waterways in the project area.

Section 4.5.4 Wetlands

SEA anticipates that impacts to stream channels and associated wetlands would occur as a result of constructing temporary access roads through these sensitive areas. SEA considers the impacts to be minor since the roads would be removed promptly after construction. In order for these impacts to in fact be minor and to achieve no net loss of wetland functions and values, it is recommended that pre-construction surveys be conducted at each site to document the habitat conditions. Pre-construction surveys should include photographs of the sites, general descriptions of the dominant vegetation species and percent cover, and the elevations of the sites. Following construction, the pre-project elevations, contours and hydrologic conditions at each site should be restored to those pre-construction conditions. If pre-project conditions are restored, the areas should revegetate naturally within one or two growing seasons. It would be inappropriate to seed an area with native grasses if wetland areas did not contain those particular species prior to construction. TPWD recommend the restored sites be monitored for at least two years, and that a goal of 70% cover of original wetland species (pre-project conditions) be achieved.

Ms. Ghosh
Page 4
January 10, 2005

I appreciate the opportunity to provide comments on this project. Please contact me at (361) 825-3240 if we may be of further assistance.

Sincerely,

Russell Hooten
Wildlife Habitat Assessment Program
Wildlife Division

/r/h

Attachment



Take a kid hunting or fishing
Visit a state park or historic site

4800 SMITH SCHOOL ROAD
AUSTIN, TEXAS 78744-3291
512.389.4800
www.tpwd.state.tx.us

MEDINA COUNTY

	Federal Status	State Status	
*** AMPHIBIANS ***			
Edwards Plateau Spring Salamanders (<i>Eurycea</i> sp. 7) - endemic; troglotic; springs, seeps, cave streams, and creek headwaters; often hides under rocks and leaves in water; Edwards Plateau, from near Austin to Val Verde County			
Valdina Farms Sinkhole Salamander (<i>Eurycea troglodytes</i> complex) - isolated, intermittent pools of a subterranean stream; sinkhole located in Medina County			
*** ARACHNIDS ***			
Braken Bat Cave Meshweaver (=Veni's Cave Spider) (<i>Cicurina venii</i>) - small, eyeless, or essentially eyeless spider; karst features in western Bexar County and eastern Medina County	LE		
Government Canyon Bat Cave Meshweaver (=Vesper Cave Spider) (<i>Cicurina vespera</i>) - small, eyeless, or essentially eyeless spider; karst features in northwestern Bexar County and northeastern Medina County	LE		
Government Canyon Bat Cave Spider (=Government Canyon Cave Spider) (<i>Neoleptoneta microps</i>) - small, eyeless, or essentially eyeless spider; karst features in northwestern Bexar County and northeastern Medina County	LE		
Madla Cave Meshweaver (=Madla's Cave Spider) (<i>Cicurina madla</i>) - small, eyeless, or essentially eyeless spider; karst features in northern Bexar County and northeastern Medina County	LE		
*** BIRDS ***			
American Peregrine Falcon (<i>Falco peregrinus anatum</i>) - potential migrant; nests in west Texas	DL	E	
Arctic Peregrine Falcon (<i>Falco peregrinus tundrius</i>) - potential migrant	DL	T	
Black-capped Vireo (<i>Vireo atricapillus</i>) - oak-juniper woodlands with distinctive patchy, two-layered aspect; shrub and tree layer with open, grassy spaces; requires foliage reaching to ground level for nesting cover; return to same territory, or one nearby, year after year; deciduous & broad-leaved shrubs & trees provide insects for feeding; species composition less important than presence of adequate broad-leaved shrubs, foliage to ground level, & required structure; nests mid April-late summer	LE	E	
Golden-cheeked Warbler (<i>Dendroica chrysoparia</i>) - juniper-oak woodlands; dependent on Ashe juniper (also known as cedar) for long fine bark strips, only available from mature trees, used in nest construction; nests placed in various trees other than Ashe juniper; only a few mature junipers or nearby cedar brakes can provide the necessary nest material; forage for insects in broad leaved trees & shrubs; nests late March-early summer	LE	E	
Henslow's Sparrow (<i>Ammodramus henslowii</i>) - wintering individuals (not flocks) found in weedy fields or cut-over areas where lots of bunch grasses occur along with vines and brambles; a key component is bare ground for running/walking; likely to occur, but few records within this county			
Mountain Plover (<i>Charadrius montanus</i>) - breeding; nests on high plains or shortgrass prairie, on ground in shallow depression; nonbreeding: shortgrass plains and bare, dirt (plowed) fields; primarily insectivorous			

Zone-tailed Hawk (*Buteo albonotatus*) - arid open country, including open deciduous or pine-oak woodland, mesa or mountain county, often near watercourses, and wooded canyons and tree-lined rivers along middle-slopes of desert mountains; nests in various habitats and sites, ranging from small trees in lower desert, giant cottonwoods in riparian areas, to mature conifers in high mountain regions

Federal Status
State Status
T

***** FISHES *****
Edwards Plateau Shiner (*Cyprinella lepida*) - Edwards Plateau portion of Nueces basin, mainstream and tributaries of Nueces, Frio, and Sabinal rivers; clear, cool, spring-fed headwater creeks; usually over gravel
Guadalupe Bass (*Micropterus treculi*) - introduced in Nueces River system; endemic to perennial streams of the Edwards Plateau region
Nueces Roundnose Minnow (*Dianda serena*) - Edwards Plateau portion of Nueces basin, mainstream and tributaries of Nueces, Frio and Sabinal rivers

***** INSECTS *****
A Ground Beetle (*Rhadine exilis*) - small, essentially eyeless ground beetle; karst features in northern Bexar County and northeastern Medina County
A Ground Beetle (*Rhadine infernalis*) - small, essentially eyeless ground beetle; karst features in northern and western Bexar County and northeastern Medina County
Helotes Mold Beetle (*Batrissodes venyivi*) - small, eyeless mold beetle; karst features in northwestern Bexar County and northeastern Medina County
Manfreda Giant-skipper (*Stallingsia maculosus*) - most skippers are small and stout-bodied; name derives from fast, erratic flight; at rest most skippers hold front and hind wings at different angles; skipper larvae are smooth, with the head and neck constricted; skipper larvae usually feed inside a leaf shelter and pupate in a cocoon made of leaves fastened together with silk

***** MAMMALS *****
Black Bear (*Ursus americanus*) - within historical range of Louisiana Black Bear in eastern Texas, Black Bear is federally listed threatened and inhabits bottomland hardwoods and large tracts of undeveloped forested areas; in remainder of Texas, Black Bear is not federally listed and inhabits desert lowlands and high elevation forests and woodlands; dens in tree hollows, rock piles, cliff overhangs, caves, or under brush piles
Frio Pocket Gopher (*Geomys texensis bakeri*) - associated with nearly level Atco soil, which is well-drained and consists of sandy surface layers with loam extending to as deep as two meters

***** REPTILES *****
Indigo Snake (*Drymarchon corais*) - Texas south of the Guadalupe River and Balcones Escarpment; thornbush-chaparral woodlands of south Texas, in particular dense riparian corridors; can do well in suburban and irrigated croplands if not molested or indirectly poisoned; requires moist microhabitats, such as rodent burrows, for shelter

	Federal Status	State Status	
Keeled Earless Lizard (<i>Holbrookia propinqua</i>) - coastal dunes, barrier islands, and other sandy areas; eats insects and likely other small invertebrates; eggs laid underground March-September (most May-August)			
Spot-tailed Earless Lizard (<i>Holbrookia lacerata</i>) - central & southern Texas and adjacent Mexico; oak-juniper woodlands & mesquite-prickly pear associations; eggs laid underground; eats small invertebrates			
Texas Garter Snake (<i>Thamnophis sirtalis annectens</i>) - wet or moist microhabitats are conducive to the species occurrence, but is not necessarily restricted to them; hibernates underground or in or under surface cover; breeds March-August			
Texas Horned Lizard (<i>Phrynosoma cornutum</i>) - open, arid and semi-arid regions with sparse vegetation, including grass, cactus, scattered brush or scrubby trees; soil may vary in texture from sandy to rocky; burrows into soil, enters rodent burrows, or hides under rock when inactive; breeds March-September	T		
Texas Tortoise (<i>Gopherus berlandieri</i>) - open brush with a grass understory is preferred; open grass and bare ground are avoided; when inactive occupies shallow depressions at base of bush or cactus, sometimes in underground burrows or under objects; longevity greater than 50 years; active March-November; breeds April-November	T		

***** VASCULAR PLANTS *****
Bracted twistflower (*Streptanthus bracteatus*) - endemic; shallow clay soils over limestone, mostly on rocky slopes, in openings in juniper-oak woodlands; flowering April-May
Sandhill woollywhite (*Hymenopappus carrizoanus*) - endemic; open areas in deep sands derived from Carrizo and similar Eocene formations, including disturbed areas; flowering late spring-fall
Texas mock-orange (*Philadelphus texensis*) - endemic; limestone cliffs and boulders in mesic stream bottoms and canyons, usually in shade of mostly deciduous sloped forest; flowering April-May

Status Key:
LE,LT - Federally Listed Endangered/Threatened
PE,PT - Federally Proposed Endangered/Threatened
E/SA,T/SA - Federally Endangered/Threatened by Similarity of Appearance
C1 - Federal Candidate, Category 1; information supports proposing to list as endangered/threatened
DL,PDL - Federally Delisted/Proposed for Delisting
NL - Not Federally Listed
E,T - State Endangered/Threatened
"blank" - Rare, but with no regulatory listing status

Species appearing on these lists do not all share the same probability of occurrence. Some species are migrants or wintering residents only, or may be historic or considered extirpated.

THE GARDNER LAW FIRM
A PROFESSIONAL CORPORATION
745 EAST MULBERRY AVENUE, SUITE 100
SAN ANTONIO, TEXAS 78212-3149

DAVID F. BARTON
WM. RICHARD DAVIS
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THOMAS J. WALTHALL, JR.

¹Board Certified-Consumer & Commercial Law
²Board Certified-Labor & Employment Law
Texas Board of Legal Specialization

January 24, 2005

Ms. Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N. W.
Washington, DC 20402-0001

FEDERAL EXPRESS MAIL

Re: Finance Docket No. 34284-Southwest Gulf Railroad Company
Petition for Exemption from U.S.C. 10901 to Construct and
Operate a Rail Line in Medina County, Texas

Dear Ms. Rutson:

Enclosed please find a CD containing the previously submitted Medina County Environmental Action Association's Comments on the Draft Environmental Impact Statement and Appendices regarding the referenced matter.

Please contact me should you have any questions or comments.

Very truly yours,

THE GARDNER LAW FIRM
A Professional Corporation

David F. Barton

DFB:nf
Encs:
dfb8675.0904-eb 1-24-05.doc



Note for #E1-1379

#E1-1382
RH

Contents of CD previously submitted have been scanned in as #E1-1374, received on 1/11/05.

Contents of CD not previously submitted are the Golden-Cheeked Warbler Recovery Plan and the Black-Capped Vireo Recovery Plan, prepared by the U.S. Fish and Wildlife Service. These documents may be obtained by contacting the U.S. Fish and Wildlife Service or by accessing the website of the U.S. Fish and Wildlife Service at the following addresses:

http://ecos.fws.gov/docs/recovery_plans/1992/920930f.pdf
(Golden-Cheeked Warbler Recovery Plan)

http://ecos.fws.gov/docs/recovery_plans/1991/910930h.pdf
(Black-Capped Vireo Recovery Plan)

The Medina County Environmental Action Association, Inc.
202 CR 45C, HONDO, TX 78861
www.dontmesswithquihi.com
Phone 830.741.8040
Fax 830.426.2060

January 28, 2005

FAX: 202-565-9000

Ms. Victoria Rutson, Chief
SEA Division
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423-0001

FD 34284

Re: Mitigation Measures
FD 34284
VCM/SGR Proposed Project
Medina County TX

Dear Ms. Rutson:

MCEAA notes with frustration SGR's letter (EI-1296) written by David Coburn January 10, 2005, which brazenly directs STB to modify several of STB's mitigation measures. STB must not allow an applicant for a permit to dictate mitigation measures or alter them so as to make the mitigation impotent. What environmental protection is accomplished if STB's suggested mitigation is delayed, not done, or not done properly until after a permit is granted? Under these conditions, what data does STB have on which to grant a permit? MCFEA specifically refers to measures # 6 and #24 in Mr. Coburn's letter. These suggested modifications by SGR deal with 2 important measures, traffic and flooding. MCEAA and others have repeatedly brought these environmental factors to STB's attention. A permit must not be granted to SGR, on a "give me the permit now, and trust me that I will do flooding studies and build overpasses later" basis.

SGR, like its' parent company Vulcan Materials, cannot be trusted, and must be required to do all the mitigation measures before a permit is granted. This is the only way STB can properly evaluate and be aware of the environmental impacts this project will cause and be assured that they are the least harmful to the environment. Since STB is responsible for granting a permit, it must not assume that other agencies will provide a safety net to make up for STB's failure to do its' duty.

At this time MCEAA wishes to inform STB that we agree with Mr. Larry Oaks, Chairman of the Texas Historical Commission, that the Programmatic Agreement published in the DEIS is unacceptable. Only by bypassing the Quihi and Cherry Creek floodplains can a rail line be constructed to avoid flooding the historic and archeological heritage of the Quihi Historic District. MCEAA again wishes to bring to STB's attention that a variation of the abandoned 1911 GH&SA line from Dunlay to Mico could accomplish this requirement. We again urge STB to re-evaluate this route based on data supplied in the DEIS comment period for the DEIS submitted by MCEAA.

Sincerely,

Robert T. Fitzgerald, President
MCFEA, Inc.

CC:
Mr. Roger Nober, Chairman, Surface Transportation Board
U.S Representative Henry Bonilla
U.S.Senator John Cornyn
U.S Senator Kay Bailey Hutchison
Texas Senator Frank Madla
Texas Representative Tracy King
Cheryl Jasper, U.S. Army Corps of Engineers
Mr. Larry Oaks, Texas Historical Commission
Ms. Hope Andrade, Texas Department of Transportation
Dawn Whitehead, U.S. Fish and Wildlife Service
David Barton, The Gardner Law Firm
Dr. Lynn Kitchen, Adams Environmental, Inc.

Received 1/11/05

FD 34284

Oversized maps of existing grade profiles of proposed rail route in comparison to the Medina Dam route submitted by the Medina County Environmental Action Association. Please contact the Section of Environmental Analysis to view a copy.

#E1-1383
RH

Dear Ms. Ghosh,

As you may have noticed, there is one minor typographical error in our spreadsheet calculating San Antonio Grade Crossing Delay on page 52 of MCEAA's recent comments. As the data in the table above the error indicates, the "breakeven" number of trains for 40 hours of total vehicle delay at Zarzamora Street is 16, not 13. The error occurred when figures from the 20 train analysis were copied and pasted inadvertently. The underlying analysis is not altered. A corrected spreadsheet is attached for the record.

Thank you,

David F. Barton

The Gardner Law Firm
A Professional Corporation
745 East Mulberry, Suite 100
San Antonio, Texas 78212
Telephone: (210) 733-8191
Telecopier: (210) 733-5538
Email: dfb@tgfl.com

	N of trains	Total hrs	Threshold	Over/Under (hrs)
Zarzamora at Merida	20	65.75	40	25.75
Brazos south of Laredo	20	26.66	40	-13.34
Flores at Lone Star	20	27.32	40	-12.68
Probant at Lone Star	20	N/A	40	N/A

	N of trains	Total hrs	Threshold	Over/Under (hrs)
Zarzamora at Merida	16	42.08	40	2.08
Brazos south of Laredo	16	17.06	40	-22.94
Flores at Lone Star	16	17.48	40	-22.52
Probant at Lone Star	16	N/A	40	N/A

	N of trains	Total hrs	Threshold	Over/Under (hrs)
Zarzamora at Merida	16	42.08	40	2.08
Brazos south of Laredo	30	39.99	40	-0.01
Flores at Lone Star	30	40.98	40	0.98
Probant at Lone Star	??	N/A	40	N/A

Finance Docket No. 34284

Finance Docket No. 34284

January 10, 2005

Terry & Sylvia Greer
496 CR 253
Mico, TX 78056

to insure that Vulcan and SGR complies with the air quality standards? Test reports should be made available to local residents and property owners.

Surface Transportation Board
Case Control Unit
1925 K Street, NW
Washington, D.C. 20423-0001

Attention: Rini Ghosh
Fax No. (202) 565-9000

Re: STB Docket No. 34284

Dear Ms. Ghosh:

My wife and I have been residents of the Medina Oaks subdivision since April of 2000. Our residence is located about 1/4 mile north of the proposed quarry site and have several concerns about the proposed rail line and quarry.

Thank you for sending a copy of the Draft Environmental Impact Statement (DEIS). In reviewing the DEIS we feel there are several issues that effect the proposed SGR railway to the Vulcan Quarry Site. I am submitting the following comments regarding the DEIS and the Vulcan Quarry.

Water Quality: I am concerned about the effects the quarry will have on water wells. Our well head is located about 100 feet above the proposed quarry elevation. The static water level of our well is 290 feet and is our only source of water. We understand that the quarry is located over the Edwards recharge zone. It is also our understanding that Vulcan plans to locate diesel storage tanks above the recharge zone. Is this prohibited? We also understand that dynamiting releases nitrates into the soil which eventually seeps into the water supply. We have additional concerns that quarrying to a depth of 200-250 feet will not leave enough substrate above the Edwards Aquifer to filter out the nitrates and diesel. If our water supply becomes contaminated or if wells run dry after the quarry process begins, who will be liable for damages? Will water quality monitoring stations be installed to monitoring the proposed railway and quarry to assure compliance with water quality standards?

Air Quality: I am concerned about the effects the railway and quarry will have on the air quality. I am an Asthmatic and have concerns about the increase of dust particulate that will be generated by the blasting, crushing and transporting of limestone. With a south prevailing wind the dust will travel north toward our residence. Vulcan Materials should be required to provide dust abatement equipment at each dust emitting location. Will air monitoring stations be installed

Noise Levels: We are concerned about the increased noise levels around the quarry and the rail lines. We can hear the passing Union Pacific trains 10 miles away. We are concerned about the increased noise level of proposed railroad and quarry 3 miles away. We feel noise level monitoring stations should be installed around the proposed quarry and rail line. Test reports should be made available to local residents and property owners.

Environmental Impact: My wife and I choose Medina Oaks as tranquil natural habitat in the hill country to build our home. Much of the value of our homestead is attributed to the tranquility and beauty of the natural habitat that surrounds our property. Why should SGR and Vulcan be permitted to profit by the destruction of this beautiful habitat?

Major Transportation Concerns: We are concerned that a grade level railway will increase local travel delays, traffic hazards, flooding and road maintenance. We feel the DEIS did not sufficiently address the impact the effects the SGR railway will have on the local area. Below are the concerns we feel were insufficiently addressed:

1. Grade separation at FM 2676 to prevent traffic delays and accidents.
2. Flooding due to railroad berms, trestles and culverts.
3. Train wrecks and derailments.
4. Increased noise levels caused by train engines and blowing of horns at 6 to 9 railroad crossings 24 hours per day.
5. Diesel fuel spillage.
6. Increased dust from transporting material in uncovered railcars.
7. Damage to FM 2676 not designed for transporting 78,000 lb. gravel trucks and the traffic delays due to road maintenance.
8. The additional cost to maintain FM 2676 at the expense of local tax payer.
9. Having our land condemned by a private railroad company.
10. Damage to nearby historic structures due to flooding, vibration, dust and diesel fumes.

We feel the DEIS did not include a complete study on the times and duration of rail traffic across any and all roads without grade separation, the effect of the delays, derailment, frequency, probability of accidents, stopping distances, noise levels and vibration, spills of chemicals and diesel fuels, or other hazardous materials being transported.

#E1-1413
R24

The DEIS did not include a full flood analysis of the proposed and alternative routes of the railroad, and the quarry site as well, including avoidance of debris clogging the trestles during flooding.

The DEIS did not include a study of the effects of the truck traffic on FM2678 and the unimproved county roads, and the increase in maintenance, the dangers to other vehicles, etc., the roads periodically closed for repair, for all routes, proposed and alternatives.

The DEIS did not include a study on the cumulative effects that new industries brought in by the rail and quarry will have on the Quihi area, with a full cost/benefit study.

As a tax paying property owner we would appreciate the inclusion of the above issues in the final environmental impact statement.

Sincerely,

Terry Greer

Terry Greer

cc: U.S. Congressman Henry Bonilla
U.S. Senator John Corona
Texas Senator Frank Madla
Texas Representative Timoteo Garza
Medina County Judge Jim Barden
Medina County Commissioner Chris Mitchell

The Medina County Environmental Action Association, Inc.

202 CR 450, HONDO, TX 78861
www.dontmesswithquihi.com

Phone 830-741-5040
Fax 830-426-2060

February 1, 2005

Ms Rini Ghosh
Section on Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 26423-0001

Re: Finance Docket 34284
Proposed Vulcan Materials/Southwest Gulf Railroad Rail Line
Medina County Texas

Dear Ms. Ghosh,

As you may have noticed, there is one minor typographical error in our spreadsheet calculating San Antonio Grade Crossing Delay on page 52 of MCEEA's recent comments. As the data in the table above the error indicates, the "breakeven" number of trains for 40 hours of total vehicle delay at Zarzamora Street is 16, not 13. The error occurred when figures from the 20 train analysis were copied and pasted inadvertently. The underlying analysis is not altered. A corrected spreadsheet is attached for the record.

Thank you,

Robert T Fitzgerald

Dr. Robert T. Fitzgerald, President
MCEEA, Inc.

MCEEA, Inc. for your Home, Health, and Heritage

Page 3 of 3

Finance Docket # 34284
Vulcan Materials/Southwest Gulf Railroad
Medina County, Texas

San Antonio Grade Crossing Delay

	N of trains	Total hrs	Threshold	Over/Under (hrs)
Zarzamora at Merida	20	65.75	40	25.75
Brazos south of Laredo	20	26.66	40	-13.34
Flores at Lone Star	20	27.32	40	-12.68
Probant at Lone Star	20	N/A	40	N/A

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Flores at Lone Star	30	40.98	40	0.98
Probant at Lone Star	??	N/A	40	N/A

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



#E1-1414
R24

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 11, 2005

Surface Transportation Board
Case Control Unit
Washington, D.C. 20423

Attn: Rini Ghosh
STB Docket No. FD 34284

Re: TCEQ GEARS #6370--Southwest Gulf Railroad Company--Construction and Operation Exemption,
Medina County, TX

Dear Ms. Ghosh:

The Texas Commission on Environmental Quality (TCEQ) has reviewed the above-referenced project and offers the following comments:

A review of the project for General Conformity impact in accordance with 40 CFR Part 93 and Title 30, Texas Administrative Code § 101.30 indicates that the proposed action is located in Medina County, which is currently unclassified or in attainment of the National Ambient Air Quality Standards for all six criteria air pollutants. Therefore, general conformity does not apply.

Although any demolition, construction, rehabilitation or repair project will produce dust and particulate emissions, these actions should pose no significant impact upon air quality standards. Any minimal dust and particulate emissions should be easily controlled by the construction contractors using standard dust mitigation techniques.

The environmental assessment addresses issues related to surface and groundwater quality.

Thank you for the opportunity to review this project. If you have any questions, please call Mr. Daniel Burke, Policy and Regulations Division, at (512) 239-1543.

Sincerely,

Susan S. Ferguson

Susan S. Ferguson, Manager
Policy and Regulations Division

#E1-1421
RJR



March 2, 2005
Surface Transportation Board
Case Control Unit
Washington, DC 20423
Attention: Rini Ghosh
STB Docket No. FD 34284

Ms. Ghosh
Page 2
March 2, 2005

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CHURRASCIENTRUS
FORT WORTH
 - ROBERT L. COOK
EXECUTIVE DIRECTOR

Received
3/8/05

RE: Amended comments regarding fence height
Draft EIS for Southwest Gulf Railroad Company construction and
operation of a seven mile line of railroad in Medina County, Texas.

proposed route. TPWD understands that these design features will be fully
developed as project planning continues.

I appreciate your coordination on this project. If you have any questions regarding
our amended comments, please contact me at (361) 825-3240.

Sincerely,

Russell Hooten

Russell Hooten
Wildlife Habitat Assessment Program
Wildlife Division

/r/h

cc: Thomas Ransdell, Vulcan Materials Company

Dear Ms. Ghosh:

I was contacted by Thomas Ransdell, Vulcan Materials Company, on February 28,
2005 regarding comments Texas Parks and Wildlife Department (TPWD)
provided to the Surface Transportation Board in a letter dated January 10, 2005
following a review of the Draft Environmental Impact Statement (DEIS) prepared
to identify the impacts associated with the construction and operation of a seven
mile line of railroad in Medina County, Texas. Based on information contained
within the DEIS, TPWD recommended a wildlife exclusion fence, at least nine
feet high, to prevent potential wildlife mortality caused by wildlife wandering
onto the railroad tracks. Mr. Ransdell provided additional information that has
resulted in TPWD amending that original recommendation.

Specifically, Mr. Ransdell has indicated that trains would be traveling at or less
than 30 miles per hour (MPH). The Department concurs that the species of
wildlife that would have been kept off the tracks by a nine foot tall fence (i.e.,
deer) would under normal circumstances be able to avoid a train moving \leq 30
MPH. Therefore, TPWD agree that a fence of standard height (approximately
four feet) commonly used to contain livestock, would be suitable in the present
project. A fence of this height would prevent livestock from wandering onto the
tracks, yet allow deer to continue to move through the area as they can easily jump
a four foot high fence.

TPWD does maintain the original recommendation that at least the bottom half of
the fence should consist of fine mesh wire to prevent small animals (e.g., Texas
tortoise, a state-listed threatened species) from accessing and possibly becoming
stranded on the tracks. It may be more cost effective for the entire fence to be
constructed with a single mesh wire or woven wire with openings that are 1x1,
2x2, or 2x4 inches in size.

Also, as mentioned in the original response letter, project plans should incorporate
wildlife crossings (under bridges or through culverts) wherever possible along the



Take a kid
hunting or fishing
• • •
Visit a state park
or historic site

To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing
and outdoor recreation opportunities for the use and enjoyment of present and future generations.

4200 SMITH SCHOOL ROAD
AUSTIN, TEXAS 78744-3201
512-269-4800
www.tpwd.state.tx.us

Chris Mitchell

Medina County Precinct 1

Phone: (830)-741-6016
Fax: (830)-741-6018
Cell: (830)-931-5425



1100 16th St.
Hondo, TX 78861
pct1@devtex.net

Thursday, February 24, 2005

Victoria Rutson
Chief
Section of Environmental Analysis
STB
1925 K St.
Washington DC 20423-0001

RE: STB Finance Docket 34284
Vulcan Materials/SGR

Ms. Rutson,

I had previously responded to this issue prior to actually being in office as the Commissioner in
Pct 1. I took office on Jan. 1st.

I am sending this to reiterate my concerns about the proposed rail line for SGR and its impact on
Medina County. I also see that the STB is considering allowing permitting and then letting the mitigating
issues be addressed. Isn't that putting the cart before the horse? What happens if the mitigating concerns are
not resolved?

The mitigating issues are serious and need to be answered before the permit.

My concerns remain safety, traffic and most of all flooding. I also am concerned about any
involvement with Union Pacific as a carrier.

Please reconsider this process. Thank you.

Respectfully,

Chris Mitchell

C. Mitchell
Commissioner Medina County
Pct 1

Received
3/7/05

#E1-1421
RJR

02-14-05 04:19:09 FROM: US REP HENRY BUSTILLO TO: STB-01-0120 0956 04/05/05 8:42

#E1-1424
RJR

Surface Transportation Board
Case Control Unit
Washington, DC 20423
Attn: Ms. Rini Ghosh, Project Manager

10 January 2005

Re: STB Docket No. FD 34284

Dear Ms. Ghosh:

My name is Lester Landrum. My wife and I have been Quili residents for the past 14 years and live
in the home we built at 776 CR 304 and it includes one Edwards well. Our home is about .6 mile east
of the proposed rail and about 1.1 miles from the proposed quarry site. Our home is on registered
heritage land that has been in the same family for 124 years.

In general, the EIS with three volumes was hard to read, illegible on many pages and some data was
blacked out. The number of drafts was not adequate. Data varied widely without notations and comments.
I question if the EIS is of a quality for public records and archives. It appears that this report was not com-
plete, was hurried and underfunded. It was necessary to add 10 omitted pages after publication Our appeal
for additional time for study to make rational and inquiring comments was denied.

This EIS did not address the safety issue of the SGR and UP interface. The UP past and most recent
history does not confirm that this railroad can handle added traffic safely. STB knows and has full knowledge
of the Bexar-Medina County accidents over the last two years plus it has direct knowledge of UP operations
during "Fall peak" operations by limiting rock carloading and train operation in this area. Note this topic was
not included with this report. Any mitigation should be aided by STB Director, Office of Compliance and
Enforcement, to reflect local UP operations. This mitigation could extend to the Houston destination area.
It did not fully address the operation to existing network rail line.

Floods have caused a greater loss of life and property and have devastated more communities in the United
States than any other natural hazard. Flash flooding is common in this area of Texas. Bridges, berms, piles
of rubble and debris do alter flood water and can intensify flooding with damming actions. These latter damming
actions often fail, and produce sudden added flood waters. Any mitigation should include the routine removal
of debris from all railroad ditches, culverts, and bridges. This could be included with the often noted grass main-
tenance. This debris should include sand, gravel, rock, etc. If after some period of time a local flood control
organization is necessary, then the railroad should contribute it's shared part for flood corrections for the life
of the railroad.

Quili is a pristine rural area in and around the intersection of FM 2676, Quili creek, and Quili lake. This FM 2676
is the only major road from this area. This area and road will be inside the new proposed loop around the San
Antonio area. This new loop is to incorporate state highway 173, just west of Quili. With this new loop and a
rapidly expanding population growth west from San Antonio, a grade-separation is required. Please note that no
comments were included on this proposed new loop. Mitigation should revisit this omission with analysis.

How will SGR interface and move trains to and from the UP line? Will SGR move directly from the quarry to main
line without passing? What will be the average speed of the train entering or exiting the quarry at CR 353? What
will be the estimated speed of the train entering/exiting the UP line? How much time is required for a loaded train to
accelerate from rest to 20 mph? What will be the average speed of the train as it crosses CR 353 from the
quarry? What will be the days and hours of the trains movements? Will UP "Fall peak" period affect the quarry
movements? All these and other questions need to be addressed in mitigation to insure SGR's 3-4 minute delay
at each crossing. This 3-4 minute period was quoted in several SGR letters. I could see no train idle time
included in the noise studies, and it should be included in the mitigation.

The quarry and railroad are connected to our environment by sun, air, water, land, and time. The quarry and
railroad would be connected with ownership, products, money, management, profits, and equipment. Common
carrier status, with eminent domain powers, would seal the connection of the rails and quarry. This whole and
complete project should be studied as one. I see this study to also include the actions and reactions with the
Union Pacific rail to include safety, traffic, and the environment of neighbors to the east. The EIS has included
an analysis of the potential environment effect of the loading track. It was not clear if this included the cars and
the engines. Will the loading dust, drainage, and noise be included? Again, as environmental effects are
cumulative, these items should be included in all noise, dust, and water environment reviews.

#E1-1425
RJ

On the "Risk of Accidents", the SEA used national statistics to calculate the risk of accidents over the proposed railroad. TxDot statistics should also be considered as Texas was first in grade-crossing fatalities. With recent UP accidents over the last two years a more local statistic should be included for benchmarks. We all want the controlling statistics to help save lives.

The SEA's recommended mitigation for ground water did not follow Edwards Aquifer Authority's request of February 26, 2004. In this letter it requested an inventory of all wells within the SGR project area. "Locate all water wells in the project area and identify the aquifer in which they are completed." All wells within the project's site and right-of-way should be properly abandoned.

Vulcan's lack of concern, skew of data, incomplete data, and failure to address real everyday issues is apparent in most of Mr. David H. Coburn's letter to you. With the above premise all mitigation should be well understood, exact, with follow-up and enforcement for exact periods or junctures. All mitigations should have oversight by persons with no Vulcan ties. All mitigation progress should be well publicized.

Sincerely yours,

Joyce Landrum
Lester R. Landrum
778 CR 354 (Quihí)
Hondo, TX 78861

cc: US Representative Henry Bonilla
US Senator John Cornyn
US Senator Kay Bailey Hutchison

Surface Transportation Board
Case Control Unit
Washington, DC 20423
Attn: Ms. Rihl Ghosh, Project Manager

8 January 2006

Re: STB Docket No. FD 34284

Dear Ms. Ghosh:

Reading the draft environmental impact study sent out to Medina County Environmental Association on the proposed rail line that would serve Vulcan's quarry idea was extremely difficult for me since it was presented to us in three such huge volumes of analytical terms. This was not a thorough analysis, as Vulcan's project manager wishes us to believe, and all the work that was put into the data failed to show that our concerns would be met before a permit could be issued. MCEAA has worked tirelessly to procure flood plain maps and historical site and heritage land information to warn STB of the hazards ahead. The Quihí community has properties that can qualify for the National Register.

All four rail alignments cross this cultural resource (Vol. III, pg. 33). Further study is required!

We are being asked to believe, in the DES, that our well and water issues are "insignificant", and that dust, dirt, and noise would be "minimal". When we submitted our concerns, we were told that this would be taken care of after the permit is approved. We know this will never happen, as evidenced by other railroad sites owned by Vulcan in other neighborhoods. (We have copies of newspaper clippings to show this).

The Edwards aquifer recharge zone is directly in the path of Vulcan's proposed operation. This is a problem that is unsolvable, a very serious matter. You must understand our concerns about water well problems or a water well catastrophes where some could collapse and others would be polluted. We do not want to drink cloudy well water. We do not want the air we breathe filled with dust. We do not want the quality of life in Quihí lessened. It appears that Vulcan was able to put together their own study, and to dismantle all the MCEAA concerns, then show their study to the Section on Environmental Analysis and to have it presented as truth.

Many of the farms and ranches in the proposed 7 to 9 mile area are listed in the Texas Dept. of Agriculture Family Land Heritage Program as being in continuous agricultural operation by the same family for 100 years or more. Also there are some homes in the same site area that are listed with the State Historical Commission. What is not stated in the DES is what will be done to protect the historical sites and heritage lands. Many landowners have put a covenant on their land to keep a rail line from cutting directly through their property; but it appears this giant industry will not acknowledge the peoples' frustrations and will just overlook their concerns, using devious tactics, to gain a permit.

We do not accept words like "minimal" and "insignificant" when talking about things as basic as clean water and air, and will keep fighting to keep what is rightfully ours. Surely this is not just a matter of paperwork for STB. When providing your recommendations to the three appointed commissioners who will pass judgement on the quarry-railroad project, please speak of the polluted drinking water problem, the ruination of historic and heritage land, and the fact that the location includes many archeological artifacts of prehistoric age (volume I of DES, pg. 3-57).

You can help us, your constituents, by completing a full connected-action study on the area proposed for the Quihí quarry-railroad; and save the historic settlement of Quihí.

Respectfully,

cc: US Representative Henry Bonilla
US Senator John Cornyn
US Senator Kay Bailey Hutchison

Joyce Landrum
Joyce Landrum
778 CR 354 (Quihí)
Hondo, TX 78861

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March 22, 2005

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

Re: STB Finance Docket No. 34284, Southwest Gulf Railroad Company - Construction and Operation Exemption - Medina County, TX

Dear Ms. Rutson:

This will reply on behalf of Southwest Gulf Railroad Company ("SGR") to the January 10, 2005 submission of the Gardner Law Firm, attorneys for the Medina County Environmental Action Association ("MCEAA"). In that submission, MCEAA makes four arguments - (1) the quarry and rail line are connected actions; (2) SEA has failed to consider the cumulative impact of the quarry and rail line on hydrology and flooding; (3) SEA has failed to consider the rail line's cumulative impact on San Antonio railways and roadways and (4) SEA has failed to comply with the Endangered Species Act. We will address each of these points below.

I. The Proposed Rail Line and the Quarry Are Not "Connected Actions"

The main focus of the MCEAA's comments is the reiteration of its previous assertion that the Board should consider the environmental effects of the proposed Vulcan Construction Materials LP ("Vulcan") quarry as part of the Environmental Impact Statement ("EIS") for the seven-mile Southwest Gulf Railroad line. This "connected action" argument permeates not only the comments of the Gardner Firm submitted on behalf of the MCEAA, but virtually all of the other comments submitted by MCEAA and its members and other consultants (Adams Environmental) in this proceeding. Notably, neither EPA nor any other federal or state agency has taken issue with SEA's views of this issue.

MCEAA's comments are flawed for the same reason SGR previously pointed out in its March 10, 2004 letter addressed to you on this matter ("March 10 Letter"). MCEAA ignores the dispositive fact here: that the Board's approval or exemption of the SGR rail line is not an

Ms. Victoria Rutson
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approval of the quarry, and that the quarry will operate even if the rail line is not approved. Both the Council on Environmental Quality's ("CEQ") regulations and controlling Supreme Court precedent confirm that for this reason, the quarry's own environmental effects should not be considered as direct impacts in the EIS.

A. The Rail Line and Quarry Are Not "Connected" Under CEQ's Three-Part Test

Though MCEAA consumes nearly forty pages to make its argument, its connected action argument is narrow. Under CEQ regulations, actions are "connected" only if they "(i) automatically trigger other actions which may require EIS; (ii) cannot or will not proceed unless other actions are taken previously or simultaneously; or (iii) are interdependent parts of a larger action and depend on the larger action for their justification." 40 C.F.R. § 1508.25(a)(1) (2004). Here, MCEAA never argues that the first two prongs of this test apply. MCEAA has not claimed that the quarry "automatically triggers" another action requiring an EIS, or that it "cannot or will not proceed" unless the Southwest Gulf rail line is approved first. Rather, MCEAA asserts only that the quarry and rail line are connected as "interdependent" actions under the CEQ test's third prong. The MCEAA Comments at 8.

There is good reason why MCEAA's assertion is so limited. The quarry plainly passes the first two prongs of the CEQ test. The quarry will not be "automatically triggered" by the Board's approval of the rail line, because the quarry can operate using trucks to haul extracted limestone to local markets and the neighboring Union Pacific line for longer shipments. March 10 Letter at 2. Indeed, SGR provided a number of examples in its May 4, 2004 submission to you concerning quarries similar to Vulcan's Medina County quarry that use trucks to transport their aggregate. That same letter also further detailed the feasibility of truck operations at the quarry if no rail option were available.

For this same reason, there is no claim under CEQ's second prong that the quarry "will not proceed unless" the Board approves the rail line "previously or simultaneously." Not only can the quarry operate without the rail line in place, its operation is increasingly imminent, as discussed in our February 15, 2005 letter to you. SGR recently reported to the Board that Vulcan has received temporary air quality standard permits from the Texas Commission on Environmental Quality, and is in the process of obtaining further environmental permits from the Texas Commission. Once those permits are obtained, Vulcan intends to initiate operations of its temporary rock crusher at the quarry. The stone from these initial operations will be used for preparing for the quarry's long-term operation, and may also be trucked for sale into local markets. See February 15 Letter at 3.

The quarry and rail line also cannot be considered "interdependent" under the CEQ test's third prong. The plain language of § 1508.25(a)(1)(iii) states that for two projects to be "interdependent," they must be "parts of a larger action and depend on the larger action for their justification." 40 C.F.R. § 1508.25(a)(1)(iii). This test is not met here. MCEAA has failed to

identify any "larger action" on which the proposed rail line and the quarry "depend for their justification," and there simply is none. The Vulcan quarry is not part of any overarching development project, but is fully capable of standing on its own fours. "Interdependent" means "mutually dependent," signifying a *reciprocal* relationship between two entities that rely on each other. *Webster's Third New International Dictionary* at 1177 (1981). The quarry and the rail line are not *mutually* dependent, because the quarry does not rely on the rail line for its existence.

This reasoning is consistent with NEPA. It is settled law that actions are not "connected" for purposes of an EIS if one of the actions will proceed regardless of whether the other receives federal approval. For example, in *Hudson River Sloop Clearwater, Inc. v. United States Department of Navy*, 836 F.2d 760 (2d Cir. 1988), the Second Circuit held that the Navy's decision to build a battleship pier in New York harbor was not connected to its plan to build military housing to serve the pier. Although the housing would depend on the pier's construction to be viable, the actions were not connected because the Navy planned to "proceed with the operational aspects of the homeport with or without the housing." *Id.* at 764.

Likewise, in *Sylvester v. United States Army Corps of Engineers*, 884 F.2d 394 (9th Cir. 1989), the court ruled that the Corps appropriately evaluated the environmental impacts of a wetlands permit it granted for a golf course without considering the impacts caused by the new resort where the golf course would be located. Noting that the developer had already "begun building" the other portions of the resort, the Ninth Circuit found that the "federal and private portions of the project[]"—the Corps' approval of the golf course permit and the private construction at the rest of the resort—were not "joined to each other." *Id.* at 396, 400.

And in *Citizens' Comm. to Save Our Canyons v. United States Forest Service*, 297 F.3d 1012, 1023-24 (10th Cir. 2002), a case highly analogous to this one, the Tenth Circuit held that the Forest Service need not consider a ski resort's development of a chair lift on privately owned land in its EIS for a different federal action. At issue in *Citizens' Committee* was the Forest Service's approval of both a master development plan for the Snowbird ski resort, and a mineral land exchange between Snowbird and the Service. The Tenth Circuit reasoned that because Snowbird "would have developed th[e] area" where it located its chair lift "regardless of whether the [land exchange] occurred," the Forest Service had properly performed its analysis. *Id.* at 1029; see also, e.g., *Piedmont Heights v. Moreland*, 637 F.2d 430, 437 (5th Cir. 1981) (subway system properly part of no build alternative where subway would be built regardless of proposed highway); *Coalition for a Livable Westside v. HUD*, 1997 U.S. Dist. LEXIS 8860 (S.D.N.Y. 1997) (projects not connected where developer would proceed even if federally-funded project not approved); *Nashvillians Against I-440 v. Lewis*, 524 F. Supp. 962 (M.D. Tenn. 1981).

The quarry and rail line here fit squarely within this long line of cases. Just as in *Hudson River*, the quarry will proceed "with or without" completion of the rail line, because trucking is an alternative if necessary. And just as in *Citizens' Committee*, Vulcan will develop the quarry "regardless of whether" the rail line is approved. Thus, the quarry's independence from the rail

B. The Quarry Is Not an "Effect" of the Rail Line Under *Public Citizen*

As the Board correctly pointed out in the DEIS, the Supreme Court's recent decision in *Department of Transportation v. Public Citizen*, 541 U.S. 752, 124 S.Ct. 2204 (2004), reaffirms that the EIS scope has been appropriately defined here. In *Public Citizen*, the Supreme Court clarified that where the federal action in question is not the proximate cause of an environmental effect, the agency should not include that effect within its EIS:

[A] "but for" causal relationship is insufficient to make an agency responsible for a particular effect under NEPA. . . . NEPA requires "a reasonably close causal relationship" between the environmental effect and the alleged cause[, which this Court has] analogized. . . . to the "familiar doctrine of proximate cause from tort law."

Id. at 2215. Thus, the Court held that because the ultimate authority for allowing cross-boundary truck movements from Mexico belonged to the president and not the Department of Transportation ("DOT"), the DOT had acted lawfully in excluding the air quality impacts of such trucking from its EIS. This was true even though the regulations promulgated by the DOT governed safety licenses for Mexican trucks to operate in the United States. "Where an agency has no ability to prevent a certain effect due to its limited statutory authority over the relevant actions," the unanimous Court wrote, "the agency cannot be considered a legally relevant 'cause' of the effect." *Id.* at 2217 (emphasis added).

The Supreme Court's holding in *Public Citizen* applies with particular force in this case. For the same reason that the quarry and proposed rail line are not "connected actions," the quarry is not an "effect" of the Board's action: the quarry will exist with or without the Board's approval of the rail line. Accordingly, just as the President's authority over cross-boundary trucking in *Public Citizen* negated any need for the DOT to consider that traffic's air impacts, the Board need not review the quarry's environmental effects here because, as an agency charged with addressing primarily matters related to rail carriers, it has no control over the quarry.

MCEAA tries to avoid this result by claiming that *Public Citizen* was an environmental assessment ("EA") case, and that the test for determining whether a project is "federally related" for EA purposes is irrelevant. See MCEAA Comments at 25. Again, MCEAA flatly misreads the law. *Public Citizen* had nothing to do with whether a private action has been sufficiently "federalized" to demand consideration under NEPA. *Public Citizen* specifically held that where, as here, the agency lacks authority to approve a project, the project's environmental impacts cannot be considered an "effect" of the federal action. 124 S.Ct. at 2217.

Nor is there any ground for finding that the quarry is a "major Federal action" under NEPA. MCEAA erroneously asserts that SGR has "conceded" that approval of the rail line will "federalize" the quarry as well, but SGR has never made any such statement. See MCEAA Comments at 29. Quite the contrary, the cases referenced in SGR's March 10 letter only

line is established beyond any doubt. As SGR pointed out in its February 15 letter: The rail line does not yet exist, but the permitting process is underway for the quarry.

Indeed, the fact that the quarry is likely to begin at least some operations prior to the rail line's construction exposes the illogic of MCEAA's comments to its core. MCEAA asserts that the Board is attempting to "avoid analyzing . . . what would otherwise be a connected action . . . by [addressing] the one that lacks independent utility (the rail line) first." MCEAA Comments at 33. But this reasoning only confirms, not refutes, the propriety of the Board's scope of review: The Board is not "avoiding" any review of the quarry. Rather, the quarry is already proceeding toward functionality without any NEPA review – by the Board or otherwise – because no EIS review is required for it to commence operations. See March 10 Letter at 4 n.6. Moreover, to the extent the rail line will cause environmental impacts associated with the quarry, the Board has already begun considering those cumulative effects in the Southwest Gulf EIS.

Thus, in view of the quarry's obvious independence, it is MCEAA that misconstrues the "independent utility" test, not the Board as MCEAA contends. See MCEAA Comments at 9. MCEAA argues that SGR and the Board have erred in concluding that the CEQ's use of the term "action" in its regulations means only "federal action," but this is not what we have said. *Id.* at 30. SGR has not argued that only two "federal actions" may be considered "connected" under NEPA. What matters is that because the quarry is not dependent on any federal action, the Board's decision on the rail line simply will not determine whether the quarry proceeds—particularly since the quarry is outside the Board's jurisdiction. Accordingly, the Board's decision to assess only the quarry's cumulative impacts caused by the rail line, rather than the quarry's direct impacts, fully advances NEPA's objectives. The connected action rule was designed to prevent federal agencies from breaking down what should be considered in one EIS into two—not to force agencies to consider environmental effects over which they have no control. See, e.g., *Native Ecosystems Council v. Dombeck*, 304 F.3d 886, 894 (9th Cir. 2002) (purpose of connected action rule is to avoid "failing to prepare one comprehensive environmental impact statement" for the federal action in question); *Wetlands Action Network v. United States Army Corps of Eng'rs*, 222 F.3d 1105, 1118 (9th Cir. 2000) (same).¹

¹ MCEAA also argues that "[i]f the rail line has independent utility," its environmental costs must be considered along with any benefits. MCEAA at 34. Of course, while SGR correctly pointed out in its March 10 Letter that the proposed rail line has an independent utility because it improves the area's transportation infrastructure and may be used by other future shippers, see March 10 Letter at 2 n.3, because the quarry is not dependent on the rail line, and because the Board is not considering whether to approve the quarry, it is unnecessary and inappropriate for the Board to speculate about the costs and benefits of potential future uses of the rail line by shippers that might choose to locate along the line at some point. NEPA requires only that agencies consider effects that are reasonably known or ascertainable.

reinforce the very holding of *Public Citizen* – namely, that an agency should not consider the effects of an action that, as in this case, is neither caused by the federal action nor subject to the federal agency's jurisdiction.

The Fifth Circuit enunciated this principle in *Save the Bay v. United States Army Corps of Engineers*, 610 F.2d 322, 327 (5th Cir. 1980). There, the court rejected a challenge that the agency had improperly limited its environmental evaluation to the impacts of a discharge permit, rather than also including those of the "massive manufacturing plant" using the permit. The court ruled that, just as the quarry here can use trucks rather than the proposed rail line to haul aggregate, the Corps had acted properly in not assessing the entire facility's environmental impacts, because the plant had "[a]t least one alternative method of discharge, not requiring any Corps permit." *Id.* at 326, 327; see also *South Carolina v. O'Leary*, 64 F.3d 892, 899 (4th Cir. 1995) (analysis properly limited despite fact that approval of shipment of 409 spent nuclear fuel rods preserved ability to continue with plans for subsequent 24,000-rod shipment, because smaller shipment did "not depend upon the viability" of later shipment); *Alliance to Protect Nantucket Sound, Inc. v. United States Dep't of the Army*, 288 F. Supp. 2d 64 (D. Mass. 2003) (even though wind testing tower would facilitate later construction of ocean wind farm, the two projects were not "connected" because tower, built first, did not depend on agency approval of farm for its utility).

Similarly, the Ninth Circuit held in *Wetlands Action Network v. United States Army Corps of Engineers*, 222 F.3d 1105 (9th Cir. 2000), that the Corps had acceptably restricted its environmental consideration to a wetlands fill permit and not the effects of an upland development related to the permit. Because the Corps did "not have independent jurisdiction over the parts of the [upland] development that do not require the filling of wetlands," the court ruled that the development's effects were not caused by the permit: "[T]he project certainly could proceed without the permit and, as the Corps notes, is currently proceeding without the permit. Additionally, the project is not financed by federal money and state and local, not federal, regulations control the overall design." *Id.* at 1117 (emphasis omitted).

Together, these decisions make it overwhelmingly clear that the Board has properly determined to consider only the cumulative environmental impacts associated with the quarry in this case. As the Board noted in the DEIS, the quarry's environmental effects fall under the jurisdiction of Texas and local authorities, and those agencies are addressing the environmental impacts in accordance with the laws they enforce. But NEPA serves to ensure that *federal agencies* "carefully consider" the environmental impacts of their actions, and that the information concerning these impacts are "made available to the larger" public interested in this federal decisionmaking. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989). These purposes would not be served by requiring the Board to address the quarry's environmental impacts in the SGR EIS when the quarry is, as the *Public Citizen* court put it, an action that the Board can choose neither to approve nor refuse. See 124 S.Ct. at 2216.

II. SEA Has Adequately Addressed Hydrology/Flooding Issues

MCEAA argues that SEA has failed to adequately address potential flooding impacts from the rail line and has instead impermissibly relied on Vulcan's voluntary mitigation measures to address such impacts. This is simply not true. The DEIS reveals that SEA consulted with various federal and other agencies with respect to groundwater impacts (FEMA, Corps of Engineers and Medina County Floodplain Administrator). See DEIS 4-29 through 4-41. Based on these consultations, SEA determined that any of the alternative routes could give rise to some impacts on flooding and stream sedimentation. SEA then determined that a combination of the extensive mitigation volunteered by SGR (in the form of hydrological testing and design studies), and the extensive additional mitigation proposed by SEA (proposed mitigation measures 13-29), would adequately address these impacts.

These proposed mitigation measures address precisely the flooding and related concerns raised by MCEAA, e.g., they require that SGR comply with reasonable FEMA requirements prior to commencing construction activities in the 100 year floodplain; that SGR conduct a floodplain study and coordinate with the Medina County Floodplain Administrator; that SGR obtain any required Section 404 permits from the Corps of Engineers and that SGR use best management practices to minimize erosion and reduce the potential for oil and fuel spills. These and other measures hardly constitute delegation of agency duties to SGR. If adopted, SGR would be required, as a condition to its exemption, to comply with these conditions. (In that regard, MCEAA may be under the mistaken impression that because SGR volunteered mitigation measures -- which is perfectly appropriate in the NEPA process -- that adherence to these measures is voluntary if they are adopted by the Board. That is not true; SGR will be required to adhere to all of the mitigation measures adopted by the Board.

The very cases cited by MCEAA establish that NEPA does not impose on an agency "a substantive requirement that a complete mitigation plan be actually formulated and adopted." *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 352 (1989); *Mississippi River Basin Alliance v. Westphal*, 230 F.3d 170, 176 (5th Cir. 2000). Rather, the agency need only discuss mitigation "in sufficient detail that to ensure that environmental consequences have been fairly evaluated." *Robertson* at 352; *Westphal* at 176. Here, SEA not only discussed the issues in detail, but did in fact propose a detailed set of mitigation measures tailored to address the issues that it raised.

MCEAA also criticizes SEA for failing to assess the flooding impacts that it claims will follow from the development of the quarry. SGR's response to MCEAA's connected action argument addresses this point; SEA is simply under no obligation to assess quarry impacts in its DEIS beyond the cumulative impacts that were thoroughly addressed. Further, SEA's cumulative impacts analysis does address the quarry's impacts on water resources and concludes that the cumulative impacts would not be significant. It also bears note that Vulcan will need to

some impact on some grade crossing? The process would prove never-ending, and would quickly become a speculative game of the sort that is not consistent with the purposes of NEPA.

Apart from these fundamental problems with opening the door to the type of assessment sought by MCEAA is the fact that the STB cannot in this proceeding impose mitigation on another railroad in the form, e.g., of requiring that railroad to construct a grade separation at some particular crossing. Simply stated, UP is not a party to this proceeding and thus there is no basis on which any type of mitigation condition could be imposed on it.

Moreover, assessments about the need for separation of grades at a specific crossing are matters properly left to knowledgeable state and federal highway officials who have access to the full range of relevant data and considerations relevant to such determinations. There are elaborate processes in place to assess the need for a grade separation at any particular crossing, and sophisticated analyses are required before any determination can be made about whether or not to construct a grade separation.

The Railroad-Highway Grade Crossing Handbook issued by the Federal Highway Administration describes the type of analysis required to assess the need for grade separation. See <http://www.fhwa.dot.gov/thrc/safety/pubs/86215/86215.pdf> at pages 63-91. According to the Handbook, safety, operational and cost considerations must be analyzed in detail in connection with any decision concerning the separation of rail and highway grades. Further, the Handbook notes (at page 91) that given the difficulty of assessing the costs and benefits of grade separation, these are ultimately matters of engineering judgment, and are not merely (as MCEAA suggests) a matter of simple formula based on the amount of vehicle delay at a specific crossing.

State highway officials are authorized to make these types of judgments, and to do so in consultation with the relevant railroad. Limited public and other resources dictate that a careful weighing process is needed before a decision on grade separations can be made for any particular intersection. Also, engineering assessments of the feasibility of constructing a crossing have to be made before a determination can be made concerning any particular rail/highway intersection. The Texas Department of Transportation is guided in such decisions by Texas Administrative Code § 25.75(b), which provides that, with respect to new crossings, a grade crossing will be allowed provided that, "the crossing will not be unduly hazardous to the traveling public." MCEAA has not shown that SGR's traffic will result in any undue hazard to the traveling public and its unsubstantiated figures and calculations cannot substitute for the work of expert public safety officials on these matters.

Moreover, the State of Texas has just announced an agreement with UP to relocate certain rail lines away from city centers. See the press release at www.governor.state.tx.us/divisions/press/pressreleases/PressRelease.2005-03-18.1403 While it is not known what impact, if any, this initiative might have on the UP lines in San Antonio, the initiative underscores that such matters are the proper preserve of government officials and officials from the relevant railroads, in this case UP.

obtain approval from the Texas Commission on Environmental Quality of a Water Pollution Abatement Plan and stormwater permit before it can proceed with its quarry operations.

While MCEAA asserts that SEA's environmental review of water resources impacts from the rail line and quarry are inadequate, it fails to offer any specific mitigation measures that it believes should have been proposed. The absence of any discussion of specific measures that might be considered underscores that MCEAA's critique merits no extended consideration.

III. Any Impacts of SGR's Traffic on Other Rail Lines is Not Properly Addressed in This Proceeding

MCEAA has presented unsubstantiated information suggesting the routing for SGR's traffic on UP's lines through San Antonio. MCEAA contends that the addition of SGR-originated trains to the traffic already handled by UP on its lines through that City will trip a threshold at one grade crossing in San Antonio (Zarzamora at Merida) that would suggest the need for a grade separation there and that it would add traffic to other grade crossings in the area. MCEAA -- which presented no such data prior to now -- claims that this "indirect impact" should be considered in the Final EIS.

SGR is not aware of any EA or EIS previously prepared by SEA that assesses the impact of a new rail line on traffic handled by the existing rail line to which the new line will connect. The primary reason that SEA does not assess such impacts is the fact that there are too many variables in knowing how the existing railroad will handle the traffic proposed to be generated by the new rail line. For example, in this proceeding, SGR has no way of assessing exactly how UP will route its traffic, whether that traffic will be handled in conjunction with other trains, whether it will route the traffic through any specific crossing, the time of day that the traffic will pass through the crossing, what the level of highway traffic will be at each crossing on the existing line at the time that the new rail line is actually constructed and service inaugurated, etc. For example, MCEAA assumes that all of the SGR trains would traverse through the Zarzamora Street/Merida Street crossing in San Antonio. In fact, according to a UP official responsible for UP rail operations in the San Antonio area,² it is quite likely that at least some of those trains -- handling a percentage of aggregate traffic that would head south toward Corpus Christi -- would exit the UP line that crosses that street prior to reaching that crossing, using a UP line that branches off of the UP line that crosses Zarzamora. Moreover, that same UP official is unaware of any significant crossing delay issues at the Zarzamora/Merida crossing discussed by MCEAA.

Further, not only are there too many variables to allow for meaningful assessment, but were such an analysis undertaken there is no obvious limit to how far to go with it. In other words, if it is appropriate to assess the impacts of the SGR traffic as it passes through San Antonio, then why not "follow" the traffic beyond that City to other points where it might have

² John D. Hopkins, Director of Terminal Operations for UP.

In short, it is not SEA's role or that of the Board to require, as MCEAA has asked it to do, that a grade separation on the line of railroad A be constructed as a result of the NEPA process concerning a line proposed for construction by railroad B. These are matters that are, and should remain, the bailiwick of public transportation officials and officials of the relevant railroad.

IV. SEA Has Properly Accounted for the Endangered Species Act

MCEAA's allegations that SEA has failed to comply with the Endangered Species Act (ESA) in the DEIS are without merit. First, as demonstrated above, the quarry and the rail line are not connected actions. Thus, MCEAA's arguments with regard to the quarry's direct impact are irrelevant. Second, SEA has adequately considered the cumulative indirect impacts of the quarry on endangered species as discussed in the DEIS. Third, SEA has properly considered the potential for the rail line to impact threatened and endangered species in accordance with the ESA.

SEA conducted a review of the species potentially occurring in the quarry area. The US Fish and Wildlife Service (FWS) informed SEA that two federally listed species had a possibility of occurrence in the area--the Black-capped Vireo and the Golden-cheeked Warbler. SEA conducted surveys of the rail line and its alternatives and concluded that neither species was in the area of the proposed rail line and that there was a lack of suitable habitat in the area of the rail line. DEIS at 3-26. MCEAA argues that SEA's actions were not sufficient; however, the mere fact that MCEAA disagrees with the SEA's findings does not invalidate the findings set forth in the DEIS.

MCEAA also claims that the SEA's analysis is inadequate because it does not consider potential impacts from the quarry and from future development along the line. Both claims fail to correctly assess the relevant law or facts.

SEA considered the cumulative impacts of the quarry development on threatened and endangered species, specifically noting that the area within the quarry "could provide suitable habitat." DEIS at 3-26. SEA then considered the biological assessment for the quarry conducted by Vulcan in considering the indirect cumulative impacts of the quarry. MCEAA alleges that Vulcan's assessment is inadequate because of the phased planned accepted by FWS. However, there is no requirement that a biological assessment take a specific form, and the regulations provide for agency discretion. 50 C.F.R. §402.12(f)(1)-(5); *City of Sausalito v. O'Neill*, 386 F.3d 1186, 1215-16 (9th Cir. 2004). FWS is the expert agency for these matters and its determinations are entitled to deference. *Id. at 1218*. FWS believes that the assessment and monitoring plan submitted by Vulcan is protective and, contrary to MCEAA's allegations, FWS's determination is neither arbitrary nor capricious, but is based on the FWS's expertise in the area. Likewise SEA's actions in relying on the agency charged by Congress with expertise in this area is also neither arbitrary nor capricious. Finally, MCEAA's allegations fail to note that when the additional phases of the quarry are opened that the quarry would be subject to the provisions of

Section 9 of the ESA, including the requirements prohibiting the taking of any federal listed species in the area to be developed. 16 U.S.C. §1538.

MCEAA also claims that SEA should consider impacts to the threatened and endangered species from future land development along the rail line, citing *National Wildlife Federation v. Coleman*, 529 F.2d 359 (5th Cir. 1976). MCEAA's reliance on *Coleman* in this case is misplaced as the facts in *Coleman* are not relevant here. The court in *Coleman* noted that the FEIS for that project stated that private development always accompanies the construction of a major highway and the proposed construction would be in a critical habitat for an endangered species. By contrast, the construction of short rail lines such as proposed here do not consistently bring extensive development. SGR will be a rail common carrier, but if and where additional shippers will locate along the line is unknown at this time. Moreover, unlike *Coleman*, where the proposed alignment would destroy known habitat, neither the proposed alignment, nor the alternatives will impact known habitat. Contrary to the assertions of MCEAA, *Coleman* does not require an agency to consider effects from all potential future development, no matter how speculative, that may occur in some unspecified future time.³

SEA did conclude that there could be some biological impacts and proposed mitigation based on comments from the Texas Department of Parks and Wildlife. Agencies may rely on mitigation measures to reach a no jeopardy determination, if the measures are subject to enforceable obligations. *Selkirk Conservation Alliance v. Forsgren*, 336 F.3d 944, 955-56 (9th Cir. 2003); Here, the Board retains authority to enforce any final mitigation measures it might impose as part of its final decision, assuming that SGR is permitted to construct its line. *Selkirk* at 1219, 1220 (agency's consideration of relevant factors and requirement of specific mitigation were adequate to meet ESA requirements).

* * *

³ The ESA regulations define cumulative effects as "effects of future State or private activities, not involving Federal activities that are reasonably certain to occur within the action area." 50 C.F.R. § 402.02 (emphasis added)

EI-1440

The Medina County Environmental Action Association, Inc.

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March, 31, 2005

Victoria Rutson
Chief, SEA
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Re: Finance Docket 34284
Proposed Vulcan Materials/Southwest Gulf Railroad Rail Line
Medina County Texas

Dear Ms. Rutson:

In light of the March 22, 2005 letter from Vulcan/SGR to SEA (EI-1431), MCEAA makes the following observation for the record: MCEAA has never argued that the quarry must be considered a connected action if it is permitted by the state and opened, or if the applicant makes a clear commitment to those ends, before an environmental impact statement is issued. The quarry was not permitted by the state and opened before the Draft EIS was issued, nor had the applicant even applied for a single state permit. That the Draft EIS failed to consider the quarry a connected action was therefore error. However, much of the March 22, 2005 letter assumes a position that MCEAA has not taken, and is inconsequential as a result. When the agency responds to comments in the Final EIS, it should note the applicant's change of position, rather than spiously dismiss the applicability of the connected action regulation as the applicant has (MCEAA notes that for a third time, the applicant has failed to apply the independent utility test TO THE RAIL LINE.

Sincerely,

Dr. Robert T. Fitzgerald, President
MCEAA, Inc.

CC:
Mr. Roger Nober, Chairman, Surface Transportation Board
U.S. Representative Henry Bonilla
U.S. Senator John Cornyn

In summary, contrary to the assertion of MCEAA, the relevant law and facts show that the rail line and the quarry are not connected actions and that the SEA has properly considered the cumulative impacts of the quarry in the DEIS and has complied with the ESA. Furthermore, consideration of rail movement on the UP line, a railroad that is not part of this action, is not properly within the scope of this EIS.

Sincerely,


David H. Coburn
Sara Beth Watson
Lincoln Davies

Attorneys for Southwest Gulf Railroad

cc: Ms. Rini Ghosh
Ms. Jaya Zyman-Ponebshek

U.S. Senator Kay Bailey Hutchison
Texas Senator Frank Madla
Texas Representative Tracy King
Mr. Larry Oaks, Texas Historical Commission
Ms. Hope Andrade, Texas Department of Transportation
Dawn Whitehead, U. S. Fish and Wildlife Service
David Barton, The Gardner Law Firm
Dr. Lynn Kitchen, Adams Environmental, Inc.

MCEAA, Inc., for your Home, Health, and Heritage

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Board Certified—Consumer & Commercial Law
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Texas Board of Legal Specialization

May 26, 2005

Ms. Rini Ghosh
Section of Environmental Analysis
Surface Transportation Board
ATTN: STB Finance Docket No. 34284
1925 K Street, NW
Washington, DC 20423-0001

VIA TELEFAX: (202) 565-9000
& Regular Mail

RE: STB Finance Docket No. 34284 -- Adequate analysis of
cumulative impacts under NEPA for:

- (1) Vulcan Materials Company's planned Medina County stone quarry; and
(2) Vulcan Materials Company subsidiary Southwest Gulf Railroad Company's
proposed rail line to serve Medina County stone quarry.

Dear Ms. Ghosh:

This letter will respond to two facets of the March 22, 2005 letter from Vulcan/SGR (EI-1431)—(1) the parties' continued disagreement over the scope of required analysis in the EIS, and (2) Vulcan's argument that the cumulative impact analysis contained in the Draft EIS is adequate.

Scope of Analysis: Connected Action

As you know, ever since STB announced that it would prepare an EIS, MCEAA has maintained that Vulcan's quarry and rail line are a single "proposal" within the meaning of NEPA. As such, NEPA's implementing regulation for the scope of an EIS, which binds the agency, controls this case. Because the rail line has no independent utility, the applicable

1 It remains the position of the MCEAA that the quarry and rail are connected actions, as addressed in previous correspondence to the STB. The purpose of this letter is that stated herein.

2 42 U.S.C. § 4332(c) (2000); See also Kleppe v. Sirmo Club, 427 U.S. 390 (1976).

3 40 C.F.R. § 1508.25(a) (2004).

4 Id. § 1500.3 (2004); Sabine River Authority v. U.S. Dep't of Interior, 951 F.2d 669, 678 (5th Cir. 1992).

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May 26, 2005
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opening the quarry for six years until it applies and receives the rail license necessary for the overall proposed action (a rail-served quarry) to pencil out.

Vulcan of course vehemently denies this, yet continues to set the agency up to play the fool when it opens the quarry at some unspecified future date, undercutting the earlier public participation process.

Meanwhile, in perhaps the dumbest community relations strategy ever and obviously in lieu of meaningful public participation in this proceeding, Vulcan has been peddling a "good neighbor, environmentally conscious, maximum mitigation" line with respect to both the quarry and rail line from the beginning, while fighting tooth and nail any disclosure or public analysis of environmental harms with respect to the former. This renders any real discussion of mitigating cumulative harms impossible, because Vulcan is unwilling to undertake the legally required disclosure of the quarry's contribution to those cumulative harms. Instead, Vulcan and the agency hide behind the inadequate conclusory statements regarding the quarry's contribution currently contained in the draft EIS cumulative impacts section, particularly for flooding and damage to water supply wells.

Given that Vulcan's proposed quarry will produce over 5 million tons of aggregate per year, making it one of the largest if not the largest quarry in Texas, the basis for the community's deep mistrust could hardly be more clear. Vulcan's attempt to shift unanalyzed risk and environmental harm associated directly and cumulatively with the quarry onto the community, rather than disclosing it up front, is wrong, illegal, and, as more than six years have shown, just plain stupid.

The Analysis of Cumulative Harm From Flooding and
Damage to Water Supplies To Date is Inadequate

Irrespective of whether the quarry and rail line are connected actions, the agency is required to disclose those risks and environmental harms that are cumulative between the two proposals. This it has not done, particularly with respect to flooding and damage to groundwater wells and water supplies. Therefore, as MCEAA has previously requested, a supplemental draft EIS is required. The public must have the ability to comment on this information.

5 Vulcan began planning for the quarry in the spring of 1999.

6 Vulcan did not apply for a rail license from STB until February 2003. Draft EIS, ES-1.

7 40 C.F.R. § 1508.7 (2004) (defining cumulative impact). The agency agrees that the quarry is at least a cumulative impact, and claims to have so analyzed it.

8 EI-1367, EI-1374.

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regulation pulls the quarry into the NEPA analysis to establish the true scope of the major federal action being proposed at this time.

Vulcan's March 22, 2005 does nothing to persuade us to the contrary. For now, it is sufficient to say that we fundamentally disagree over both the applicable law—Public Citizen's dictum or the clear and present EIS scope regulation—and how it is to be applied—in one direction, from the proposed action to other actions, or in both directions simultaneously.

Timing and the Content of the Administrative Record

The applicant has stated that they are obtaining state permits. Therefore it is possible that the quarry may no longer be a proposal at some time in the future. This places the agency and the community in a difficult position.

The agency has already issued a draft EIS, while both the quarry and the rail line were still proposed concurrently, that did not treat them as connected actions. Going forward, it will be interesting to see whether the agency illegally issues a final EIS or a license given the current state of the proposals in the record. Even assuming that Vulcan perfects its quarry proposal anytime in the future, the fact that the agency knowingly issued a draft EIS given the record before it at the time (and may choose to issue a final EIS and a license similarly in error) gives the strong impression of collusion between the applicant and the agency.

Vulcan accrues substantial benefit from receiving the rail license while concurrently proposing the allegedly unconnected quarry without NEPA analysis. Not only does Vulcan receive the financial benefit of a less rigorous analysis; it can literally, as it has here, delay

9 40 C.F.R. § 1508.25(a)(1)(ii) (2004).

10 Id.

11 Vulcan's suggestion that the applicable test apply only in one direction makes the scope of the EIS vary at the whim of the applicant, which can either (1) withhold its potentially connected action from proposal until after the federal license is issued, or (2) propose both federal and nonfederal actions simultaneously, so long as it is the federal action that lacks independent utility. Besides undermining NEPA's goal of providing a sound basis for decisionmaking to federal and non-federal decisionmakers, Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 349 (1989), Vulcan's one-way test shifts the risk of the allegedly "unconnected" project onto the community, without full disclosure or mitigation of its consequences. Rather than fully accounting for the consequences of the allegedly "unconnected"—yet certain to occur—project as part of a baseline, an EIS in Vulcan's world, much like the one its contractor prepared here, views the lone federal proposal in a vacuum. The result, as here, is a half-hearted and legally inadequate disclosure of cumulative environmental harms.

12 However, as the Honorable Amiel Herald quoted Vulcan's Tom Karsdale on Feb. 19, 2004, Vulcan's Board of Directors has not yet approved the quarry project. We have no information on whether this has changed.

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1. Legal standard

In practical terms, an agency's cumulative impact analysis under NEPA must answer three questions:

- Can you tell what the baseline is?
• Can you tell what the impact contribution of each project is?
• Can you tell what the total impact is, when added to any other cumulative impacts?

Under Section 706(2)(A) of the Administrative Procedure Act, a court may hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, or otherwise not in accordance with law.

To make this finding a court will consider whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment. When reviewing the "adequacy" of an EIS under NEPA, the consideration of relevant factors requirement is often expressed as a requirement for the agency to take a "hard look" at the environmental consequences of a proposed action and alternatives. A court may reverse the agency's decision as arbitrary or capricious if the agency relied on factors Congress did not intend it to consider, entirely failed to consider an important aspect of the problem, offered an explanation that ran counter to the evidence before the agency, or offered one that is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.

For cumulative impacts in particular, the agency must provide the public with "some quantified or detailed information; . . . [g]eneral statements about 'possible' effects and 'some risk' do not constitute a 'hard look' absent a justification regarding why more definitive information could not be provided. The cumulative impact analysis must be more than perfunctory; it must provide a "useful analysis of the cumulative impacts of past, present, and future projects. Finally, cumulative impact analysis must be timely. It is not appropriate to

13 5 U.S.C. § 706(2)(A) (2000).

14 E.g., Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 415 (1971).

15 Mississippi River Basin Alliance v. Westphal, 230 F.3d 170, 174 (5th Cir. 2000).

16 Dioxin/Organochlorine Center v. Clarke, 57 F.3d 1517, 1521 (9th Cir. 1995); Western Radio Services Co., Inc. v. Espy, 79 F.3d 896, 900 (9th Cir. 1996).

17 Kem v. BLM, 284 F.3d 1062, 1075 (9th Cir. 2002).

18 Id.

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defer consideration of cumulative impacts to a future date when meaningful consideration can be given now.¹⁹

2. Nature and scope of the harms

Flooding

MCEAA has submitted voluminous documentary evidence²⁰ of recurring flood hazards in and around the town of Quihi.²¹ It is MCEAA's position that the rail line and quarry together will exacerbate this flood hazard and create new flood hazards as described in our previous comments.²²

Four main streams converge above the town site; Vulcan's preferred rail line alternative will cross each upstream of the town, along with at least three other streamlines.²³ The 1760-acre quarry site lies upstream of the rail line crossings of Polecat and Elm Creeks.²⁴ In addition, the rail line will be built up on berms of fill material all along its route, in exact locations which Vulcan and the agency have not disclosed. Based on the proposed routing, these berms will be either well within or on the border of the 100 year flood plain,²⁵ and will therefore alter it. The agency has not analyzed the impact of the berms.

The effect of all of this is to alter the hydrology of the region upstream of Quihi. The agency controls the cumulative flood risk from the quarry and the rail line to the extent that it controls the design and placement of the rail line.

¹⁹ *Id.*

²⁰ Draft EIS, D-6 to D-9, EI-60, EI-314, EI-1376, and photos attached to oversize maps submitted with DEIS comments (EI-1361/1362/1383).

²¹ Counsel for Vulcan denigrates the Quihi community in EI-1439: "As there is no town or other entity officially known as Quihi, we assume you are referring to a cluster of structures, approximately one mile west of where the preferred route would cross Quihi Creek." This vacuous depersonalization only underscores the irony that the longer Vulcan refuses to deal with the intimate objects in the "structures" on a human level—by making the legally required public disclosure of cumulative harms—the more Quihi's very real community cohesion grows stronger. When, after six years, Vulcan is still trying to depersonalize the public out of fear of disclosure in a public process, it shows the psychology of previous investment.

²² E.g., EI-641 at 19-28 (MCEAA EIS scoping comments); EI-1374 at 42-43 (MCEAA Draft EIS comments).

²³ Draft EIS, 3-13.

²⁴ Draft EIS, D-241, D-242, and figures in the record previously provided by MCEAA for a depiction of the relative location of floodplains, houses, historic sites, wells, and the sites of the proposed rail line and quarry.

²⁵ Draft EIS, 3-25 (Figure 3.3-7).

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First, the agency requires Vulcan to model only the bridges, which creates two problems: it fails to consider the berms along the rest of the rail line, and it fails to consider the effect of the quarry on the hydrology of the upper watershed.²⁶

Almost laughably, the agency argues that the berms (or at least the parts containing the rail beds) are "porous."²⁷ Therefore, the agency concludes "there will be minimal disruption to the natural drainage during construction of the proposed line."²⁸ Yet in the previous section of the draft EIS, the agency recommends that "the Board impose a condition requiring [Vulcan] to . . . design the bridges . . . without impounding water on the upstream side of the structure."²⁹ The agency comes to this absurd position straight faced, because it has never analyzed the design or placement of either the berms or the bridges, yet has made a finding that the bridges, which at least contain some passage for water—but somehow, not the berms, which are solid—will impound water, alter the hydrology, and present an increased flood hazard.

Second, the agency requires Vulcan to comply with county and federal guidelines.³⁰ Under the county's development standards, the applicant must demonstrate that its project will not result in more than a one foot rise in the 100-year floodplain. The agency's presently proposed mitigation, however, does not require compliance with this standard, even though MCEAA has requested it as part of an upfront analysis.³¹ The presently proposed mitigation requires only that Vulcan consult with the county floodplain administrator.³²

Even though Vulcan would have to obtain a county permit, in the view of the agency³³ and Vulcan,³⁴ the county could not legally deny or impose conditions on the permit—including the one foot increase in the 100-year floodplain limit—that would "prevent" construction or otherwise "regulate" rail construction or operation. When combined with the delegation of analysis, the result is 1) a post-license study that finds what Vulcan wants to find, and 2) recommended design modifications by the county that "prevent" construction when Vulcan decides how much it wants to spend.

²⁶ As we will see, the agency justifies this with only a conclusory statement. Draft EIS, 4-108.

²⁷ Draft EIS, 4-56.

²⁸ *Id.*

²⁹ Draft EIS, 4-33 (emphasis added).

³⁰ Draft EIS, 5-6.

³¹ EI-1382.

³² Draft EIS, 5-3.

³³ See *Burlington Northern and Santa Fe Railway Co. v. City of Houston*, ___ S.W. 3d __ (Tex.App.—Houston [14th Dist.] 2005) (adopting agency's amicus position that local and state governments can take no action of any kind, including judicially enforcing the "public use" requirement for eminent domain in the state's constitution, that would prevent rail construction).

³⁴ EI-1296 at 2-3 (arguing that county cannot deny a permit once license is authorized by STB).

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To date, however, the agency has illegally abdicated its responsibility to analyze impacts from the design and placement of the rail line, instead delegating it to Vulcan as a mitigation condition, to be completed after the license has been issued. The duty to comply with NEPA, however, falls on the agency, rendering such delegation impermissible and contrary to NEPA's mandate for public participation and informed decisionmaking.

The agency does concede that:

Construction of the proposed rail line (any route) could have an adverse impact on flooding because it would require the crossing of a number of intermittent streams and could involve the use of fill (added material) at these stream crossings. . . The added fill would increase the width of floodplains above stream crossings because it would change the hydraulic conditions at the crossings.³⁵

Even so, the agency has chosen not to analyze further.

In addition, the agency ignores the considerable downstream impact of the bridges. The documentary evidence submitted by MCEAA³⁶ clearly shows that when frequent flash flooding occurs, flow does not remain within the banks of the channel over a large area. Because overland flow presently occurs, the rail line's berms and bridges will alter that flow on the upstream and the downstream side of the line. Overland or out-of-channel flow that used to spread over a wider area downstream may not be able to once the rail line is constructed. Likewise, overland or out-of-channel flow upstream that formerly did not reach out-of-channel areas downstream may be diverted by the berms and funneled through the bridge openings, actually increasing the volume of water reaching downstream areas.

The agency's solution is to impermissibly delegate the analysis to the applicant and then allow the applicant to voluntarily mitigate based on its own findings.³⁷ Even the substance of this mitigation ignores the relevant factors in the flood hazard analysis.

³⁵ Draft EIS, 4-34.

³⁶ Draft EIS, D-6 to D-9, EI-60, EI-314, EI-1376, and photos attached to oversize maps submitted with Draft EIS comments (EI-1361/1362/1383).

³⁷ Draft EIS, 5-2, 5-3, and 5-6. Earlier in the Draft EIS, the agency makes various promises, noting that Vulcan "has voluntarily agreed to design the stream crossings in a manner that would not exacerbate pre-flooding risks," at 4-34 (emphasis added), and recommending that "the Board impose a condition requiring [Vulcan] to . . . design the bridges . . . without impounding water on the upstream side of the structure," at 4-35 (emphasis added). The actual mitigation conditions do not contain these substantive requirements.

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Meanwhile, the agency's analysis of flood impacts from the quarry consists of a conclusory statement. The draft EIS states that Vulcan's "use of Best Management Practices would prevent and control any stormwater runoff from the quarry site . . . Accordingly, no potentially significant adverse cumulative effects . . . are expected as a result of the quarry."³⁸

The quarry, as MCEAA has noted,³⁹ will increase flood risk (1) by removing all vegetation from significant portions of the quarry site adjacent to and flowing into Polecat and Elm Creeks; (2) by altering the hydrologic characteristics of the site by excavating, blasting into ledges, and piling debris; (3) by paving or rendering impermeable large portions of the site; and (4) by pumping significant amounts of groundwater for site use and dust control upgradient and then repositing that water in a concentrated fashion to the groundwater table downgradient.

The agency has ignored all four of these impacts even though they are relevant factors to any cumulative impact analysis that would determine how the rail line should be designed and where it should be placed.

Worse still, the agency hides the quarry's impact by layering conclusory statements to obscure its lack of analysis. One example:

In the karst terrain of the Edwards Aquifer, there are complex regional interactions between surface and groundwater. In this area, surface water can enter local karst features, pass rapidly through subterranean solution zones, and re-emerge in surface springs miles downstream. However, no streamflow sites have been identified within the area of the proposed project.⁴⁰

The agency says "no streamflow sites have been identified" with all the certainty in the world, but this is really a cry for deference: on the record before it, the agency has no way of knowing the impact of groundwater-surface water interactions along most of the rail line. It has only completed a paper survey of the area's hydrography.⁴¹ Most of the analysis of groundwater infiltration comes from discussion of previous studies concerning the Edwards Aquifer recharge zone, which lies to north of most of the rail line and which encompasses only the portion of the rail line that enters the quarry. The geology of the area changes markedly south of the quarry—

³⁸ Draft EIS, 4-108.

³⁹ See e.g., EI-641, EI-1374.

⁴⁰ Draft EIS, 3-17.

⁴¹ Draft EIS 3-9, 3-13.

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indeed, that is the whole reason the quarry is located where it is, because the limestone formation dips sharply immediately to the south.

Further, for analyzing flood impacts the agency should be concerned with downstream or downgradient seepage of water out of the ground into the stream (the agency calls these the "streamflow sites" above). Yet the agency has done no modeling calibrated against real world results to show if its assumption that streamflow sites do not exist is correct. Indeed, the agency has not characterized the streamflow regime at all for stream crossings not located on the Edwards Aquifer, which would include all of the stream crossings except Elm Creek. Therefore, the agency cannot substantiate its conclusion or its disregard of streamflow sites as a relevant factor in the flood analysis.

Of course the larger problem is that the agency did not analyze impacts from the quarry at all, but the above example simply shows that the agency's justifications for not doing so are just as conclusory as its assumption that Vulcan will mitigate all as-yet-unanalyzed flood risk from the quarry. When it engages in this sort of jurisdictional hand-waving, the agency disclaims responsibility for both the cumulative harm from the quarry and the design and placement of the rail line in response to that cumulative harm. The result is analysis of the rail line in a vacuum.

Vibration Impacts to Groundwater

Most residents of the Quihi area rely on private wells for their water supply, to water livestock, and in some cases to irrigate their land. The residents of Quihi are familiar with damage to water supplies caused by quarry operations in other Texas communities, such as Tehuacana.⁴²

As MCEAA and its neighbors have expressed,⁴³ vibration from the quarry and the rail line may damage the wells themselves, septic tanks that would then pollute the wells, or may alter the subsurface environment so as to cloud and render unusable or dry up water supplies.

The draft EIS implicitly identifies private use of groundwater once,⁴⁴ but undertakes no further effort to either locate private wells or analyze impacts to them. To date the agency concludes there is no impact.⁴⁵ Yet the agency has only analyzed direct impacts to groundwater from spills and contamination associated from the rail line.

⁴² See e.g., Vulcan Materials Co. v. City of Tehuacana, No. 02-51182 (5th Cir., Jun. 4, 2004) (unpublished opinion), at 4 (city's residents noted at public hearing that quarry activities caused wells and springs in the area to dry up).

⁴³ See infra, p. 10-12 and accompanying citations to the record.

⁴⁴ Draft EIS, 3-7.

⁴⁵ Draft EIS, 4-7.

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The agency claims to have analyzed vibration impacts to "sensitive structures" including private wells,⁴⁶ finding an adverse impact from construction (pile driving) and operation of the rail line.⁴⁷ But the bare-bones 7-page vibration study the agency did complete was done for a preliminary cultural resources assessment way back when the agency was deciding whether to prepare an EIS.⁴⁸ This study neither identified nor accounted for impacts to private wells.

The agency hides the fact that it has not considered the relevant impacts on private wells by again impermissibly delegating the responsibility for analysis to the applicant during the mitigation stage, after the license has been issued:

Prior to initiating rail construction activities, [Vulcan/SGR] shall consult with property owners located adjacent to the rail right of way regarding the location and design of their private wells, ancillary structures, and pipelines in order to make appropriate modifications to the design of the rail line to maintain well, structure, and pipeline integrity.⁴⁹

Meanwhile, the draft EIS identifies adverse vibration from both the quarry (blasting) and the rail line. Then the agency makes the conclusory statement: "Because groundwater vibration is localized and occurs only close to the source, the impacts experienced by these structures would either be from the quarry or from the rail line, but not both."⁵⁰

The agency plainly has no basis for this statement. It has not completed any vibration study of the quarry's contribution to the cumulative harm. Moreover, because its original vibration study for the rail line did not identify the relevant structures, including private wells, the agency has no support in the record for the assertion that a well would not be impacted by both the rail line and the quarry. Numerous Quihi residents live within 1/2 mile of the quarry site,⁵¹ and the agency has not yet analyzed the impact on their wells or any other wells in the project area.

⁴⁶ Draft EIS, 4-10.

⁴⁷ *Id.*

⁴⁸ Draft EIS, 4-86 and Draft EIS Appx. I-5.

⁴⁹ Draft EIS, 4-86 and 5-9.

⁵⁰ Draft EIS, 4-114.

⁵¹ See e.g., maps shown at Draft EIS D-241 and D-242, and oversize maps submitted by MCEAA with its Draft EIS comments (EI-1361/1362/1383).

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MCEAA and its Neighbors Have Requested Analysis of the Cumulative Harm Time and Again in This Proceeding

MCEAA and its neighbors have made their concerns about these issues and about the inadequacy of the agency's analysis to date abundantly clear. For the benefit of the record, we list the opportunities provided to the agency and to Vulcan:

The County Judge⁵² and Precinct 1 Commissioner have each, four times, requested a full analysis of flood impacts by the agency since this proceeding began back in 2003.⁵³ Each time they have been ignored.

The Texas Commissioner of Agriculture, a state elected official, has told the agency she was "worried about the implications of the proposed rail line being built through floodplain areas."⁵⁴

The Medina County Floodplain Administrator has written, corroborating MCEAA's documentary evidence of severe flash flood hazards and urging the agency to not permit increased flood impacts.⁵⁵

The Director of the East Medina County Special Utility District has written, corroborating MCEAA's evidence of area groundwater use, heavy rainfall events and seepage through the aquifer, and asking the right question in light of the agency's failure to analyze cumulative harm: "Even if the risk were negligible, why should these families in the East Medina County Special Utility District have to bear it."⁵⁶

In May of 2003, before the agency even made a decision to produce an EIS, MCEAA submitted a letter signed by 118 individuals⁵⁷ containing extensive detail regarding increased flood risk from Vulcan's proposed stream crossings and construction in the floodplain.⁵⁸

In June of 2003, when the agency held an open house meeting at which it did not accept oral comment, at least 17 individuals later sent in their own individual written comment

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indicating that flooding was a concern.⁵⁹ At least 17 individuals did the same on the issue of water well damage.⁶⁰ At least 16 individuals not included in either of the previous categories commented on both issues,⁶¹ for a total of 50 comments.

Also prior to the agency's decision even to prepare an EIS, MCEAA made at least seven detailed submissions,⁶² including two lengthy submissions from its own technical consultant, Dr. Lynn Kitchen,⁶³ that described the cumulative flood and well damage harm in great detail.

When the agency requested comments on the scope of the EIS, MCEAA itself raised the issue of cumulative flood harm three times and provided detailed guidance to the agency on how to evaluate it.⁶⁴ In addition, at least 15 individual members and neighbors sent in their own individual written scoping comment indicating that flooding was a concern.⁶⁵ At least 25 individuals did the same on the issue of water well damage, many in great detail regarding the cumulative impact of blasting at the quarry and the operation of the rail line.⁶⁶ At least 21 individuals not included in either of the previous categories commented on both issues,⁶⁷ for a total of 61 individual comments.

Prior to the publication of the draft EIS, MCEAA also rebutted dismissive comments by Vulcan that urged the agency not to adequately analyze cumulative harm.⁶⁸

In June of 2004, MCEAA submitted via Congressman Henry Bonilla a petition requesting detailed study of both quarry and rail line impacts, signed by 776 individuals and the Castroville Conservation Society who identified themselves as affected by, among other harms, "loss of water supply due to damage to wells and septic systems," or "danger of flooding and increased flooding of property and roadways."⁶⁹

⁵² EI-90, 92, 103, 113, 141, 151, 158, 159, 164, 166, 170, 171, 180, 215, 224, 229, 254.

⁵³ EI-96, 100, 101, 102, 104, 114, 115, 116, 124, 126, 127, 138, 144, 145, 172, 217, 218.

⁵⁴ EI-86, 91, 95, 105, 109, 111, 122, 131, 134, 160, 167, 169, 173, 175, 225, 243.

⁵⁵ EI-60, 146, 216, 221, 314, 315, 471.

⁵⁶ EI-146, 315.

⁵⁷ EI-640, 641, 645.

⁵⁸ EI-595, 611, 620, 622, 628, 629, 632, 655, 667, 672, 674, 678, 690, 700, 734.

⁵⁹ EI-614, 615, 618, 619, 623, 625, 630, 633, 643, 644, 647, 648, 654, 659, 663, 669, 670, 671, 673, 676, 685, 701, 705, 708, 710.

⁶⁰ EI-616, 621, 626, 627, 629, 642, 649, 651, 652, 660, 664, 665, 666, 668, 675, 687, 691, 693, 702, 704, 707.

⁶¹ EI-781.

⁶² EI-828, 894, 904.

⁵² In Texas, the County Judge is the county's highest elected official and serves as its Chief Executive Officer.

Handbook of Texas Online, <http://www.tsha.utexas.edu/handbook/online/articles/CC/mac9.html>

⁵³ EI-57, 154, 638, 879, 1270, 1352, 1421; EI-1369 at 69-70 (public meeting).

⁵⁴ EI-371.

⁵⁵ EI-1354.

⁵⁶ EI-1457.

⁵⁷ EI-74.

⁵⁸ *Id.* at 1-2.

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Upon publication of the inadequate analysis in the draft EIS, over 100 residents attended a public hearing on the document, many of them providing strong oral testimony regarding cumulative harms from the quarry and rail line.⁷⁰

After publication of the draft EIS, MCEAA submitted numerous detailed comments on its inadequacies, including cumulative flood and/or well damage harm.⁷¹

In addition, at least 13 individual members and neighbors sent in their own individual written comment indicating that the draft EIS analysis of flooding was inadequate and did not answer their concerns.⁷² At least 12 individuals did the same on the issue of water well damage.⁷³ At least 12 individuals not included in either of the previous categories commented on both issues,⁷⁴ for a total of 37 individual comments. Because the agency had not analyzed the cumulative harm, there was little for these commenters to do besides reiterate their scoping comments.

Overall, these issues have been placed before the agency by more than 1000 comments including the petitions. We have done so with all the detail that can reasonably be expected of public commenters—including guidance on how to do the actual analysis—without doing the analysis ourselves.

It is Time for the STB and Vulcan to Align Their Actions With Their Words

The failure to analyze the quarry's contribution to cumulative harm renders any mitigation of the cumulative harm impossible, even though the agency controls the cumulative harm to the extent that it controls the design and placement of the rail line. By relying on conclusory statements rather than disclosing cumulative harm, the agency analyzes the rail line in a vacuum, without considering the quarry as either part of the present environmental baseline or as a future proposal.

⁷⁰ EI-1369 and EI-1370 (transcript of public meeting); See especially EI-1369 at 23 (comments of David Barton); *Id.* at 27-29 (comments of Dr. Lynn Kitchen), 30-31 (comments of Nancy Schulte), 42 (comments of Tom Walpole), 43 (comments of Archie Gerdes), 45-46 (comments of Carl Kelley), 49 (comments of Scott Conrad), 53-54 (comments of Joe Balzen), 55 (comments of Robin Portenier), 68-69 (comments of Erna Balzen), 78-79 (comments of Lester Landrum), 83 (comments of George Rice); EI-1370 at 27 (comments of Tom Walpole), 29-30 (comments of Joseph Salomon), 63 (comments of Wayne Stansbury), 80 (comments of Jimmy Walsh).

⁷¹ EI-1374, EI-1287 & EI-1294 (same); EI-1353, 1361, 1376.
⁷² EI-1362, 1280, 1323, 1327, 1340, 1341, 1342, 1346, 1347, 1349, 1351, 1359, 1368.
⁷³ EI-1226, 1250, 1252, 1281, 1284, 1310, 1326, 1336, 1337, 1339, 1357, 1425.
⁷⁴ EI-1261, 1320, 1325, 1328, 1329, 1335, 1338, 1342, 1334, 1345, 1360, 1398.

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This allows Vulcan to shift the risk of the quarry's undisclosed impacts onto the community and demand from the community the land for the rail line that will make the quarry most economically viable, while avoiding incurring any costs for designing the rail line with reference to the quarry's impacts. The choice is clearly "your money (which for Quihi residents is their land) or your life (harm from flooding and damage to water supply)."

Throughout this proceeding, we have expressed our vehement disagreement with the agency's attempt to bend NEPA and state eminent domain law to suit its policy preference for non-rail applicants - Vulcan in this case - to have it both ways. We will continue to do so. Shifting the risk onto the community and forcing individuals, many of them well into retirement and on fixed income, to bring inverse condemnation suits after harm has occurred, rather than disclosing environmental consequences fully and fairly up front, as required, is a clear abdication of agency authority.

But even this is not enough for the agency. It plays it both ways with its mitigation authority as well.

Compare the draft EIS in this proceeding:

The Board has *limited authority* to impose conditions to mitigate potential environmental impacts. As a government agency, the Board can only impose conditions that are consistent with its statutory authority. Accordingly, any conditions the Board imposes must relate directly to the transaction before it, must be reasonable, and must be supported by the record before the Board. The Board's practice consistently has been to mitigate only those impacts that result directly from the proposed action. The Board typically does not require mitigation for pre-existing environmental conditions.⁷⁵

with the final decision in another:

[W]e have *broad power* to impose conditions, so long as they are supported by the record and there is a sufficient nexus between the condition imposed and the transaction before us. Accordingly, we *plainly have authority* to impose mitigation to address the effects of increased operations on the existing line that would not occur but for the expansion of DM&E's system authorized here.⁷⁶

⁷⁵ Draft EIS, 4-13 and 5-1.

⁷⁶ Final Decision, Dakota, Minnesota & Eastern R.R. Corp., Construction Into the Powder River Basin, 2002 WL 121210 (S.T.B. Jan. 28, 2002).

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The STB does not want to mitigate cumulative impacts in our proceeding because the applicant doesn't want to analyze them.

While it may be true that STB has no authority to mitigate harm resulting solely from the quarry, the agency controls the cumulative harm to the extent that it controls the placement of the rail line. It is simply a lie to suggest that the agency lacks the power to impose mitigation conditions on the rail line to abate cumulative harm.

The Chairman of the Surface Transportation Board, Roger Nober, has written favorably of negotiated approaches to resolve conflicts associated with the environmental impacts of federally authorized construction projects.⁷⁷ It is time for the STB to align its actions with its words, and to resolve the larger issues associated with its policy choice to give non-rail entities the ability to obtain common carrier licenses. Foremost in our mind is the issue of accounting for cumulative harm.

Vulcan will make much of the fact that, in light of the inadequate draft EIS, MCEAA has voted to authorize litigation against STB if necessary. The key is if necessary.

We think that litigation against the agency may be able to be avoided if the agency analyzes the cumulative harm completely and in a manner that meets the legal requirements for adequacy discussed above and commits to mitigate appropriately, up front, before the license is granted. For flooding, that analysis has been laid out by MCEAA in previous submissions. Though the cumulative well damage analysis necessary depends on uncertain inputs (location and frequency of inputs from blasting, in particular), the agency cannot ignore these effects.⁷⁸ In addition, MCEAA and its neighbors will want a binding commitment from Vulcan to document or accept documentation of existing conditions and to replace damaged water sources. Other issues may become apparent as discussions progress. For instance, MCEAA believes that it is entitled to a fuller explanation of why the Medina Dam alternative route it submitted was not the one ultimately considered and dismissed by Vulcan and the agency.

MCEAA is, as it has been, willing to sit down with the agency and Vulcan. However, the bottom line is that cumulative flood risk and well damage harms must be analyzed and fully mitigated up front in a substantially similar manner to that described above. No exchanges of

⁷⁷ See Roger Nober, *Federal Highways and Environmental Litigation: Toward a Theory of Public Choice and Administrative Reaction*, 27 HARV. J. ON LEGIS. 229 (1990).

⁷⁸ *Mid States Coalition v. STB*, 345 F.3d 520, 549 (8th Cir. 2003).

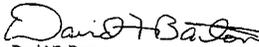
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land or easements will be discussed as a condition of the above. Given the current state of the record, the choice for the agency is clear: address the cumulative harm.

Very truly yours,

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David F. Barton

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The Medina County Environmental Action Association, Inc.
202 CR 450, HONDO, TX 78861
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Phone 830-741-5040
Fax 830-426-2060

June 8, 2005

cc to the following parties:

Roger Nober, Chairman Surface Transportation Board 1925 K St. NW Washington, DC 20423-0001	Pat Brawner Medina County Floodplain Administrator 709 Ave. Y Hondo, TX 78861
Congressman Henry Bonilla 11120 Wurzbach Rd. Suite 300 San Antonio, TX 78230	Tom Ransdell Vulcan Materials 800 Isom Road San Antonio, TX 78216
Senator Kay Bailey Hutchison 145 Duncan Dr., Suite 120 San Antonio, TX 78226	Tom Hill President, SW Division Vulcan Materials 800 Isom Road San Antonio, TX 78216
Senator John Cornyn 600 Navarro, Suite 210 San Antonio, TX 78216	Donald James, CEO Vulcan Materials P. O. Box 385014 Birmingham, AL 35238-5014
Senator Frank Madla P. O. Box 12068 Austin, TX 78711	Bill Denson General Counsel Vulcan Materials P. O. Box 385014 Birmingham, AL 35238-5014
State Representative Tracy King P. O. Box 2910 Austin, TX 78768-2910	David Donaldson Public Relations Vulcan Materials P. O. Box 385014 Birmingham, AL 35238-5014
Ms. Susan Combs Texas Agriculture Commissioner 1700 N. Congress Ave. Austin, TX 78701	Larry Oaks Executive Director Texas Historical Commission P. O. Box 2910 Austin, TX 78768
Hon. James Barden Medina County Judge 1100 16th Street Hondo, TX 78861	
Chris Mitchell Commissioner Pct. 1, Medina County 100 16th St. Hondo, TX 78861	

Ms. Rini Ghosh
Section of Environmental Analysis
Surface Transportation Board
ATTN: Finance Docket No. 34284
1925 K Street, NW
Washington, DC 20423-0001

Re: Finance Docket 34284
Proposed Vulcan Materials/Southwest Gulf Railroad Rail Line
Medina County Texas

Dear Ms. Ghosh:

As per our conversation on June 1, 2005, MCEAA respectfully requests the STB to obtain more detailed information concerning the cut and fill data it had previously requested from Vulcan/SGR, on all 15 routes considered by the applicant.

This is the second time this data has been requested and to date Vulcan/SGR has not adequately submitted it. Vulcan/SGR's most recent reply to your agency's request (EI-1439, dated April 4, 2005) is lacking in many respects and cannot be verified without appropriate supporting data. Vulcan/SGR has ignored STB's response for data on all of the 15 routes and has given data on only 4 routes (the proposed and 3 alternatives). In addition, the cut and fill data given by Vulcan/SGR on the Medina Dam alternative route ("MDR") is meaningless for reasons discussed below. For all of these reasons MCEAA doubts the validity of Vulcan/SGR's most recent data submission.

It is important to note that the public did not have this data available for evaluation during the comment period for the Draft Environmental Impact Statement ending January 10, 2005.

Cut and fill data submitted by the applicant to date is inadequate

We are critical of the manner utilized to determine the cut and fill data for many reasons.

First, in order to compute and then compare accurate volumes of the cut and fill needed between alternatives, the track base width, height and length of the cut or fill section must be determined for all routes. This would include the dimensions of any berms or earth massing

necessary to support the rail bed or track base. Also, the *location* of the cut and fill must be more clearly defined. None of this data is currently in the record, nor has it been provided by Vulcan/SGR.

The reason for requiring disclosure of this data is more than just a casual interest for information. The location of the cuts and fills directly affects the flooding patterns in the floodplain, thus affecting the lives and property of all within it. The agency controls this harm to the extent it controls the design and placement of the rail line, which it most certainly does in this construction licensing proceeding.

The process used by Vulcan/SGR to calculate the cut and fill data requested by STB, which it characterizes on page 6 of EI-1439 as "a rough approximation," is poorly devised, inaccurate, and easily manipulated. It bears no relationship to the actual physical design characteristics of each alternative analyzed by the Draft EIS. It is an attempt to use the inertia of the agency's licensing process to keep staff members from requesting the information necessary to complete their legally mandated task. This is not fair and cannot be tolerated, especially when important environmental impacts are at stake.

The agency has a duty to consider—and should, for very practical reasons consider—a properly designed Medina Dam alternative route

Turning to Vulcan/SGR's criticism of the Medina Dam alternative route ("MDR"), MCEAA wishes to make it clear to the STB that Vulcan/SGR's representation of this route is not the location suggested by MCEAA. Vulcan/SGR's route variation is purposefully designed so it will be discarded by the STB. MCEAA's variation of the MDR is a reasonable and feasible alternative for the agency to analyze. It is also a viable and defensible choice for the agency to select which would avoid many of the environmental impacts and public opposition brought on by Vulcan/SGR's decision to co-locate two projects, a quarry and a rail line, so as to significantly alter the floodplain in area of the Quihi community.

MCEAA's version of the MDR has been expressed verbally and in writing to the agency on many occasions, but was also presented graphically in the oversize set of maps submitted with MCEAA's Draft EIS comments. This graphical presentation included detailed topographic maps comparing MCEAA's version of the MDR with the one submitted to the agency by Vulcan/SGR. MCEAA's version, which has to date not been analyzed by the agency, differs from the version analyzed and dismissed by Vulcan/SGR and the agency, in the following ways:

1. It is shorter and crosses fewer landowners' properties.
2. It approaches the quarry site from the east rather than from the south, so that Vulcan/SGR's purposely designed sharp turns at the quarry terminus are eliminated.

3. It requires less cut and fill. Vulcan/SGR's version has an eastward bulge going close to CR366 and goes close to the top of a hill that is 1057' high. Vulcan/SGR's version is also approximately

5000' longer. Whatever the accuracy of Vulcan/SGR's cut and fill data to date, MCEAA's version of the MDR will clearly require less cut and fill because it does not contain this mischaracterized routing.

4. It crosses FM 2676 at a safer location.
5. It crosses the Quihi Creek floodplain in its extreme northern portion in open farm country, thus avoiding significant floodplain impacts and eliminating much of the potential to exacerbate flood impacts.
6. It avoids the Elm Creek floodplain entirely, reducing cumulative downstream flood impacts on Quihi.

In short, MCEAA's version not only addresses all of the concerns Vulcan/SGR exhibited in its own self-evaluation of alternatives (and thus the agency's objections to Vulcan/SGR's version of the MDR that led to its dismissal from further consideration), but also addresses the primary environmental harms of concern to area residents.

MCEAA's variation of the Medina Dam alternative route, although approximately 2.5 miles longer than the applicant's preferred route through the Quihi area floodplains, offers the following advantages over the preferred and three proposed alternative routes previously suggested by Vulcan/SGR and compared in the Draft EIS:

1. The MDR is largely on a level plateau. According to USGS maps, it would enter the quarry at 930 feet and would terminate at Dunlay Acres Subdivision at an elevation of 965 feet. This avoids 90 to 95% of the Quihi Creek floodplain, and 100% of the Cherry Creek and Elm Creek floodplains. It also avoids significant amounts of the "necessary" cut and fill alleged by Vulcan/SGR.
2. It would avoid the Quihi valley basin which contains the entire historic Quihi area, thus preserving its visual aesthetic value, and thus eliminating the flooding potential, dust, noise, and vibration associated with the 400+ railroad cars per day that would traverse this area utilizing the proposed or any of the three alternative routes.
3. It crosses FM 2676 and CR 4516 at safer locations.
4. It crosses fewer county roads than any of the other proposed or alternative routes.
5. Because it is on a plateau, it would reduce the number of trestle bridges, culverts and berms required.
6. It would reduce the maintenance costs on the above structures, because they would be completely outside of or traverse much less of the floodplain.

7. It crosses land owned by quarry land lessors, their families, and Vulcan employees. These people support both the quarry and the rail project. The preferred route and 3 proposed alternatives do not cross land owned by any of the above individuals.

8. The southern rail terminus near Dunlay Acres Subdivision would be the same as Vulcan/SGR's proposed or alternative #3 route, and thus no new additional overpass over U.S. Highway 90 would be required.

Again, by any fair comparison with Vulcan/SGR's earlier submissions, MCEAA's version of the MDR addresses Vulcan/SGR's stated concerns. It therefore merits further analysis as a reasonable and feasible alternative route.

Further, as noted above, the applicant has prevented consideration of this version of the MDR by mischaracterizing it and by submitting vague, conclusory, and unsupported cut and fill data that bears no relationship to the physical design of any of the alternative routes. It then uses this mischaracterization and inadequate data to eliminate alternatives it dislikes by claiming "engineering difficulties." The agency cannot disclaim responsibility for the design and placement of the rail lines in a manner that allows the applicant to self-define the scope of alternatives in this manner.

This is particularly true here, where specific design parameters associated with the rail line and its support structures will control the environmental impact on the floodplain. The agency's clear duty to analyze the rail structure's impact on the floodplain necessarily guides its level of inquiry into what is a feasible alternative.

More to the point, this isn't about rejecting an alternative but considering one. There are no cost objections in this proceeding for a variety of reasons, not the least of which is the common financial control of SGR by Vulcan, and the fact that the quarry will serve as the rail line's sole customer. Financial feasibility is therefore limited only by the quarry (though attorney's for Vulcan/SGR have earlier stated on the record that even that may not be the limit; that the rail line may have a bottomless pocket to draw from). In addition Vulcan/SGR will depreciate the entire cost of the rail line in 8 years, deriving a substantial tax benefit, even though they anticipate the rail line will be in service for over 50 years. Cost is simply not an issue. What is left are the "engineering obstacles" which for the MDR are derived solely from Vulcan/SGR's mischaracterization of the route and the incomplete cut and fill data they have submitted.

The exclusion of fill volumes for rail line alternatives that traverse the floodplain biases the entire analysis

Perhaps the most seriously biased portion of Vulcan/SGR's cut and fill data submission concerns the placement of fill in the floodplain. In the cut and fill calculations completed by the applicant, the assumption was made that fill would not be placed in the floodplain. Because all of Vulcan/SGR's proposed routes traverse deep within the floodplain, this dramatically skews the comparison of cut and fill between the currently proposed alternatives and the MDR.

Thanking you in advance, we await the receipt of the complete data requested, which we urge STB to include in the form of a Supplementary DEIS (SDEIS) for appropriate public comment.

Respectfully,

Dr. Robert T. Fitzgerald, President
MCEAA, Inc.

CC:
U.S. Congressman Henry Bonilla
Senator John Cornyn
Senator Kay Bailey Hutchison
Texas Agriculture Commissioner Susan Combs
Texas Senator Frank Madla
Texas Representative Tracy King
County Judge James Barden
County Commissioner, Pct. 1, Chris Mitchell
Texas Historical Commission, Larry Oaks, Executive Director
Tom Ransdell, Vulcan Materials
Tom Hill, President, SW Division, Vulcan Materials
Donald James, CEO, Vulcan Materials
Bill Denson, General Counsel, Vulcan Materials
David Donaldson, Public Relations, Vulcan Materials

MCEAA, Inc., for your Home, Health, and Heritage

To suggest that the proposed alternatives will not use fill in the floodplain is to suggest that the rail lines will be built at ground level and will be unusable in any significant rainfall event of the type documented and submitted by MCEAA as evidence of regular flooding in the Quihi area. It would also suggest that the height of the bridges necessary at the rail line's stream crossings would be more on the order of a kitchen table than a major structure. Given the flood history of the area, that is absolutely ludicrous. "Waiting until the design stage" to obtain accurate design information, as suggested by the applicant, is merely a means of excluding this highly relevant design and placement information from the record and from required disclosure and analysis under NEPA.

The proposed Vulcan/SGR-preferred alternative crosses and encroaches on more mapped floodplain than any other proposed route (Draft EIS Fig. 3.3-7, page 3-25). Assuming for the moment that the mapped floodplain is accurate (an issue we have urged the agency to verify with modeling, given that the maps are over 25 years old), the preferred alternative will require more floodplain fill to keep it elevated and above the floodplain than any other route. This amount of fill, as with the other proposed alternatives, was specifically not considered and was specifically excluded by Vulcan/SGR when it provided cut and fill data to the agency. The applicant's purpose was clear: to create a disparity between cut and fill volumes for the floodplain-traversing routes near Quihi and more viable routes with fewer flood impacts to the east.

Therefore, "reasonable" cut and fill volumes for any alternative cannot be determined in reference to the incomplete and biased information the applicant has provided to date.

Conclusion

In conclusion, we urge the agency not to be seduced by Vulcan/SGR's rhetoric. Thus far, Vulcan/SGR has failed to fully comply with the agency's request for information in many areas, information vital to its decision-making process, mitigation requirements and laws. STB must not waver in carrying out its NEPA duties given by Congress and the people to disclose impacts to the environment.

STB must not be influenced by Vulcan/SGR's cries that "it will cost too much to study these projects in a timely and proper manner." If Vulcan/SGR had done the necessary research in the beginning of this project it might have not undertaken the project at all, and instead would have developed a quarry further west where the UP rail line and limestone are available in a less environmentally sensitive area. Alternatively, it would have approached the Quihi community in a more forthright manner and discussed real options for design and mitigation based on the analysis of harms that it had undertaken. It chose not to. And as the agency knows, the applicant's failure to do so does not excuse the agency from doing its duty. Now, the agency finds itself in an untenable position. If it attempts to save these connected action projects, in the exact manner designed by Vulcan/SGR, the agency will be the one seen as responsible for unnecessary and dire environmental consequences. These consequences can only be avoided with proper study and analysis of the environmental impacts of the proposed rail line and quarry.

Surface Transportation Board
Incoming Correspondence Record

#EI-1698

Correspondence Information

Docket #:	FD 34284 0	Date Received:	10/05/2005
Name of Sender:	David F. Barton	Date of Letter:	10/05/2005
Group:	MCEAA, Inc.		

Submitter's Comments

Please docket for consideration the two attached letters.

Image Attachments

l:sth - September05_EasternRouteGTReport.doc l:sth - September05_ThirdSupnDEIS_rev1.doc

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October 5, 2005

Ms. Rini Ghosh
Section of Environmental Analysis
Surface Transportation Board
ATTN: STB Finance Docket No. 34284
1925 K Street, NW
Washington, DC 20423-0001

VIA EMAIL
& Regular Mail

RE: STB Finance Docket No. 34284 -- Adequate analysis under NEPA for:

- (1) Vulcan Materials Company's planned Medina County stone quarry; and
- (2) Vulcan Materials Company subsidiary Southwest Gulf Railroad Company's proposed rail line to serve Medina County stone quarry.

Dear Ms. Ghosh:

MCEAA has reviewed the recent submission, EI-1675, by the applicant, Vulcan/SGR ("Vulcan"), dated September 15, 2005. That letter transmits a report from one of Vulcan's consultants to the agency, concerning historic resources near one of Vulcan's eastern alternatives, the "SGR Eastern Route."

In the companion letter to this one, responding to EI-1664, the applicant's September 7, 2005 letter, we note that the creation of the "SGR Eastern Route," rather than a direct response to MCEAA's Medina Dam Alternative, resembles an analogize-instead-of-analyze strategy to eliminate alternatives disfavored by the applicant.

As we explain in our companion letter, it is possible that all alternatives in this proceeding will have impacts to historic sites; some more, some less. However, attempting to eliminate otherwise viable alternatives from consideration through the use of preliminary,

- The consultants arrive at a general conclusion that "intensive cultural resource investigations are warranted" in the area, but this phrase is not defined further.⁷

By comparison, the alternatives analyzed in the Draft Environmental Impact Statement have numerous eligible historic and archeological sites within the Area of Proposed Effect.⁸ Most of the alternatives, including the Proposed Route, have as many or more eligible sites within their Area of Proposed Effect as the "SGR Eastern Route."⁹ Such sites also exist adjacent to the Area of Proposed Effect for these alternatives, though it is unclear whether they have all been identified. Because other impacts that may contribute to historic and archaeological site impacts remain unknown, it is premature to conclude that historic site impacts along the "SGR Eastern Route" are any more severe than any other alternative presently under consideration.

Finally, the Draft Environmental Impact Statement uses a different methodology to identify potential "probability areas" for archaeological resources than Vulcan's consultant uses here.¹⁰ However, both approaches appear to result in deferral of further archeological surveys until the Programmatic Agreement is implemented. As MCEAA has stated, it prefers that these surveys occur up front. One possible cooperative means of accomplishing that would be for MCEAA's cultural resources expert, Dr. Tom Hester, to talk with the consultants at González, Tate, & Iruegas, and jointly establish a priority schedule for field studies. We do not know for certain if Dr. Hester is available for such a collaboration, but to our members it makes more sense than doing nothing and waiting to find archeological sites during construction.

Very truly yours,

THE GARDNER LAW FIRM
A Professional Corporation

/s/

David F. Barton

cc:
U.S. Congressman Henry Bonilla

⁷ EI-1675.pdf at 51.

⁸ Draft Environmental Impact Statement at 3-67 to 3-68.

⁹ See Draft Environmental Impact Statement at 3-52 (map).

¹⁰ Compare EI-1675.pdf at 5, 26-31 with Draft Environmental Impact Statement at 3-62 and 3-63 and with Draft Programmatic Agreement, Technical Memorandum (I-4), Supplement to the Preliminary Cultural Resources Assessment at 28-30.

conclusionary statements regarding environmental impacts that remain to be analyzed is impermissible. The applicant has it exactly wrong when it states that it "has previously identified . . . various impacts associated with the Eastern Route (unrelated to cultural resources) that it believes warrant rejection of that Route" (emphasis added).¹ For the reasons given in our companion letter, none of the impacts cited by the applicant in its conclusionary statements, including cultural resource impacts, amount to any significant difference with any of the other proposed alternatives. What matters are the feasibility criteria which, as MCEAA has explained, are by and large physical parameters controlling whether or not a functional rail line between Dunlay and the quarry can be built. The applicant is in no position to draw conclusions about environmental impacts associated with any of the alternatives in this proceeding, because it continues to refuse to provide the agency with the information necessary to conduct the analysis.

In this proceeding, the Area of Proposed Effect for the National Historic Preservation Act (NHPA) process is a rather arbitrary 1000 feet on either side of the rail line. The NHPA permits such a preliminary delineation in order to identify listed historic sites and potentially listed historic sites early on in the process, so that design changes to avoid adverse effects can be incorporated into the project for their protection.²

Under NEPA, however, the NHPA Area of Proposed Effect is irrelevant. Historic sites may be impacted by any single one or combination of environmental impacts. That necessarily implies that the true extent of the impact is known only after the environmental impact analysis. Therefore, a conclusionary statement regarding perceived impacts to historic sites cannot be used alone or used as part of a sandbagging strategy to eliminate an alternative.

That is particularly true in this proceeding, where many of the most relevant direct and cumulative impacts, including flooding and vibration impacts, have yet to be completely analyzed.

The preliminary conclusions of Vulcan's consultant for the "SGR Eastern Route" appear to be as follows:

- The consultants state that no documented historic sites or properties exist within the 1000-foot Area of Proposed Effect.³
- Based on a survey of area human history, and followed up by a driving tour of the area to eliminate clearly disturbed areas, the consultants determined "High Probability Areas" for archeological resources.⁴
- After a paper and web survey and a driving tour of the area, the consultants identify nine "potentially eligible" historic sites for listing on the National Register.⁵
- The consultants conclude that these nine potentially eligible sites are not likely eligible for designation as a historic district.⁶

¹ EI-1675.pdf at 1.

² See 36 C.F.R. § 800.4-800.6 (2004).

³ EI-1675.pdf at 5.

⁴ EI-1675.pdf at 5, 26-31.

⁵ EI-1675.pdf at 5, 33 and 42-51.

⁶ EI-1675.pdf at 51.

Senator John Comyn
Senator Kay Bailey Hutchison
Texas Agriculture Commissioner Susan Combs
Texas Senator Frank Madla
Texas Representative Tracy King
County Judge James Barden
County Commissioner, Pct. 1, Chris Mitchell
County Floodplain Administrator Pat Brawner
Texas Historical Commission Executive Director Larry Oaks

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October 5, 2005

Ms. Rini Ghosh
Section of Environmental Analysis
Surface Transportation Board
ATTN: STB Finance Docket No. 34284
1925 K Street, NW
Washington, DC 20423-0001

VIA EMAIL
& Regular Mail

RE: STB Finance Docket No. 34284 -- Adequate analysis under NEPA for:

- (1) Vulcan Materials Company's planned Medina County stone quarry; and
- (2) Vulcan Materials Company subsidiary Southwest Gulf Railroad Company's proposed rail line to serve Medina County stone quarry.

Dear Ms. Ghosh:

MCEAA has reviewed the recent submission, EI-1664, by the applicant, Vulcan/SGR ("Vulcan"), dated September 7, 2005. That letter purports to respond to numerous information requests and questions posed by the agency to the applicant, which the applicant had not responded to, despite the issuance of a Draft Environmental Impact Statement in this proceeding some 10 months ago.

Unfortunately the applicant's September 7 letter continues to ignore and trivialize the cumulative impacts from its connected quarry and rail proposals. Rather than conduct the necessary quantitative studies, the applicant continues to rely on hand-waving, promises, and conclusory statements. In our view, the applicant continues to mislead the agency in order to avoid these studies and to avoid viable alternative routes suggested by MCEAA.

- I. THE AGENCY HAS YET TO IDENTIFY A CONSISTENT SET OF CRITERIA FOR ALTERNATIVES

We disagree, however, that a 1.0% grade is the appropriate grade for this project, based on the applicant's own representations:

Earthwork costs can be reduced if [Union Pacific (UP)]-Vulcan agreements allow for run through power to be used on the rail line or that no interchange will occur at the UP main line connection. This will allow for increasing grades to match UP's ruling grade between Dunlay and the aggregate outlet and eliminating the flat spot near the connection.²

This [1.0%] grade is somewhat less than ruling grades on the UP between Dunlay and Houston (1.2-1.4%). Consequently, if run through power is used between the loading facility and destination points, tonnage ratings will be governed by the grades on the UP rather than those of the proposed rail line.³

Because "Southwest Gulf Railroad," a wholly owned and operated subsidiary of the Vulcan Materials aggregate corporation, is not a true railroad, and because neither it nor its parent owns and operates long-haul rail equipment of its own, nor plans to purchase or operate such equipment for this project, and because "Southwest Gulf Railroad's" assertions to the contrary consist solely of bare assertions, hypotheticals, and indeterminate possibilities of acquiring its own locomotive power, MCEAA believes that the agency must assume the use of run through power, absent a firm commitment by the applicant to provide its own. In Vulcan's own words, responding to the agency:

How would SGR connect to and move trains to and from the UP line? These details will be worked out with the Class I railroads in the future.⁴

MCEAA also notes that, as presently designed, there is no way to interchange locomotive power where the proposed line intersects the UP main line, without bringing the "5,200 to 5,800 foot"⁵ "Southwest Gulf Railroad" train to a complete stop, blocking and conducting reverse movements over the UP main line. Realistically, a siding, which is not yet part of the proposal, would be required, either along the UP main line or along the line serving the quarry.

In terms of feasibility criteria, a 1.2 to 1.4% grade, with corresponding cuts and fills, is all that is required for feasible alternative alignments in this project.

Vulcan also raises the issue of slope in the area of the UP main line as a safety issue. However, as noted above, Vulcan's own consultants note that the flat spot in that area could be eliminated with run through power. Additionally, based on all deviations of alternatives proposed to date, and discussed later in this letter, at least 4,000-5,000 feet of flat track exist, along what is currently the start of Vulcan's Proposed Route, before any alternative would take off to the east and begin to ascend a marginal grade. This is more than enough track to allay any alleged safety concerns.

² EI-28.pdf at 11 (emphasis added).

³ EI-28.pdf at 10.

⁴ EI-1664.pdf at 13.

⁵ EI-28.pdf at 4.

Several potentially viable alternative routes have been presented to the agency throughout this proceeding. However, a major problem with the alternatives analysis to date has been a lack of consistent standards and comparisons as to what makes an alternative viable. MCEAA has attempted on several occasions to match the applicant's stated qualitative and quantitative criteria, only to have the applicant make up additional "modified" straw men alternatives, closely analogous to MCEAA's but containing serious deficiencies, hence the "modifications". The applicant then analogizes its "modified" alternatives to our proposals, in lieu of actual analysis.

The "analogize instead of analyze" strategy leads to the arbitrary selection of criteria for viable alternatives. Up until the agency's recent information requests, the agency appeared to be proceeding on the basis of an undefined totality of the circumstances approach. The facts and record, however, show that criteria the agency permits for some of the alternatives currently under consideration have been used to dismiss other alternatives. This indicates that some of the allegedly disqualifying factors are simply environmental impacts. These impacts are greater for some alternatives and less for others. But the fact that these impacts are common, at some level, to all alternatives, does not render a particular alternative infeasible unless a threshold of infeasibility is defined.

So far, the threshold of infeasibility has been defined as whatever the applicant wants it to be. This makes the alternatives analysis a sham, and shows all of the alternatives suggested by the applicant to be straw men, rather than any more or less viable than alternatives suggested by the public.

To remedy this, we clearly isolate the feasibility criteria from other criteria that simply represent impacts. We then catalog and state Vulcan's representation of those criteria to date. Finally, we show that both of the alternatives suggested by the public can meet the feasibility criteria.

Feasibility Criteria

1. Grades

In North America, gradient is expressed in terms of the number of feet of rise per 100 feet of horizontal distance. Two examples: if a track rises 1 foot over a distance of 100 feet, the gradient is said to be "1 percent;" a rise of 2 and-a-half feet would be a grade of "2.5 percent."

According to Vulcan, grades must be limited to 1.0% for this project.¹ Therefore, any required cutting and filling to even out the grade should theoretically result in a 1.0% grade, and no less. No extra and cutting and filling should occur to decrease the grade below 1.0%, by that standard.

¹ EI-28.pdf at 9. Page numbers cited are the page of the pdf file, and may not necessarily correspond to paper page numbers.

Finally, and most fittingly, if Vulcan does not plan to use pass through power, all "Southwest Gulf Railroad" trains will be stopping on the line or at a siding before or after reaching the UP main line. No "safety issue" based on potential grades, the precise contours of which Vulcan has yet to define, will occur with trains moving so slowly or not at all. In any case, railroads across the nation likely deal with more serious safety issues with heavier trains on steeper grades and interchanges on a daily basis.

Furthermore, certainly any alleged "requirement" to place the siding before the UP main line can only exist if pass through power is not used. Yet as noted above, only the widest, barest assertion of this paper railroad applicant supports an inference that pass through power will not be used. But regardless of whether pass through power is used, the location of any siding is irrelevant and may not be used as an albatross to dismiss viable alternatives. Both the set of alternatives within the Quihi floodplain and the set of alternatives to the east, as well as the UP main line itself, have ample flat ground within a reasonable distance of the quarry line interchange on which to construct a siding.

The future operational details of this line, which currently seem grounded only in the unsubstantiated assertions of the paper railroad applicant, are not sufficient to eliminate otherwise viable alternatives unless those details are more adequately supported, and made binding on the applicant as a condition of the license.

2. Cut and Fill

Having established a feasible grade of 1.2 to 1.4%, it is now necessary to determine the other factor involved in calculating cut and fill: the resulting slope of the area around the rail line that is cut into or built up. Feasibility of the cut and fill cost will be discussed later. First, we must determine how much cut and fill will occur, before dismissing any possibilities.

In its September 7 letter, Vulcan revised its cut and fill figures in a manner that should raise alarm at the agency. Vulcan stated that:

In its initial presentation of cut/fill data in that [June 6, 2005] letter, SGR had assumed that all excavation would be in rock or a consolidated material capable of supporting vertical benches 10 feet wide by 20 feet high, resulting in a slope calculation of 0.5:1 (the equivalent of a 63° slope). Upon further review of this assumption and discussion with qualified engineers who reviewed surface geological maps of the area, SGR has now concluded that somewhat more refined data on the cut volumes would be generated by assuming side slopes of 1.5:1 (the equivalent of a 33° slope).⁶

The effect of all of this was to dramatically increase the cut volumes for alternatives to the east of the Quihi floodplain, while barely affecting some of the cut volumes for alternatives through the floodplain. Essentially, the change in slope had an exaggerated effect in the

⁶ EI-1664.pdf at 2.

marginally steeper topography to the east, because more horizontal cutting would have to be done to achieve a 33 degree slope adjacent to the rail line there than in the marginally flatter floodplain.⁷ Plainly, this was an attempt by the applicant to bias the feasibility analysis.

More seriously, however, Vulcan's own earlier submissions contradict both the necessity and basis for this change. The original slope was not 0.5:1 and 63 degrees after all, but 1:1, or a 45-degree angle. Because of that, there is no basis for requiring a 33-degree slope unless the surrounding material is *extremely* loose and unconsolidated and unable to support itself when balanced evenly at 45-degrees and a 1:1 ratio. Vulcan's own words, in the December 2002 TRAX Report:

Earthwork calculations and the cost estimate assume that all excavation will be in ripplable material. This assumption is grounded in site visits, inspection of road cuts in the area and data from University of Texas-Austin maps, but is not backed by soils tests and drillings. Based on this information, road bed side slopes of 1:1 in cuts (with 10 ft. wide benches and 20 ft. height intervals) and 2:1 in fills were used. These side slope assumptions were used to determine of [sic] right of way width throughout the length of the line.⁸

In cuts, ditches 10 ft. wide and 2 ft. deep (below top of subgrade) have been assumed on both sides of the track. Assumed side slopes were as noted in the previous paragraph [1:1].⁹

Cuts are in material that can be excavated without blasting and will stand at a 1:1 slope.¹⁰

Vulcan first provided cut volumes based on 1:1 slopes to the agency in Exhibit 4 of EI-1439, on April 4, 2005. These volumes are repeated in Exhibit 1 of the September 7 letter. We know these volumes are based on 1:1 slopes, rather than 0.5:1 slopes, because Vulcan said:

The following process was used to calculate the cuts and fill volumes:

- ... (3) The criteria outlined in the December 2002 TRAX Report [EI-28.pdf] previously provided to SEA were taken into account for

⁷ "The differences between the previous and revised cut estimates are greater for the [eastern] alternatives due to the greater depth of the cuts required as one moves east, a reflection of the steeper escarpment that needs to be traversed by the more eastern alignments." EI-1664.pdf at 3.

⁸ EI-28.pdf at 11.

⁹ *Id.*

¹⁰ *Id.*

based on safety considerations. . . . The speed to be used on curves will vary based on the degree of curvature and grade considerations,¹⁶ is pathetic.

The fact is, speeds of below 25 mph will occur near the quarry,¹⁷ on certain grades, and near the interchange with the UP main line at Dunlay. In fact, as noted above, depending on whether run through power is used or not, the trains may actually stop near the interchange. Therefore, operating speed is, at best, a negligible consideration in determining whether an alternative is feasible.

4. Curves

Vulcan has stated that "[c]urves exceeding 4° 00' have been limited to the ends of the line only, where speeds will be relatively low."¹⁸ All of the curves greater than 4° 00' shown in the TRAX route description have maximum operating speeds of at least 25 mph.¹⁹ It is unknown what maximum speeds would correspond to sharper curves.

In any case, no alternative or deviation described by MCEAA later in this letter will require more than a 4° 00' curve, and it is believed that even that curve, near the origin, can be eliminated by selecting a different, less steep deviation just to the north.

Therefore, while a maximum curve sharpness remains undefined in this proceeding, MCEAA believes that whatever that value is, it will not interfere with the feasibility of the alternatives it offers. Still, the agency should align curve criteria with known conditions; for instance, expectations, rather than bare assertions, of what will occur near the interchange.

5. Length

Length is relevant as a feasibility criteria due to its relationship to cost, which is discussed below. It should be considered independently and not lumped together in conjectural assumptions like "a longer line means more cut and fill." The longest of the four alternatives drafted by Vulcan is Alternative 1, at 10.6 miles. Potentially viable alternatives submitted by the public are between approximately 10 and 12 miles long.

6. Total Cost

The major factors in total cost, based on the TRAX report, are earthwork (cut and fill), track (length), and structures (bridges, berms, ditches, culverts, and flood mitigation).²⁰

¹⁶ EI-1664.pdf at 12-13.

¹⁷ Exiting the quarry, Vulcan "does not anticipate that the speed of the trains at this point [at CR 353] will exceed 10 mph." EI-1664.pdf at 13.

¹⁸ EI-28.pdf at 10.

¹⁹ *Id.*

²⁰ EI-28.pdf at 14.

- Grade Limitations
- Curve Limitations
- Cut and Fill Profiles¹¹

Further, Vulcan's stated basis for the change to a 1.5:1 ratio was "discussion with qualified engineers who reviewed surface geological maps of the area."¹² Yet according to Vulcan's earlier submission, they had already reviewed "data from University of Texas-Austin maps" and the only basis for a change in slope ratio would be "soils tests and drillings."¹³ Vulcan has not conducted soils tests and drillings, nor submitted any evidence to the agency to support its changed slope ratio and cut volumes. No engineer has signed or certified the numbers Vulcan now urges upon the agency in Exhibit 1 of the September 7 letter.

Because there is only one purpose for the Vulcan's unsupported change in the slope ratio—the inflation of cut volumes for alternatives east of the Quihi floodplain—it must be discarded in the absence of supporting data and professional opinion. A bare assertion that the lawyers talked to the engineers is not enough.

The original 1:1 slope cut volumes, which Vulcan (deliberately) misrepresents as 0.5:1 volumes in Exhibit 1 of the September 7 letter, may apply, to the extent they are relevant. However, as we discuss further below, numerous sections of viable alternatives have not been analyzed. Therefore, attempts to analogize the cut volumes of close-by routes traversing different topography, in lieu of analyzing the specific viable alternative presented, are irrelevant.

3. Operating Speed

Vulcan's prior submission and its response to the agency in the September 7 letter confirm that operating speed is not a major factor in the design of feasible alternatives.

Track geometry will allow 40-mph maximum speed operations; however, 25-mph will meet the needs of the quarry for the foreseeable future and operating at this speed will lower track maintenance costs. Speeds while climbing the steepest grades will be as low as 12 mph.¹⁴

These speeds "obtained while climbing the 1 percent ruling grade near station 80+00 [of the applicant's Proposed Route] could [be] [sic] as low as 12 mph with 9000 horsepower. This will not introduce delays since speeds will be reduced as the loaded train prepares to enter the [Union Pacific] main [line] causing no practical impact on running time."¹⁵

The agency wisely asks Vulcan why, if 12 mph operating speeds are feasible for its Proposed Route, 25 mph speeds are assumed for curves. Vulcan's answer, "[t]he track design is

¹¹ EI-1439.pdf at 6.

¹² EI-1664.pdf at 2.

¹³ EI-28.pdf at 11.

¹⁴ EI-28.pdf at 4-5.

¹⁵ EI-28.pdf at 8.

The latter factor, the level of structural engineering necessary to avoid cumulative flood impacts from the rail line and quarry, has been hotly contested in this proceeding. Vulcan's cost estimate states that "sizing of bridges and culverts is based on a flood frequency of 25 years."²¹ For a number of reasons, including the reality of cumulative flood impacts in this proceeding, as well as a Medina County Floodplain Ordinance prohibiting the enlargement of the 100-year floodplain, a 25-year structural flood mitigation plan is irrelevant.

Further, Vulcan admits that it has still not even designed, much less analyzed, stream crossing and drainage structures and their impacts on the floodplain. Nor have the cumulative flood impacts, which may require additional mitigation by the rail line, been analyzed. Therefore, consideration of the cost of stream crossing and drainage structures when analyzing the feasibility of alternative alignments is highly premature and arbitrary, at least as the record stands in this proceeding.

This leaves cut and fill volume and length. It is true that some routes may have greater cut and fill requirements and travel marginally longer distances than others. This alone does not make them infeasible. Also, as we discuss further below, numerous sections of viable alternatives have not even been analyzed. It will not do to simply analogize their very different facts, particularly topography, to straw men alternatives created by the applicant.

Even though it is possible to extrapolate from the cost data that has been provided to date, it is not permissible for the applicant to set a secret cost threshold. If the applicant or agency wants to use total cost as a basis for deeming an alternative infeasible, it needs to state exactly what part of the total cost is excessive, and by how much. We are not convinced that a few million dollars really matters to Vulcan, given that it has been planning the quarry since 1999, and since it has waited more than ten months past the Draft Environmental Impact Statement to provide the most rudimentary evidence that would even begin to make a feasibility analysis of alternatives possible.²²

Impacts

The fact that an alternative has more or less of a certain environmental impact does not render it infeasible. This particularly true when that impact is shared by the other alternatives the agency has already accepted for further analysis.

In this section, we address the impacts cited by Vulcan as justification for why its own alternatives east of the Quihi floodplain are infeasible. The agency may wish to compare the public's alternatives and deviations outlined later in this letter, at some point, but it is extremely doubtful these impacts are significantly great to render them infeasible.

²¹ EI-28.pdf at 10.

²² EI-1664.pdf and its exhibits are the first time that detailed topographic profiles, cross sections, and aerial photos of all of the applicant's alternatives have been provided to the public.

In most cases, while these impacts can be quantified, their enumeration really doesn't tell us much without further analysis. Does it really tell the agency anything if one alternative crosses 8 properties and another crosses 12? If one alternative has 5 stream crossings and another has 7? These are not criteria of feasibility for a rail line, particularly not if the applicant plans to condemn the necessary land and still hasn't engineered or analyzed a way to resolve flood impacts along the route. Rather, these numbers denote impacts of otherwise viable routes that require further analysis to determine which is most preferable.

1. Significant Stream Crossing and Drainage Features

According to Vulcan, the Proposed Route will require seven significant stream crossings and drainage features,²³ while Alternatives 1 and 2 will require eight, and Alternative 3 will require four.²⁴ Any route to the east would appear to require only 3 stream crossings.

2. Crossing Roads and Driveways

According to Vulcan, the Proposed Route will require six to seven road crossings, while Alternative 1 will require eight, Alternative 2 will require five and Alternative 3 will require six.²⁵ Any route to the east would appear to require a similar number of road crossings.

As the agency noted in its information request, the number of private driveways to be crossed, as well as access routes around working properties, are also important environmental impacts. In the past, the agency has denied a license, in part on the basis of impacts to private residential driveways. At the very least, this is an important safety concern to affected residents that merits full disclosure and mitigation.

3. Crossing Property

Given that Vulcan may attempt to use eminent domain to acquire any land that it cannot purchase, the number of properties crossed by the line is irrelevant without knowledge of which individuals, such as quarry supporters living east of the Quihi floodplain, would willingly sell. Vulcan appears to agree:

In addition, SGR's potential exercise of eminent domain rights, aside from being a highly speculative proposition at this time, is not in SGR's view an appropriate issue for consideration by SEA in its study of the environmental impacts of the SGR line.²⁶

Therefore, Vulcan's attempt to use the number properties crossed as a feasibility criteria, rather than a land use impact, should be ignored.

4. Existing or Proposed Land Uses

²³ EI-284.pdf at 12.

²⁴ EI-287.pdf at 2-4.

²⁵ EI-472.pdf at 1-2.

²⁶ EI-259.pdf at 4.

the origin, the existing Union Pacific main line at Dunlay, and proceed towards the quarry, responding to Vulcan's "modifications" and stated objections as they arise along the route.

The Medina Dam Route ("Original MDR")

The first alternative submitted by the public is a historic rail right of way. The original Medina Dam Route ("Original MDR")²⁸ dating from the early 1900s carried aggregate to construct the Medina Dam, northeast of the project area. This route was built before U.S. Highway 90, and, in its original configuration, would have required a grade separation over U.S. 90 to reach the existing Union Pacific main line at Dunlay. This factor, no doubt, contributed to its preliminary disqualification by the agency. However, MCEAA noted the grade separation problem before the agency disqualified the Original MDR, and pointed out how it could be avoided by connecting to the applicant's Proposed Route less than a mile north of its origin.

Vulcan's "modified" Original Medina Dam Route ("Modified MDR") contains such a connection to the Proposed Route. We will now refer to this segment as "Original MDR - Deviation A". With this deviation, the Modified MDR turns due east off the Proposed Route and ascends approximately 60 feet.

In a May 4, 2004 letter to the agency, Vulcan discusses and dismisses Deviation A on the basis of feasibility criteria discussed earlier in this letter. MCEAA believes that when the feasibility criteria are correctly applied, Deviation A passes.

For Deviation A, Vulcan primarily objects that the amount of cut and fill would be too large.²⁹ Topographic maps,³⁰ however, indicate that the grade traversed by Deviations A is not 6-7% as stated by the applicant, but more on the order of 3-5%.³¹ At the crucial cross-section 50+00, we find, upon examining the applicant's cross sections for the Modified MDR contained in Exhibit 6 of the September 7 letter, a grade of between 3 and 4%. In fact, the applicant's Proposed Route traverses similar 3-5% grades between Cherry and Quihi Creek, as cross-section 160+00 for that route illustrates. Based on the profiles provided by the applicant, we find no more cut and fill with Deviation A than exists on other sections of the Proposed Route and Alternative 3.

If a grade of 6-7% does exist, it is a very short one, and could easily be addressed with cut and fill. In fact, Vulcan has analyzed a cut and fill scenario with a 1:1 slope ratio for

²⁸ MCEAA notes that the Draft Environmental Impact Statement refers to this route as the "Medina Dam Alternative". Due to the number of alternatives and modified alternatives existing at this time, we suggest that the agency adopt the system of references contained in this letter.

²⁹ EI-793.pdf at 14. Vulcan also raises the downward slope towards the UP main line "safety issue" that we discussed earlier in this letter.

³⁰ EI-1664.pdf, Exhibit 4.

³¹ As a general comment, MCEAA notes that throughout this proceeding, it has never seen an engineer or consultant certify or attest to many of the crucial measurements presented as fact in the letters from the applicant. Because TRAX, the rail consulting firm that produced some of the original feasibility criteria, is no longer in business, and because MCEAA has not noticed a replacement for them appearing in the submitted materials, it has raised questions, particularly when we discover inconsistencies like the slope ratio for the cut volumes mentioned earlier in this letter.

Along the applicant's proposed route and first three alternatives, most lands are used for ranching, farming, hunting, and residences. Similar land use exists to the east. Some speculative future land uses, such as subdivisions, also may exist. Each of these land uses bears the risk of being impacted by a rail line alternative and by potential condemnation attempts, however *ultra vires* they may be. It is not possible to elevate any one of these land uses to the level of a disqualifying feasibility criteria. Some land uses on some parcels will be more adversely impacted, and there will be significant debate and comment about that. Crossing more land may impact different land uses, but that is for the impact analysis to discuss. Existing or proposed land use is not a ground, independently or otherwise, for disqualifying an alternative route.

5. Proximity to Historic Sites

Vulcan has defined the "Area of Proposed Effect" on historic sites to extend 1000 feet on each side of the rail line, over its entire route.²⁷ This relation of this area to actual environmental impact is unclear and perhaps inaccurate because several environmental impacts, such as flooding, have yet to be fully analyzed in this proceeding. Nevertheless, because most of the historic sites lie near the Quihi floodplain, it is unlikely that the impact on historic sites of any route to the east would rise to a disqualifying level.

II. APPLYING CONSISTENT FEASIBILITY CRITERIA TO THE MEDINA DAM ROUTE AND MEDINA DAM ALTERNATIVE

Two pairs of alternatives exist to the east of the Quihi floodplain where the Vulcan's Proposed and three Alternative Routes lie. In each of these pairs of alternatives, the public has offered a proposal. Then, Vulcan has offered a "modified" straw man variation of each proposal, in some ways similar, in some ways different, but always with major infirmities.

As MCEAA has commented and as the agency noted in the Draft Environmental Impact Statement, an eastern route has the potential to lessen environmental impacts, including avoiding the Quihi floodplain, avoiding impacts to historic sites, and impacting fewer working lands currently used for grazing, agriculture, and hunting.

However, the agency has not yet analyzed the public's proposals against a consistent set of feasibility criteria, though it has, perhaps prematurely, dismissed one of them in the Draft Environmental Impact Statement, based not on the actual route proposed by the public, but instead on a straw man route proposed and described by Vulcan.

The public has presented two viable alternative routes to the agency, and Vulcan has presented two "modifications" of those routes. In discussing each of these routes, we begin at

²⁷ EI-751.pdf at 1-6.

Deviation A. Therefore, Deviation A is only infeasible if its cut and fill volume, and associated cost, standing alone, would render an alternative infeasible.

By contrast, MCEAA has submitted a map showing how the Original MDR could easily be linked to the Proposed Route, and thus the origin, through a much more gradual turnoff and a far gentler ascent. We will now refer to this segment as "Original MDR - Deviation B1," though it was not originally labeled as such. This deviation has not been analyzed to date.

MCEAA's Deviation B1 is very different from the Deviation B proposed by Vulcan in its May 4, 2004 letter ("Deviation B2").³² Vulcan's Deviation B2 takes too long to leave the Proposed Route and Alternative 3 (about 1.5 miles from the origin). This causes it to ascend a much steeper and longer hill than necessary, and to cross nearer to the intersection of CR 4516 and CR 2676 than the Deviation B1 MCEAA submitted.

MCEAA's Deviation B1 ascends a much gentler grade than either of Vulcan's Deviations. Therefore, the cut volumes necessary to achieve a 1.2 to 1.4% grade would be much lower. Vulcan also raises the safety issue of crossing CR 4516 "on a gradient,"³³ but any such gradient would be eliminated by the cut and fill. We do not see a 1.2 to 1.4% gradient as being an insurmountable obstacle to feasibility, particularly when Vulcan could take whatever additional grade crossing protections are necessary. Currently, Vulcan proposes only to place warning signals at CR 4516.³⁴ Crossing gates could easily be placed at CR 4516 if the safety issue was that pressing. Further, since crossing gates will likely be required at one other location common to every alternative, CR 2676, their requirement at one additional location would not render an alternative infeasible.

With Vulcan's objections to the initial portion of the Original MDR answered, we turn east of CR 4516 to one of the Original MDR's defining features—a level stretch of approximately 5 miles that lies well east of any streams in the Quihi floodplain, crosses only 1 road, certain lands owned by quarry supporters, and passes near very few houses.

Between CR 4516 and the top of this gradually sloping plateau, the Original MDR and Modified MDR are very similar. Any disqualifying infirmity in one could be corrected for by shifting to the other, and the flat topography is conducive to doing so. Major cut and fill need not occur along this stretch.

From the top of the plateau to the quarry, four deviations, C, D, E, and F, exist. Each of them crosses Quihi Creek at some point. Deviations C, D, and E have been proposed by Vulcan,³⁵ and, after crossing Quihi Creek, they generally return to the Proposed Route, join it, and enter the quarry from the south. Deviation F is the name we now give to MCEAA's submitted route from Quihi Creek, which follows the historic Medina Dam Route to the north over flat land for about another 1 to 1.5 miles before turning and approaching the quarry from

³² EI-793.pdf at 23.

³³ EI-793.pdf at 14.

³⁴ EI-28.pdf at 4.

³⁵ EI-793.pdf at 23.

due east of the loading loop, north of Hill 1009'.³⁶ From Quihi Creek to the quarry, each of these deviations easily satisfies a fairly applied, consistent set of feasibility criteria. It is unlikely that any one of the segments analyzed alone, unconnected to the Original MDR or Modified MDR, is infeasible. However, only one, Deviation D, which Vulcan incorporated into its Modified MDR, has been completely analyzed.

The focus thus returns to the descent from the top of the plateau to Quihi Creek. Vulcan's consistent—and sole—feasibility objection to this segment is the amount of cut and fill required.³⁷

Yet as MCEAA has shown above, the data necessary for a fair feasibility determination remains incomplete: both the grade and the slope ratio used by Vulcan are inaccurate. More realistic alignments are also possible. For its Modified MDR, Vulcan chose the shortest possible route, straight up the grade. The Original MDR takes a more gradual path, as yet unanalyzed, and it seems like an even more gradual grade could be found or created by tracking west of east of the crest of the plateau in this area. While the cost of the project would increase due to the amount of cut and fill necessary in a segment from the plateau to Quihi Creek, it has not been shown that this amount is infeasible to the applicant, a Fortune 500 company. It has merely been asserted in a conclusory statement.

After the grades are leveled, and because, when proper deviations and earthwork are applied, there are no problems with curves, Vulcan's ultimate objections³⁸ to the Original and its own Modified MDR center on length and cut and fill volume, which implicate total cost.

The agency, however, correctly does not cite total cost to the applicant as a justification for deeming the Modified MDR infeasible in the Draft EIS. Rather, it cites only potential environmental impacts to "floodplains, hydrology, soils, and wetlands,"³⁹ even though it is not clear that any of these would necessarily be impacted by the disposal or excavation here. This particular segment lies outside of the floodplain,⁴⁰ traverses non-farm grazing land, and does not include any wetlands. Further, any hydrologic impacts are unknown, because the applicant still refuses to disclose how it will handle both drainage along the rail line and the construction of structures (bridges) within the floodplain.⁴¹ Without further analysis, described in the conclusion to this section, the agency's rejection of the Medina Dam Route is premature.

The Medina Dam Alternative ("MDA")

MCEAA's Medina Dam Alternative ("MDA"), presented several times on detailed topographic maps to the agency, improves on a historic route originally constructed in the early

³⁶ See EI-1664.pdf, Exhibit 4 (topographic map).

³⁷ Vulcan also insinuates, but has never shown, that a loaded train leaving the quarry would be unable to ascend this segment, despite more than two and a half miles of level acceleration.

³⁸ Draft Environmental Impact Statement at 2-11, 2-12.

³⁹ Draft Environmental Impact Statement at 2-12.

⁴⁰ Vulcan explicitly states that cut and fill will only occur outside of the floodplain, with trestle bridges used within the floodplain. EI-1439.pdf at 6.

⁴¹ EI-1664.pdf at 7, 8, 15-16.

urges. The agency needs to run these calculations on the Original MDR and MDA as described above. Because the agency did not have much of the information that it has now in front of it when preparing the Draft Environmental Impact Statement, MCEAA requests that it conduct a reevaluation of the Original MDR and the MDA.

MCEAA feels strongly that the ultimate feasibility of the Original MDR and the MDA will come down to two issues that together implicate total cost: length and cut and fill volume. The environmental impact of handling the reduced amounts of cut and fill is likely not significant enough to merit the disqualification of the Original MDR and the MDA as infeasible; but in any case, it has yet to be fully analyzed. Likewise, it is impermissible to layer and sandbag preliminary conclusions from issues properly reserved to the environmental impact analysis in order to disqualify an otherwise viable alternative. Finally, if the applicant must rest on total cost as the ultimate justification for infeasibility, there will likely be two consequences. First, declaring the marginal cost increase infeasible, relative to the most expensive alternative, requires the agency to disclose a basis given the connected nature of the quarry and rail proposals. Second, and regardless of the first consequence, leaving money as the only obstacle to avoiding impacts certainly increases the importance of fully analyzing and mitigating the impacts that will occur along routes traversing the Quihi floodplain.

III. CUMULATIVE FLOODING AND GROUNDWATER IMPACTS, AMONG OTHERS, REMAIN UNANALYZED

Much of the remainder of Vulcan's September 7 letter is devoted to more promises of resolving issues during "final engineering." For the reasons given in our previous letters and comments, incorporated here by reference,⁴² these promises are not legally adequate.

In particular, Vulcan's response to Request #8 illustrates a failure to provide the agency with necessary information to analyze cumulative flood impacts. Request #8 concerns the location and height of earthen berms along the rail line that will manage runoff.⁴³ Vulcan again delayed providing this information and deferred it to "final engineering."⁴⁴

To fully conceptualize what Vulcan proposes at the stream crossings, it is worth summarizing the structures that will exist. First, large barriers of fill supporting the rail line will exist up to the border of the mapped floodplain: 8 feet high near Cherry Creek, 13 feet high at a Cherry Creek tributary and approaching Quihi Creek, an easily overtopped 2 feet at Elm Creek, and remarkably, at grade approaching Polecat Creek.⁴⁵ Then, trestle bridges spanning the entire floodplain between these fill mounds and the fill mound or cut on the opposite bank.⁴⁶ Additional rip-rap material will be placed around the bridges in the floodplain. Berms of indeterminate height and width will be built inside and outside of the floodplain. Ditches and culverts draining alongside the line will feed into the floodplain on either side of the bridges.

⁴² See e.g., EI-1480, EI-1491.

⁴³ EI-1664.pdf at 7.

⁴⁴ *Id.*

⁴⁵ EI-1664.pdf, Exhibit 6 (cross sections).

⁴⁶ EI-1439.pdf at 6.

1900s to build the Medina Dam, to the northeast of the project area. The Medina Dam Alternative presented to the agency links the applicant's point of origin, at Dunlay, to the quarry, in a manner consistent with the applicant's stated rail geometry and other construction requirements. It has numerous advantages relative to the current proposed route, which have been discussed previously. It has not yet been evaluated by the agency alongside the other alternatives in this proceeding.

Vulcan's "SGR Eastern Route," was submitted by the applicant on June 6, 2005, five months after MCEAA submitted topographic maps and comments containing the MDA in response to the Draft Environmental Impact Statement.⁴²

Clearly, it is the agency's responsibility, not the applicant's, to inquire further when the public presents it with a potentially viable alternative. Still, MCEAA was disappointed that, given the opportunity to take its best shot at the MDA, Vulcan chose not to conduct the same level of quantitative investigation as it had for all of the other alternatives. Instead, Vulcan chose only to passively analogize the MDA to the "SGR Eastern Route," without any further discussion of the MDA itself. On that basis alone, Vulcan argued that the MDA, like its own "SGR Eastern Route", should not be considered further.⁴³

This strategy implies that the "SGR Eastern Route" was complete baloney from the beginning. If the "SGR Eastern Route" was so bad, why create it? Why not just analyze the MDA? Presumably, Vulcan's consultant had some reason to choose a more western orientation in the key area where the cut and fill volumes were highest. The problem is that the public is left to guess what that reason is, while Vulcan asks the public to accept a flawed analogy to the MDA, rather than an analysis of the MDA itself. The basis for deviating from the public's version of the MDA, if not disclosed and explained by the agency, is a ripe litigation target.

Departing from the Proposed Route, the MDA utilizes feasible Deviation B1, discussed with reference to the Original MDR above. One atop the plateau and east of CR 4516, it travels northeast in a corridor with the Modified and Original MDRs and the "SGR Eastern Route". This corridor, properly aligned, should require little to no cut or fill.

Turning north and then northwest, the MDA and "SGR Eastern Route" ultimately split south of a small pond. The MDA slopes down to the east of the outlet creek to this pond, while the "SGR Eastern Route" descends to the west. The MDA takes a more northerly course, meeting the Original MDR at Quihi Creek, and then joining Deviation F of that route, discussed above, traveling north and then turning to enter the quarry from due east. All portions of the MDA from the plateau onward remain unanalyzed.

Conclusion: Reevaluation

The agency needs to rerun the cut and fill calculations using the applicable grade (1.2-1.4%) and slope ratio (1:1) values, or else require the applicant to support the parameters it

⁴² EI-1545.pdf

⁴³ EI-1664.pdf at 1-2.

The bridges themselves will collect debris from upstream. The bridges and the other structures in the floodplain will affect the shape of the floodplain upstream and downstream. Appropriate design (trestle or freestanding), mitigation (upstream detention ponds), and sizing of these structures, and whether they are overtopped or susceptible to damage, depends on the contribution to cumulative floodplain impacts from the quarry.

Yet while Vulcan does provide fill profiles, flawed or otherwise, for individual cross sections along the route, it still has provided none of the information that would enable the agency to analyze the impact of either the rail line's structures or the quarry on the floodplain. In particular, Vulcan has declined to provide necessary information on:

- Berms for runoff management (Request #8)
- Location and design of stream crossings (including bridges) and culverts and 100-year floodplain water surface elevations⁴⁹ in the vicinity of the crossings (Request #9)
- Necessary consultation with the Medina County Floodplain Administrator (Request #26)
- Maps and drainage plan for the quarry with specific information about diversion structures (Request #27)

Without this information, the agency cannot analyze the cumulative flood impact of the quarry and rail line. It cannot analyze how the structures that Vulcan plans to place in the floodplain and the excavation it plans at the quarry will impact floodplains up and downstream. It cannot propose mitigation to eliminate or significantly lessen those impacts. It cannot even begin to design the analysis and thresholds necessary to trigger mitigation, because even the most basic information is lacking. Indeed, the only thing the agency can do on this record is trust the applicant to do whatever it wants. That is not an acceptable course of action.

One of Vulcan's promises should be discussed further, however, and that is its reliance on the state WPAP (stormwater) permit to allegedly zero-out flood impacts from the quarry. This should be a major concern to the agency, considering Vulcan only plans to share the WPAP application with the agency when filed, "if that happens during the course of this proceeding."⁵⁰

Even if the agency gets to see the WPAP application, Vulcan cannot rely on it to eliminate flood impacts from the quarry for many reasons.

First, the presence of the state permit does not eliminate the federal agency's NEPA responsibility to investigate. Second and more importantly, the WPAP is a *water quality* permit. It has nothing to do with mitigating peak flows of runoff, particularly the cumulative effect on peak flows downstream of the project site. Third, while the WPAP does address the quality of

⁴⁹ As a universally utilized hydraulic analysis and floodplain mapping output, water surface elevations enable effects of design changes in floodplain structures to be analyzed ahead of time, to create an effective mitigation plan. The U.S. Army Corps of Engineers develops the leading software, freely available over the Internet, for these analyses. <http://www.hoc.usace.army.mil/software/software.html>.

⁵⁰ EI-1664.pdf at 18.

surface water infiltrating into groundwater, Vulcan misunderstands and misconstrues MCEAA's position that the surface-groundwater relationship needs to be analyzed. It is not simply one-way infiltration, and the quality of the water going in. It is also the volume going in at the quarry and the volume exiting, downgradient, during peak rainfall events, that must be analyzed. Finally, as should be obvious now to the agency, the whole problem in this proceeding is the cumulative impact that occurs when the floodwaters from the quarry are routed downstream and interact with the berms and trestle bridges, which the WPAP does not address.

The WPAP is not going to come up with a conclusion of "no net downstream impact" to eliminate downstream impacts on peak flow from the quarry. The disturbance associated with creating the largest quarry in the state is fundamentally too great to pass without impact, particularly considering the fact that the applicant plans no on-site retention/detention, and has not even begun "design" to consider how to manage runoff at either its quarry or around its rail line berms and bridges. There is going to be some flood impact from the quarry, notwithstanding the applicant's hand-waving, conclusory statements, and promises, and the question is "how does that impact interact with the berms and trestles that are known to be part of the rail line?" Because Vulcan/SGR refuses to provide adequate information on both impacts at the quarry site and the exact locations and amounts of its cut and fill, the agency is unable to complete its legal obligations on this issue.

The agency is similarly unable to analyze cumulative impacts to groundwater supplies and groundwater quality due to vibration from quarry blasting and the rail line. In the Draft Environmental Impact Statement, the agency hastily concluded, without more, that while sensitive structures such as wells could be impacted by either the rail line or the quarry, they would not be impacted by both.

In response to the agency's information request, Vulcan reveals, as MCEAA maintained, that it has never determined the location of wells around the quarry.⁵¹ Vulcan also admits, in response to Request #14, that it has not even begun to design best management practices to minimize impacts to groundwater supplies.⁵² It is likely difficult to do so without knowing the location of the supplies themselves. Vulcan's solution is to again promise resolution of the issue during "final engineering" after the license is issued and after the time has passed for the agency to determine what mitigation may be required and whether such mitigation would prove effective.

MCEAA REITERATES ITS REQUEST FOR A SUPPLEMENTAL DEIS

We apologize for any delay in response due to our need to obtain the exhibits to Vulcan's September 7 letter, and thank the agency for providing them. It is unfortunate that Vulcan has not been a more cooperative, forthright applicant, towards the Quihi community and towards the agency. It was not necessary to create straw men alternatives when the alternatives that MCEAA submitted could have been analyzed. It was not necessary to select slope criteria that distorted

⁵¹ EI-1664.pdf at 17.
⁵² EI-1664.pdf at 9.

the alternative feasibility analysis. And clearly, the necessary hydrologic and groundwater studies could have been completed by now.

The obligations of environmental disclosure under NEPA are, in the first instance, the agency's. As the record stands, it is the agency's obligation to require the production of this information in a Supplemental Draft Environmental Impact Statement. MCEAA hereby reiterates its request, made first in its DEIS comments, for an SDEIS document.

Very truly yours,

THE GARDNER LAW FIRM
A Professional Corporation

/s/

David F. Barton

cc:
U.S. Congressman Henry Bonilla
Senator John Cornyn
Senator Kay Bailey Hutchison
Texas Agriculture Commissioner Susan Combs
Texas Senator Frank Madla
Texas Representative Tracy King
County Judge James Barden
County Commissioner, Pct. 1, Chris Mitchell
County Floodplain Administrator Pat Brawner
Texas Historical Commission Executive Director Larry Oaks

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Ms. Rini Ghosh
October 6, 2005
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... various impacts associated with the Eastern Route (unrelated to cultural resources) that it believes warrant rejection of that Route" (emphasis added).¹ For the reasons given in our companion letter, none of the impacts cited by the applicant in its conclusory statements, including cultural resource impacts, amount to any significant difference with any of the other proposed alternatives. What matters are the feasibility criteria which, as MCEAA has explained, are by and large physical parameters controlling whether or not a functional rail line between Dunlay and the quarry can be built. The applicant is in no position to draw conclusions about environmental impacts associated with any of the alternatives in this proceeding, because it continues to refuse to provide the agency with the information necessary to conduct the analysis.

In this proceeding, the Area of Proposed Effect for the National Historic Preservation Act (NHPA) process is a rather arbitrary 1000 feet on either side of the rail line. The NHPA permits such a preliminary delineation in order to identify listed historic sites and potentially listed historic sites early on in the process, so that design changes to avoid adverse effects can be incorporated into the project for their protection.²

Under NEPA, however, the NHPA Area of Proposed Effect is irrelevant. Historic sites may be impacted by any single one or combination of environmental impacts. That necessarily implies that the true extent of the impact is known only after the environmental impact analysis. Therefore, a conclusory statement regarding perceived impacts to historic sites cannot be used alone or used as part of a sandbagging strategy to eliminate an alternative.

That is particularly true in this proceeding, where many of the most relevant direct and cumulative impacts, including flooding and vibration impacts, have yet to be completely analyzed.

The preliminary conclusions of Vulcan's consultant for the "SGR Eastern Route" appear to be as follows:

- The consultants state that no documented historic sites or properties exist within the 1000-foot Area of Proposed Effect.³

Ms. Rini Ghosh
Section of Environmental Analysis
Surface Transportation Board
ATTN: STB Finance Docket No. 34284
1925 K Street, NW
Washington, DC 20423-0001

VIA EMAIL
& Regular Mail

RE: STB Finance Docket No. 34284 -- Adequate analysis under NEPA for:

- (1) Vulcan Materials Company's planned Medina County stone quarry; and
- (2) Vulcan Materials Company subsidiary Southwest Gulf Railroad Company's proposed rail line to serve Medina County stone quarry.

Dear Ms. Ghosh:

MCEAA has reviewed the recent submission, EI-1675, by the applicant, Vulcan/SGR ("Vulcan"), dated September 15, 2005. That letter transmits a report from one of Vulcan's consultants to the agency, concerning historic resources near one of Vulcan's eastern alternatives, the "SGR Eastern Route."

In the companion letter to this one, responding to EI-1664, the applicant's September 7, 2005 letter, we note that the creation of the "SGR Eastern Route," rather than a direct response to MCEAA's Medina Dam Alternative, resembles an analogize-instead-of-analyze strategy to eliminate alternatives disfavored by the applicant.

As we explain in our companion letter, it is possible that all alternatives in this proceeding will have impacts to historic sites; some more, some less. However, attempting to eliminate otherwise viable alternatives from consideration through the use of preliminary, conclusory statements regarding environmental impacts that remain to be analyzed is impermissible. The applicant has it exactly wrong when it states that it "has previously identified

¹ EI-1675.pdf at 1.
² See 36 C.F.R. § 800.4-800.6 (2004).
³ EI-1675.pdf at 5.

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- Based on a survey of area human history, and followed up by a driving tour of the area to eliminate clearly disturbed areas, the consultants determined "High Probability Areas" for archeological resources.⁴
- After a paper and web survey and a driving tour of the area, the consultants identify nine "potentially eligible" historic sites for listing on the National Register.⁵
- The consultants conclude that these nine potentially eligible sites are not likely eligible for designation as a historic district.⁶
- The consultants arrive at a general conclusion that "intensive cultural resource investigations are warranted" in the area, but this phrase is not defined further.⁷

By comparison, the alternatives analyzed in the Draft Environmental Impact Statement have numerous eligible historic and archeological sites within the Area of Proposed Effect.⁸ Most of the alternatives, including the Proposed Route, have as many or more eligible sites within their Area of Proposed Effect as the "SGR Eastern Route".⁹ Such sites also exist adjacent to the Area of Proposed Effect for these alternatives, though it is unclear whether they have all been identified. Because other impacts that may contribute to historic and archeological site impacts remain unknown, it is premature to conclude that historic site impacts along the "SGR Eastern Route" are any more severe than any other alternative presently under consideration.

Finally, the Draft Environmental Impact Statement uses a different methodology to identify potential "probability areas" for archeological resources than Vulcan's consultant uses here.¹⁰ However, both approaches appear to result in deferral of further archeological surveys until the Programmatic Agreement is implemented. As MCEAA has stated, it prefers that these surveys occur up front. One possible cooperative means of accomplishing that would be for MCEAA's

⁴ EI-1675.pdf at 5, 26-31.

⁵ EI-1675.pdf at 5, 33 and 42-51.

⁶ EI-1675.pdf at 51.

⁷ EI-1675.pdf at 51.

⁸ Draft Environmental Impact Statement at 3-67 to 3-68.

⁹ See Draft Environmental Impact Statement at 3-52 (map).

¹⁰ Compare EI-1675.pdf at 5, 26-31 with Draft Environmental Impact Statement at 3-62 and 3-63 and with Draft Programmatic Agreement, Technical Memorandum (1-4), Supplement to the Preliminary Cultural Resources Assessment at 28-30.

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**VIA EMAIL
& Regular Mail**

- RE: STB Finance Docket No. 34284 -- Adequate analysis under NEPA for:
- (1) Vulcan Materials Company's planned Medina County stone quarry; and
 - (2) Vulcan Materials Company subsidiary Southwest Gulf Railroad Company's proposed rail line to serve Medina County stone quarry.

Dear Ms. Ghosh:

MCEAA has reviewed the recent submission, EI-1664, by the applicant, Vulcan/SGR ("Vulcan"), dated September 7, 2005. That letter purports to respond to numerous information requests and questions posed by the agency to the applicant, which the applicant had not responded to, despite the issuance of a Draft Environmental Impact Statement in this proceeding some 10 months ago.

Unfortunately the applicant's September 7 letter continues to ignore and trivialize the cumulative impacts from its connected quarry and rail proposals. Rather than conduct the necessary quantitative studies, the applicant continues to rely on hand-waving, promises, and conclusory statements. In our view, the applicant continues to mislead the agency in order to avoid these studies and to avoid viable alternative routes suggested by MCEAA.

I. THE AGENCY HAS YET TO IDENTIFY A CONSISTENT SET OF CRITERIA FOR ALTERNATIVES

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cultural resources expert, Dr. Tom Hester, to talk with the consultants at González, Tate, & Inuegas, and jointly establish a priority schedule for field studies. We do not know for certain if Dr. Hester is available for such a collaboration, but to our members it makes more sense than doing nothing and waiting to find archeological sites during construction.

Very truly yours,

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David F. Barton
David F. Barton

DFB:cf

dlb/8675.001/1-stb -- September 05_Eastern RouteGTReport

cc: U.S. Congressman Henry Bonilla
Senator John Cornyn
Senator Kay Bailey Hutchison
Texas Agriculture Commissioner Susan Combs
Texas Senator Frank Madla
Texas Representative Tracy King
County Judge James Barden
County Commissioner, Pct. 1, Chris Mitchell
County Floodplain Administrator Pat Brawner
Texas Historical Commission Executive Director Larry Oaks

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Several potentially viable alternative routes have been presented to the agency throughout this proceeding. However, a major problem with the alternatives analysis to date has been a lack of consistent standards and comparisons as to what makes an alternative viable. MCEAA has attempted on several occasions to match the applicant's stated qualitative and quantitative criteria, only to have the applicant make up additional "modified" straw men alternatives, closely analogous to MCEAA's but containing serious deficiencies, hence the "modifications". The applicant then analogizes its "modified" alternatives to our proposals, in lieu of actual analysis.

The "analogize instead of analyze" strategy leads to the arbitrary selection of criteria for viable alternatives. Up until the agency's recent information requests, the agency appeared to be proceeding on the basis of an undefined totality of the circumstances approach. The facts and record, however, show that criteria the agency permits for some of the alternatives currently under consideration have been used to dismiss other alternatives. This indicates that some of the allegedly disqualifying factors are simply environmental impacts. These impacts are greater for some alternatives and less for others. But the fact that these impacts are common, at some level, to all alternatives, does not render a particular alternative infeasible unless a threshold of infeasibility is defined.

So far, the threshold of infeasibility has been defined as whatever the applicant wants it to be. This makes the alternatives analysis a sham, and shows all of the alternatives suggested by the applicant to be straw men, rather than any more or less viable than alternatives suggested by the public.

To remedy this, we clearly isolate the feasibility criteria from other criteria that simply represent impacts. We then catalog and state Vulcan's representation of those criteria to date. Finally, we show that both of the alternatives suggested by the public can meet the feasibility criteria.

FEASIBILITY CRITERIA

1. Grades

In North America, gradient is expressed in terms of the number of feet of rise per 100 feet of horizontal distance. Two examples: if a track rises 1 foot over a distance of 100 feet, the gradient is said to be "1 percent;" a rise of 2 and-a-half feet would be a grade of "2.5 percent."

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According to Vulcan, grades must be limited to 1.0% for this project.¹ Therefore, any required cutting and filling to even out the grade should theoretically result in a 1.0% grade, and no less. No extra cutting and filling should occur to decrease the grade below 1.0%, by that standard.

We disagree, however, that a 1.0% grade is the appropriate grade for this project, based on the applicant's own representations:

Earthwork costs can be reduced if [Union Pacific (UP)]-Vulcan agreements allow for run through power to be used on the rail line or that no interchange will occur at the UP main line connection. This will allow for increasing grades to match UP's ruling grade between Dunlay and the aggregate outlet and eliminating the flat spot near the connection.²

This [1.0%] grade is somewhat less than ruling grades on the UP between Dunlay and Houston (1.2-1.4%). Consequently, if run through power is used between the loading facility and destination points, tonnage ratings will be governed by the grades on the UP rather than those of the proposed rail line.³

Because "Southwest Gulf Railroad," a wholly owned and operated subsidiary of the Vulcan Materials aggregate corporation, is not a true railroad, and because neither it nor its parent owns and operates long-haul rail equipment of its own, nor plans to purchase or operate such equipment for this project, and because "Southwest Gulf Railroad's" assertions to the contrary consist solely of bare assertions, hypotheticals, and indeterminate possibilities of acquiring its own locomotive power, MCEAA believes that the agency must assume the use of run through power, absent a firm commitment by the applicant to provide its own. In Vulcan's own words, responding to the agency:

How would SGR connect to and move trains to and from the UP line? These details will be worked out with the Class I railroads in the future.⁴

MCEAA also notes that, as presently designed, there is no way to interchange locomotive power where the proposed line intersects the UP main line, without bringing the "5,200 to 5,800

¹ EI-28.pdf at 9. Page numbers cited are the page of the pdf file, and may not necessarily correspond to paper page numbers.

² EI-28.pdf at 11 (emphasis added).

³ EI-28.pdf at 10.

⁴ EI-1664.pdf at 13.

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2. Cut and Fill

Having established a feasible grade of 1.2 to 1.4%, it is now necessary to determine the other factor involved in calculating cut and fill: the resulting slope of the area around the rail line that is cut into or built up. Feasibility of the cut and fill cost will be discussed later. First, we must determine how much cut and fill will occur, before dismissing any possibilities.

In its September 7 letter, Vulcan revised its cut and fill figures in a manner that should raise alarm at the agency. Vulcan stated that:

In its initial presentation of cut/fill data in that [June 6, 2005] letter, SGR had assumed that all excavation would be in rock or a consolidated material capable of supporting vertical benches 10 feet wide by 20 feet high, resulting in a slope calculation of 0.5:1 (the equivalent of a 63° slope). Upon further review of this assumption and discussion with qualified engineers who reviewed surface geological maps of the area, SGR has now concluded that somewhat more refined data on the cut volumes would be generated by assuming side slopes of 1.5:1 (the equivalent of a 33° slope).⁶

The effect of all of this was to dramatically increase the cut volumes for alternatives to the east of the Quihi floodplain, while barely affecting some of the cut volumes for alternatives through the floodplain. Essentially, the change in slope had an exaggerated effect in the marginally steeper topography to the east, because more horizontal cutting would have to be done to achieve a 33 degree slope adjacent to the rail line there than in the marginally flatter floodplain.⁷ Plainly, this was an attempt by the applicant to bias the feasibility analysis.

More seriously, however, Vulcan's own earlier submissions contradict both the necessity and basis for this change. The original slope was not 0.5:1 and 63 degrees after all, but 1:1, or a 45-degree angle. Because of that, there is no basis for requiring a 33-degree slope unless the surrounding material is *extremely* loose and unconsolidated and unable to support itself when balanced evenly at 45-degrees and a 1:1 ratio. Vulcan's own words, in the December 2002 TRAX Report:

⁶ EI-1664.pdf at 2.

⁷ The differences between the previous and revised cut estimates are greater for the [eastern] alternatives due to the greater depth of the cuts required as one moves east, a reflection of the steeper escarpment that needs to be traversed by the more eastern alignments." EI-1664.pdf at 3.

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foot⁸ "Southwest Gulf Railroad" train to a complete stop, blocking and conducting reverse movements over the UP main line. Realistically, a siding, which is not yet part of the proposal, would be required, either along the UP main line or along the line serving the quarry.

In terms of feasibility criteria, a 1.2 to 1.4% grade, with corresponding cuts and fills, is all that is required for feasible alternative alignments in this project.

Vulcan also raises the issue of slope in the area of the UP main line as a safety issue. However, as noted above, Vulcan's own consultants note that the flat spot in that area could be eliminated with run through power. Additionally, based on all deviations of alternatives proposed to date, and discussed later in this letter, at least 4,000-5,000 feet of flat track exist, along what is currently the start of Vulcan's Proposed Route, before any alternative would take off to the east and begin to ascend a marginal grade. This is more than enough track to allay any alleged safety concerns.

Finally, and most fittingly, if Vulcan does not plan to use pass through power, all "Southwest Gulf Railroad" trains will be stopping on the line or at a siding before or after reaching the UP main line. No "safety issue" based on potential grades, the precise contours of which Vulcan has yet to define, will occur with trains moving so slowly or not at all. In any case, railroads across the nation likely deal with more serious safety issues with heavier trains on steeper grades and interchanges on a daily basis.

Furthermore, certainly any alleged "requirement" to place the siding before the UP main line can only exist if pass through power is not used. Yet as noted above, only the wildest, barest assertion of this paper railroad applicant supports an inference that pass through power will not be used. But regardless of whether pass through power is used, the location of any siding is irrelevant and may not be used as an albatross to dismiss viable alternatives. Both the set of alternatives within the Quihi floodplain and the set of alternatives to the east, as well as the UP main line itself, have ample flat ground within a reasonable distance of the quarry line interchange on which to construct a siding.

The future operational details of this line, which currently seem grounded only in the unsubstantiated assertions of the paper railroad applicant, are not sufficient to eliminate otherwise viable alternatives unless those details are more adequately supported, and made binding on the applicant as a condition of the license.

⁸ EI-28.pdf at 4.

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Earthwork calculations and the cost estimate assume that all excavation will be in rippable material. This assumption is grounded in site visits, inspection of road cuts in the area and data from University of Texas-Austin maps, but is not backed by soils tests and drillings. Based on this information, road bed side slopes of 1:1 in cuts (with 10 ft. wide benches and 20 ft. height intervals) and 2:1 in fills were used. These side slope assumptions were used to determine of [sic] right of way width throughout the length of the line.⁹

In cuts, ditches 10 ft. wide and 2 ft. deep (below top of subgrade) have been assumed on both sides of the track. Assumed side slopes were as noted in the previous paragraph [1:1].⁹

Cuts are in material that can be excavated without blasting and will stand at a 1:1 slope.¹⁰

Vulcan first provided cut volumes based on 1:1 slopes to the agency in Exhibit 4 of EI-1439, on April 4, 2005. These volumes are repeated in Exhibit 1 of the September 7 letter. We know these volumes are based on 1:1 slopes, rather than 0.5:1 slopes, because Vulcan said:

The following process was used to calculate the cuts and fill volumes:

- (3) The criteria outlined in the December 2002 TRAX Report [EI-28.pdf] previously provided to SEA were taken into account for
 - Grade Limitations
 - Curve Limitations
 - Cut and Fill Profiles¹¹

Further, Vulcan's stated basis for the change to a 1.5:1 ratio was "discussion with qualified engineers who reviewed surface geological maps of the area."¹² Yet according to Vulcan's earlier submission, they had already reviewed "data from University of Texas-Austin maps" and the only basis for a change in slope ratio would be "soils tests and drillings."¹³ Vulcan has not conducted soils tests and drillings, nor submitted any evidence to the agency to

⁹ EI-28.pdf at 11.

¹⁰ *Id.*

¹¹ *Id.*

¹² EI-1439.pdf at 6.

¹³ EI-1664.pdf at 2.

¹⁴ EI-28.pdf at 11.

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support its changed slope ratio and cut volumes. No engineer has signed or certified the numbers Vulcan now urges upon the agency in Exhibit 1 of the September 7 letter.

Because there is only one purpose for the Vulcan's unsupported change in the slope ratio—the inflation of cut volumes for alternatives east of the Quihi floodplain—it must be discarded in the absence of supporting data and professional opinion. A bare assertion that the lawyers talked to the engineers is not enough.

The original 1:1 slope cut volumes, which Vulcan (deliberately) misrepresents as 0.5:1 volumes in Exhibit 1 of the September 7 letter, may apply, to the extent they are relevant. However, as we discuss further below, numerous sections of viable alternatives have not been analyzed. Therefore, attempts to analogize the cut volumes of close-by routes traversing different topography, in lieu of analyzing the specific viable alternative presented, are irrelevant.

3. Operating Speed

Vulcan's prior submission and its response to the agency in the September 7 letter confirm that operating speed is not a major factor in the design of feasible alternatives.

Track geometry will allow 40-mph maximum speed operations; however, 25-mph will meet the needs of the quarry for the foreseeable future and operating at this speed will lower track maintenance costs. Speeds while climbing the steepest grades will be as low as 12 mph.¹⁴

These speeds "obtained while climbing the 1 percent ruling grade near station 80+00 [of the applicant's Proposed Route] could [be] [sic] as low as 12 mph with 9000 horsepower. This will not introduce delays since speeds will be reduced as the loaded train prepares to enter the [Union Pacific] main [line] causing no practical impact on running time."¹⁵

The agency wisely asks Vulcan why, if 12 mph operating speeds are feasible for its Proposed Route, 25 mph speeds are assumed for curves. Vulcan's answer, "[t]he track design is based on safety considerations. . . . The speed to be used on curves will vary based on the degree of curvature and grade considerations,"¹⁶ is pathetic.

¹⁴ EI-28.pdf at 4-5.
¹⁵ EI-28.pdf at 8.
¹⁶ EI-1664.pdf at 12-13.

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6. Total Cost

The major factors in total cost, based on the TRAX report, are earthwork (cut and fill), track (length), and structures (bridges, berms, ditches, culverts, and flood mitigation).²⁰

The latter factor, the level of structural engineering necessary to avoid cumulative flood impacts from the rail line and quarry, has been hotly contested in this proceeding. Vulcan's cost estimate states that "sizing of bridges and culverts is based on a flood frequency of 25 years."²¹ For a number of reasons, including the reality of cumulative flood impacts in this proceeding, as well as a Medina County Floodplain Ordinance prohibiting the enlargement of the 100-year floodplain, a 25-year structural flood mitigation plan is irrelevant.

Further, Vulcan admits that it has still not even designed, much less analyzed, stream crossing and drainage structures and their impacts on the floodplain. Nor have the cumulative flood impacts, which may require additional mitigation by the rail line, been analyzed. Therefore, consideration of the cost of stream crossing and drainage structures when analyzing the feasibility of alternative alignments is highly premature and arbitrary, at least as the record stands in this proceeding.

This leaves cut and fill volume and length. It is true that some routes may have greater cut and fill requirements and travel marginally longer distances than others. This alone does not make them infeasible. Also, as we discuss further below, numerous sections of viable alternatives have not even been analyzed. It will not do to simply analogize their very different facts, particularly topography, to straw men alternatives created by the applicant.

Even though it is possible to extrapolate from the cost data that has been provided to date, it is not permissible for the applicant to set a secret cost threshold. If the applicant or agency wants to use total cost as a basis for deeming an alternative infeasible, it needs to state exactly what part of the total cost is excessive, and by how much. We are not convinced that a few million dollars really matters to Vulcan, given that it has been planning the quarry since 1999, and since it has waited more than ten months past the Draft Environmental Impact Statement to provide the most rudimentary evidence that would even begin to make a feasibility analysis of alternatives possible.²²

²⁰ EI-28.pdf at 14.
²¹ EI-28.pdf at 10.
²² EI-1664.pdf and its exhibits are the first time that detailed topographic profiles, cross sections, and aerial photos of all of the applicant's alternatives have been provided to the public.

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The fact is, speeds of below 25 mph will occur near the quarry,¹⁷ on certain grades, and near the interchange with the UP main line at Dunlay. In fact, as noted above, depending on whether run through power is used or not, the trains may actually stop near the interchange. Therefore, operating speed is, at best, a negligible consideration in determining whether an alternative is feasible.

4. Curves

Vulcan has stated that "[c]urves exceeding 4° 00' have been limited to the ends of the line only, where speeds will be relatively low."¹⁸ All of the curves greater than 4° 00' shown in the TRAX route description have maximum operating speeds of at least 25 mph.¹⁹ It is unknown what maximum speeds would correspond to sharper curves.

In any case, no alternative or deviation described by MCEAA later in this letter will require more than a 4° 00' curve, and it is believed that even that curve, near the origin, can be eliminated by selecting a different, less steep deviation just to the north.

Therefore, while a maximum curve sharpness remains undefined in this proceeding, MCEAA believes that whatever that value is, it will not interfere with the feasibility of the alternatives it offers. Still, the agency should align curve criteria with known conditions; for instance, expectations, rather than bare assertions, of what will occur near the interchange.

5. Length

Length is relevant as a feasibility criteria due to its relationship to cost, which is discussed below. It should be considered independently and not lumped together in conjectural assumptions like "a longer line means more cut and fill." The longest of the four alternatives drafted by Vulcan is Alternative 1, at 10.6 miles. Potentially viable alternatives submitted by the public are between approximately 10 and 12 miles long.

¹⁷ Exiting the quarry, Vulcan "does not anticipate that the speed of the trains at this point [at CR 353] will exceed 10 mph." EI-1664.pdf at 13.
¹⁸ EI-28.pdf at 10.
¹⁹ *Id.*

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IMPACTS

The fact that an alternative has more or less of a certain environmental impact does not render it infeasible. This particularly true when that impact is shared by the other alternatives the agency has already accepted for further analysis.

In this section, we address the impacts cited by Vulcan as justification for why its own alternatives east of the Quihi floodplain are infeasible. The agency may wish to compare the public's alternatives and deviations outlined later in this letter, at some point, but it is extremely doubtful these impacts are significantly great to render them infeasible.

In most cases, while these impacts can be quantified, their enumeration really doesn't tell us much without further analysis. Does it really tell the agency anything if one alternative crosses 8 properties and another crosses 12? If one alternative has 5 stream crossings and another has 7? These are not criteria of feasibility for a rail line, particularly not if the applicant plans to condemn the necessary land and still hasn't engineered or analyzed a way to resolve flood impacts along the route. Rather, these numbers denote impacts of otherwise viable routes that require further analysis to determine which is most preferable.

1. Significant Stream Crossing and Drainage Features

According to Vulcan, the Proposed Route will require seven significant stream crossings and drainage features,²³ while Alternatives 1 and 2 will require eight, and Alternative 3 will require four.²⁴ Any route to the east would appear to require only 3 stream crossings.

2. Crossing Roads and Driveways

According to Vulcan, the Proposed Route will require six to seven road crossings, while Alternative 1 will require eight, Alternative 2 will require five and Alternative 3 will require six.²⁵ Any route to the east would appear to require a similar number of road crossings.

As the agency noted in its information request, the number of private driveways to be crossed, as well as access routes around working properties, are also important environmental impacts. In the past, the agency has denied a license, in part on the basis of impacts to private

²³ EI-284.pdf at 12.
²⁴ EI-287.pdf at 2-4.
²⁵ EI-472.pdf at 1-2.

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residential driveways. At the very least, this is an important safety concern to affected residents that merits full disclosure and mitigation.

3. Crossing Property

Given that Vulcan may attempt to use eminent domain to acquire any land that it cannot purchase, the number of properties crossed by the line is irrelevant without knowledge of which individuals, such as quarry supporters living east of the Quihi floodplain, would willingly sell. Vulcan appears to agree:

In addition, SGR's potential exercise of eminent domain rights, aside from being a highly speculative proposition at this time, is not in SGR's view an appropriate issue for consideration by SEA in its study of the environmental impacts of the SGR line.²⁶

Therefore, Vulcan's attempt to use the number properties crossed as a feasibility criteria, rather than a land use impact, should be ignored.

4. Existing or Proposed Land Uses

Along the applicant's proposed route and first three alternatives, most lands are used for ranching, farming, hunting, and residences. Similar land use exists to the east. Some speculative future land uses, such as subdivisions, also may exist. Each of these land uses bears the risk of being impacted by a rail line alternative and by potential condemnation attempts, however *ultra vires* they may be. It is not possible to elevate any one of these land uses to the level of a disqualifying feasibility criteria. Some land uses on some parcels will be more adversely impacted, and there will be significant debate and comment about that. Crossing more land may impact different land uses, but that is for the impact analysis to discuss. Existing or proposed land use is not a ground, independently or otherwise, for disqualifying an alternative route.

5. Proximity to Historic Sites

Vulcan has defined the "Area of Proposed Effect" on historic sites to extend 1000 feet on each side of the rail line, over its entire route.²⁷ This relation of this area to actual environmental impact is unclear and perhaps inaccurate because several environmental impacts, such as

²⁶ EI-259.pdf at 4.
²⁷ EI-751.pdf at 1-6.

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its preliminary disqualification by the agency. However, MCEAA noted the grade separation problem before the agency disqualified the Original MDR, and pointed out how it could be avoided by connecting to the applicant's Proposed Route less than a mile north of its origin.

Vulcan's "modified" Original Medina Dam Route ("Modified MDR") contains such a connection to the Proposed Route. We will now refer to this segment as "Original MDR - Deviation A". With this deviation, the Modified MDR turns due east off the Proposed Route and ascends approximately 60 feet.

In a May 4, 2004 letter to the agency, Vulcan discusses and dismisses Deviation A on the basis of feasibility criteria discussed earlier in this letter. MCEAA believes that when the feasibility criteria are correctly applied, Deviation A passes.

For Deviation A, Vulcan primarily objects that the amount of cut and fill would be too large.²⁹ Topographic maps,³⁰ however, indicate that the grade traversed by Deviations A is not 6-7% as stated by the applicant, but more on the order of 3-5%.³¹ At the crucial cross-section 50+00, we find, upon examining the applicant's cross sections for the Modified MDR contained in Exhibit 6 of the September 7 letter, a grade of between 3 and 4%. In fact, the applicant's Proposed Route traverses similar 3-5% grades between Cherry and Quihi Creek, as cross-section 160+00 for that route illustrates. Based on the profiles provided by the applicant, we find no more cut and fill with Deviation A than exists on other sections of the Proposed Route and Alternative 3.

If a grade of 6-7% does exist, it is a very short one, and could easily be addressed with cut and fill. In fact, Vulcan has analyzed a cut and fill scenario with a 1:1 slope ratio for Deviation A. Therefore, Deviation A is only infeasible if its cut and fill volume, and associated cost, standing alone, would render an alternative infeasible.

²⁹ EI-793.pdf at 14. Vulcan also raises the downward slope towards the UP main line "safety issue" that we discussed earlier in this letter.

³⁰ EI-1664.pdf, Exhibit 4.

³¹ As a general comment, MCEAA notes that throughout this proceeding, it has never seen an engineer or consultant certify or attest to many of the crucial measurements presented as fact in the letters from the applicant. Because TRAX, the rail consulting firm that produced some of the original feasibility criteria, is no longer in business, and because MCEAA has not noticed a replacement for them appearing in the submitted materials, it has raised questions, particularly when we discover inconsistencies like the slope ratio for the cut volumes mentioned earlier in this letter.

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flooding, have yet to be fully analyzed in this proceeding. Nevertheless, because most of the historic sites lie near the Quihi floodplain, it is unlikely that the impact on historic sites of any route to the east would rise to a disqualifying level.

II. APPLYING CONSISTENT FEASIBILITY CRITERIA TO THE MEDINA DAM ROUTE AND MEDINA DAM ALTERNATIVE

Two pairs of alternatives exist to the east of the Quihi floodplain where the Vulcan's Proposed and three Alternative Routes lie. In each of these pairs of alternatives, the public has offered a proposal. Then, Vulcan has offered a "modified" straw man variation of each proposal, in some ways similar, in some ways different, but always with major infirmities.

As MCEAA has commented and as the agency noted in the Draft Environmental Impact Statement, an eastern route has the potential to lessen environmental impacts, including avoiding the Quihi floodplain, avoiding impacts to historic sites, and impacting fewer working lands currently used for grazing, agriculture, and hunting.

However, the agency has not yet analyzed the public's proposals against a consistent set of feasibility criteria, though it has, perhaps prematurely, dismissed one of them in the Draft Environmental Impact Statement, based not on the actual route proposed by the public, but instead on a straw man route proposed and described by Vulcan.

The public has presented two viable alternative routes to the agency, and Vulcan has presented two "modifications" of those routes. In discussing each of these routes, we begin at the origin, the existing Union Pacific main line at Dunlay, and proceed towards the quarry, responding to Vulcan's "modifications" and stated objections as they arise along the route.

The Medina Dam Route ("Original MDR")

The first alternative submitted by the public is a historic rail right of way. The original Medina Dam Route ("Original MDR")³² dating from the early 1900s carried aggregate to construct the Medina Dam, northeast of the project area. This route was built before U.S. Highway 90, and, in its original configuration, would have required a grade separation over U.S. 90 to reach the existing Union Pacific main line at Dunlay. This factor, no doubt, contributed to

³² MCEAA notes that the Draft Environmental Impact Statement refers to this route as the "Medina Dam Alternative". Due to the number of alternatives and modified alternatives existing at this time, we suggest that the agency adopt the system of references contained in this letter.

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By contrast, MCEAA has submitted a map showing how the Original MDR could easily be linked to the Proposed Route, and thus the origin, through a much more gradual turnoff and a far gentler ascent. We will now refer to this segment as "Original MDR - Deviation B1," though it was not originally labeled as such. This deviation has not been analyzed to date.

MCEAA's Deviation B1 is very different from the Deviation B proposed by Vulcan in its May 4, 2004 letter ("Deviation B2").³² Vulcan's Deviation B2 takes too long to leave the Proposed Route and Alternative 3 (about 1.5 miles from the origin). This causes it to ascend a much steeper and longer hill than necessary, and to cross nearer to the intersection of CR 4516 and CR 2676 than the Deviation B1 MCEAA submitted.

MCEAA's Deviation B1 ascends a much gentler grade than either of Vulcan's Deviations. Therefore, the cut volumes necessary to achieve a 1.2 to 1.4% grade would be much lower. Vulcan also raises the safety issue of crossing CR 4516 "on a gradient,"³³ but any such gradient would be eliminated by the cut and fill. We do not see a 1.2 to 1.4% gradient as being an insurmountable obstacle to feasibility, particularly when Vulcan could take whatever additional grade crossing protections are necessary. Currently, Vulcan proposes only to place warning signals at CR 4516.³⁴ Crossing gates could easily be placed at CR 4516 if the safety issue was that pressing. Further, since crossing gates will likely be required at one other location common to every alternative, CR 2676, their requirement at one additional location would not render an alternative infeasible.

With Vulcan's objections to the initial portion of the Original MDR answered, we turn east of CR 4516 to one of the Original MDR's defining features—a level stretch of approximately 5 miles that lies well east of any streams in the Quihi floodplain, crosses only 1 road, certain lands owned by quarry supporters, and passes near very few houses.

Between CR 4516 and the top of this gradually sloping plateau, the Original MDR and Modified MDR are very similar. Any disqualifying infirmity in one could be corrected for by shifting to the other, and the flat topography is conducive to doing so. Major cut and fill need not occur along this stretch.

From the top of the plateau to the quarry, four deviations, C, D, E, and F, exist. Each of them crosses Quihi Creek at some point. Deviations C, D, and E have been proposed by

³³ EI-793.pdf at 23.
³⁴ EI-793.pdf at 14.
³⁵ EI-28.pdf at 4.

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Vulcan,³⁵ and, after crossing Quihi Creek, they generally return to the Proposed Route, join it, and enter the quarry from the south. Deviation F is the name we now give to MCEAA's submitted route from Quihi Creek, which follows the historic Medina Dam Route to the north over flat land for about another 1 to 1.5 miles before turning and approaching the quarry from due east of the loading loop, north of Hill 1009.³⁶ From Quihi Creek to the quarry, each of these deviations easily satisfies a fairly applied, consistent set of feasibility criteria. It is unlikely that any one of the segments analyzed alone, unconnected to the Original MDR or Modified MDR, is infeasible. However, only one, Deviation D, which Vulcan incorporated into its Modified MDR, has been completely analyzed.

The focus thus returns to the descent from the top of the plateau to Quihi Creek. Vulcan's consistent—and sole—feasibility objection to this segment is the amount of cut and fill required.³⁷

Yet as MCEAA has shown above, the data necessary for a fair feasibility determination remains incomplete: both the grade and the slope ratio used by Vulcan are inaccurate. More realistic alignments are also possible. For its Modified MDR, Vulcan chose the shortest possible route, straight up the grade. The Original MDR takes a more gradual path, as yet unanalyzed, and it seems like an even more gradual grade could be found or created by tracking west of east of the crest of the plateau in this area. While the cost of the project would increase due to the amount of cut and fill necessary in a segment from the plateau to Quihi Creek, it has not been shown that this amount is infeasible to the applicant, a Fortune 500 company. It has merely been asserted in a conclusory statement.

After the grades are leveled, and because, when proper deviations and earthwork are applied, there are no problems with curves, Vulcan's ultimate objections³⁸ to the Original and its own Modified MDR center on length and cut and fill volume, which implicate total cost.

The agency, however, correctly does not cite total cost to the applicant as a justification for deeming the Modified MDR infeasible in the Draft EIS. Rather, it cites only potential environmental impacts to "floodplains, hydrology, soils, and wetlands,"³⁹ even though it is not clear that any of these would necessarily be impacted by the disposal or excavation here. This

³⁵ EI-793.pdf at 23.

³⁶ See EI-1664.pdf, Exhibit 4 (topographic map).

³⁷ Vulcan also insinuates, but has never shown, that a loaded train leaving the quarry would be unable to ascend this segment, despite more than two and a half miles of level acceleration.

³⁸ Draft Environmental Impact Statement at 2-11, 2-12.

³⁹ Draft Environmental Impact Statement at 2-12.

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to guess what that reason is, while Vulcan asks the public to accept a flawed analogy to the MDA, rather than an analysis of the MDA itself. The basis for deviating from the public's version of the MDA, if not disclosed and explained by the agency, is a ripe litigation target.

Departing from the Proposed Route, the MDA utilizes feasible Deviation B1, discussed with reference to the Original MDR above. One atop the plateau and east of CR 4516, it travels northeast in a corridor with the Modified and Original MDRs and the "SGR Eastern Route". This corridor, properly aligned, should require little to no cut or fill.

Turning north and then northwest, the MDA and "SGR Eastern Route" ultimately split south of a small pond. The MDA slopes down to the east of the outlet creek to this pond, while the "SGR Eastern Route" descends to the west. The MDA takes a more northerly course, meeting the Original MDR at Quihi Creek, and then joining Deviation F of that route, discussed above, traveling north and then turning to enter the quarry from due east. All portions of the MDA from the plateau onward remain unanalyzed.

Conclusion: Reevaluation

The agency needs to rerun the cut and fill calculations using the applicable grade (1.2–1.4%) and slope ratio (1:1) values, or else require the applicant to support the parameters it urges. The agency needs to run these calculations on the Original MDR and MDA as described above. Because the agency did not have much of the information that it has now in front of it when preparing the Draft Environmental Impact Statement, MCEAA requests that it conduct a reevaluation of the Original MDR and the MDA.

MCEAA feels strongly that the ultimate feasibility of the Original MDR and the MDA will come down to two issues that together implicate total cost: length and cut and fill volume. The environmental impact of handling the reduced amounts of cut and fill is likely not significant enough to merit the disqualification of the Original MDR and the MDA as infeasible; but in any case, it has yet to be fully analyzed. Likewise, it is impermissible to layer and sandbag preliminary conclusions from issues properly reserved to the environmental impact analysis in order to disqualify an otherwise viable alternative. Finally, if the applicant must rest on total cost as the ultimate justification for infeasibility, there will likely be two consequences. First, declaring the marginal cost increase infeasible, relative to the most expensive alternative, requires the agency to disclose a basis given the connected nature of the quarry and rail proposals. Second, and regardless of the first consequence, leaving money as the only obstacle to avoiding impacts certainly increases the importance of fully analyzing and mitigating the impacts that will occur along routes traversing the Quihi floodplain.

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particular segment lies outside of the floodplain,⁴⁰ traverses non-farm grazing land, and does not include any wetlands. Further, any hydrologic impacts are unknown, because the applicant still refuses to disclose how it will handle both drainage along the rail line and the construction of structures (bridges) within the floodplain.⁴¹ Without further analysis, described in the conclusion to this section, the agency's rejection of the Medina Dam Route is premature.

The Medina Dam Alternative ("MDA")

MCEAA's Medina Dam Alternative ("MDA"), presented several times on detailed topographic maps to the agency, improves on a historic route originally constructed in the early 1900s to build the Medina Dam, to the northeast of the project area. The Medina Dam Alternative presented to the agency links the applicant's point of origin, at Dunlay, to the quarry, in a manner consistent with the applicant's stated rail geometry and other construction requirements. It has numerous advantages relative to the current proposed route, which have been discussed previously. It has not yet been evaluated by the agency alongside the other alternatives in this proceeding.

Vulcan's "SGR Eastern Route," was submitted by the applicant on June 6, 2005, five months after MCEAA submitted topographic maps and comments containing the MDA in response to the Draft Environmental Impact Statement.⁴²

Clearly, it is the agency's responsibility, not the applicant's, to inquire further when the public presents it with a potentially viable alternative. Still, MCEAA was disappointed that, given the opportunity to take its best shot at the MDA, Vulcan chose not to conduct the same level of quantitative investigation as it had for all of the other alternatives. Instead, Vulcan chose only to passively analyze the MDA to the "SGR Eastern Route," without any further discussion of the MDA itself. On that basis alone, Vulcan argued that the MDA, like its own "SGR Eastern Route", should not be considered further.⁴³

This strategy implies that the "SGR Eastern Route" was complete baloney from the beginning. If the "SGR Eastern Route" was so bad, why create it? Why not just analyze the MDA? Presumably, Vulcan's consultant had some reason to choose a more western orientation in the key area where the cut and fill volumes were highest. The problem is that the public is left

⁴⁰ Vulcan explicitly states that cut and fill will only occur outside of the floodplain, with trestle bridges used within the floodplain. EI-1439.pdf at 6.

⁴¹ EI-1664.pdf at 7, 8, 15–16.

⁴² EI-1545.pdf.

⁴³ EI-1664.pdf at 1–2.

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III. CUMULATIVE FLOODING AND GROUNDWATER IMPACTS, AMONG OTHERS, REMAIN UNANALYZED

Much of the remainder of Vulcan's September 7 letter is devoted to more promises of resolving issues during "final engineering." For the reasons given in our previous letters and comments, incorporated here by reference,⁴⁴ these promises are not legally adequate.

In particular, Vulcan's response to Request #8 illustrates a failure to provide the agency with necessary information to analyze cumulative flood impacts. Request #8 concerns the location and height of earthen berms along the rail line that will manage runoff.⁴⁵ Vulcan again delayed providing this information and deferred it to "final engineering."⁴⁶

To fully conceptualize what Vulcan proposes at the stream crossings, it is worth summarizing the structures that will exist. First, large barriers of fill supporting the rail line will exist up to the border of the mapped floodplain: 8 feet high near Cherry Creek, 13 feet high at a Cherry Creek tributary and approaching Quihi Creek, an easily overtopped 2 feet at Elm Creek, and remarkably, at grade approaching Polecat Creek.⁴⁷ Then, trestle bridges spanning the entire floodplain between these fill mounds and the fill mound or cut on the opposite bank.⁴⁸ Additional rip-rap material will be placed around the bridges in the floodplain. Berms of indeterminate height and width will be built inside and outside of the floodplain. Ditches and culverts draining alongside the line will feed into the floodplain on either side of the bridges. The bridges themselves will collect debris from upstream. The bridges and the other structures in the floodplain will affect the shape of the floodplain upstream and downstream. Appropriate design (trestle or freestanding), mitigation (upstream detention ponds), and sizing of these structures, and whether they are overtopped or susceptible to damage, depends on the contribution to cumulative floodplain impacts from the quarry.

Yet while Vulcan does provide fill profiles, flawed or otherwise, for individual cross sections along the route, it still has provided none of the information that would enable the agency to analyze the impact of either the rail line's structures or the quarry on the floodplain. In particular, Vulcan has declined to provide necessary information on:

⁴⁴ See e.g., EI-1480, EI-1491.

⁴⁵ EI-1664.pdf at 7.

⁴⁶ *Id.*

⁴⁷ EI-1664.pdf, Exhibit 6 (cross sections).

⁴⁸ EI-1439.pdf at 6.

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- Berms for runoff management (Request #8)
- Location and design of stream crossings (including bridges) and culverts and 100-year floodplain water surface elevations⁴⁹ in the vicinity of the crossings (Request #9)
- Necessary consultation with the Medina County Floodplain Administrator (Request #26)
- Maps and drainage plan for the quarry with specific information about diversion structures (Request #27)

Without this information, the agency cannot analyze the cumulative flood impact of the quarry and rail line. It cannot analyze how the structures that Vulcan plans to place in the floodplain and the excavation it plans at the quarry will impact floodplains up and downstream. It cannot propose mitigation to eliminate or significantly lessen those impacts. It cannot even begin to design the analysis and thresholds necessary to trigger mitigation, because even the most basic information is lacking. Indeed, the only thing the agency can do on this record is trust the applicant to do whatever it wants. That is not an acceptable course of action.

One of Vulcan's promises should be discussed further, however, and that is its reliance on the state WPAP (stormwater) permit to allegedly zero-out flood impacts from the quarry. This should be a major concern to the agency, considering Vulcan only plans to share the WPAP application with the agency when filed, "if that happens during the course of this proceeding."⁵⁰

Even if the agency gets to see the WPAP application, Vulcan cannot rely on it to eliminate flood impacts from the quarry for many reasons.

First, the presence of the state permit does not eliminate the federal agency's NEPA responsibility to investigate. Second and more importantly, the WPAP is a *water quality* permit. It has nothing to do with mitigating peak flows of runoff, particularly the cumulative effect on peak flows downstream of the project site. Third, while the WPAP does address the quality of surface water infiltrating into groundwater, Vulcan misunderstands and misconstrues MCEAA's

⁴⁹ As a universally utilized hydraulic analysis and floodplain mapping output, water surface elevations enable effects of design changes in floodplain structures to be analyzed ahead of time, to create an effective mitigation plan. The U.S. Army Corps of Engineers develops the leading software, freely available over the Internet, for these analyses. <http://www.hrc.usace.army.mil/software/software.html>.
⁵⁰ EI-1664.pdf at 18.

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MCEAA REITERATES ITS REQUEST FOR A SUPPLEMENTAL DEIS

We apologize for any delay in response due to our need to obtain the exhibits to Vulcan's September 7 letter, and thank the agency for providing them. It is unfortunate that Vulcan has not been a more cooperative, forthright applicant, towards the Quihi community and towards the agency. It was not necessary to create straw men alternatives when the alternatives that MCEAA submitted could have been analyzed. It was not necessary to select slope criteria that distorted the alternative feasibility analysis. And clearly, the necessary hydrologic and groundwater studies could have been completed by now.

The obligations of environmental disclosure under NEPA are, in the first instance, the agency's. As the record stands, it is the agency's obligation to require the production of this information in a Supplemental Draft Environmental Impact Statement. MCEAA hereby reiterates its request, made first in its DEIS comments, for an SDEIS document.

Very truly yours,

THE GARDNER LAW FIRM
A Professional Corporation


David F. Barton

DFB:nf
d6b18675.001/1-sb-September05_ThirdSuppDEIS_rev1

cc: U.S. Congressman Henry Bonilla
Senator John Cornyn
Senator Kay Bailey Hutchison
Texas Agriculture Commissioner Susan Combs
Texas Senator Frank Madla
Texas Representative Tracy King
County Judge James Barden
County Commissioner, Pct. 1, Chris Mitchell
County Floodplain Administrator Pat Brawner
Texas Historical Commission Executive Director Larry Oaks

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position that the surface-groundwater relationship needs to be analyzed. It is not simply one-way infiltration, and the quality of the water going in. It is also the volume going in at the quarry and the volume exiting, downgradient, during peak rainfall events, that must be analyzed. Finally, as should be obvious now to the agency, the whole problem in this proceeding is the *cumulative* impact that occurs when the floodwaters from the quarry are routed downstream and interact with the berms and trestle bridges, which the WPAP does not address.

The WPAP is not going to come up with a conclusion of "no net downstream impact" to eliminate downstream impacts on peak flow from the quarry. The disturbance associated with creating the largest quarry in the state is fundamentally too great to pass without impact, particularly considering the fact that the applicant plans no on-site retention/detention, and has not even begun "design" to consider how to manage runoff at either its quarry or around its rail line berms and bridges. There is going to be *some* flood impact from the quarry, notwithstanding the applicant's hand-waving, conclusory statements, and promises, and the question is "how does that impact interact with the berms and trestles that are known to be part of the rail line?" Because Vulcan/SGR refuses to provide adequate information on both impacts at the quarry site and the exact locations and amounts of its cut and fill, the agency is unable to complete its legal obligations on this issue.

The agency is similarly unable to analyze cumulative impacts to groundwater supplies and groundwater quality due to vibration from quarry blasting and the rail line. In the Draft Environmental Impact Statement, the agency hastily concluded, without more, that while sensitive structures such as wells could be impacted by either the rail line or the quarry, they would not be impacted by both.

In response to the agency's information request, Vulcan reveals, as MCEAA maintained, that it has never determined the location of wells around the quarry.⁵¹ Vulcan also admits, in response to Request #14, that it has not even begun to design best management practices to minimize impacts to groundwater supplies.⁵² It is likely difficult to do so without knowing the location of the supplies themselves. Vulcan's solution is to again promise resolution of the issue during "final engineering" after the license is issued and after the time has passed for the agency to determine what mitigation may be required and whether such mitigation would prove effective.

⁵¹ EI-1664.pdf at 17.

⁵² EI-1664.pdf at 9.

**Surface Transportation Board
Incoming Correspondence Record**

#EI-1741

Correspondence Information

Docket #:	FD 34284 0	Date Received:	11/08/2005
Name of Sender:	Robert T. Fitzgerald	Date of Letter:	11/04/2005
Group:	MCEAA, Inc.		

Submitter's Comments

Ms Ghosh:
Please see my attached letter. I am also attaching a letter to the editor that appeared in the last issue of the Hondo Anvil Herald. Saturday Nov 5 I mailed to you these two letters and also the CD and CD-ROM referred to in the letters. Please place them in the administrative record for this proceeding.
Thank you, Robert T. Fitzgerald
Thank you, Robert

Include Attachments

Nov05_Fiscalsafety_and_Alta.doc News 11-3-05 Waikolee letter.tif

November 4, 2005

Ms. Rini Ghosh
Section of Environmental Analysis
Surface Transportation Board
ATTN: Finance Docket No. 34284
1925 K Street, NW
Washington, DC 20423-0001

Re: Finance Docket 34284
Proposed Vulcan Materials/Southwest Gulf Railroad Rail Line
Medina County Texas

Dear Ms. Ghosh:

This letter will transmit an important presentation regarding flash flooding in the project area. It also provides additional publicly available data on physically feasible grades for the agency to take note of and consider when establishing feasibility criteria for alternatives in this proceeding. Finally, this letter concludes with thoughts on the present state of this proceeding, and encloses a letter published in this week's *Hondo Anvil-Herald*.

"Flash Flood Alley" and Medina County

We have been searching for a way to assist your agency in better understanding the flash flood risk in Medina County. As you know, flash flood risk is an important topic that needs to be addressed as part of the Environmental Impact Statement in this proceeding. We want to give you a better idea of how it works, why it happens in our area, and specifically what happens, and why the rapid, unpredictable rise and movement of waters in our nearby creeks is of such concern.

The project area—indeed, all of Medina County—is part of a region known as Flash Flood Alley. Recently, the federal government has partnered with state and local agencies to create a series of materials and data hosted on their website, Floodsafety.com. Specifically, they have produced a short DVD video, "Flash Flood Alley," that describes flash flooding in our area of central Texas, along with an accompanying DVD-ROM that contains the video, historic flood data up to the present day, and articles. "Flash Flood Alley" was sponsored and produced by the United States Geological Survey (which monitors and gauges many of the streams in the area), the State of Texas, the San Antonio River Authority (the basin just to the east of Medina County), the cities of

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not immune," the video states, using the extreme example of Sanderson, Texas, some 250 miles to the west of Medina County. This once again puts the lie to Vulcan's constant self-serving assertions that Medina County does not experience severe floods.

Even unmarked streams and crossings are deadly in flash flood conditions. The story of Sharon Zambrzycki's experience at such an unmarked crossing on Brushy Creek, west of Austin, is particularly applicable to the crossings along Quihi and Elm Creeks in Medina County. The video notes that "12 to 18 inches of water across a roadway can float a vehicle." That situation routinely occurs along the creeks in the project area during even moderate rains.

A representative of the National Weather Service describes the Texas Hill Country as "the most flood prone area in the country." The video painstakingly documents the naive claims of skeptics and developers—claims that the locals and old timers "didn't know what they were talking about," only to have the skeptics face reality when the floods came.

Even a surge on a small tributary can overwhelm a town, as in the case of Peach Creek and Cuero. Peach Creek was a USGS gauged stream that became an ungauged stream when funding ran out, not unlike the streams in the project area. The lack of gauged data is not an excuse to avoid the necessary analysis, particularly in the face of the serious risk faced by Medina County.

When unanalyzed and unmitigated, poor development practices shift flood risk and cost onto landowners, as well as unquantifiable psychological trauma. That is what must be prevented in Medina County.

Video Chapter 4

Mentioned in the DVD-ROM data but not the video, is the near-failure of the Medina Dam, just to the north of the project area, in July 2002. This near-failure resulted when flash flooding filled Medina Lake to capacity in record time. The near-failure of the Medina Dam is analogous to the overtopping of Canyon Dam described in this segment of the video.

The events in the video are events you do not hear about because they don't always make the national news. It may surprise you, after watching the graphic video, to learn that so many disasters of this magnitude occurred before Tropical Storm Allison in 2001, and before Hurricanes Katrina and Rita this year. Part of the reason for that is the collective denial, at all levels of government, that these events are happening and must be analyzed, planned for and resolved in the course of licensing new projects. This denial is fed and abetted by applicants who do not want to take responsibility for the impacts of their proposed developments.

The foundation failure of Linda Coble's house is emblematic of an inadequate permitting process. It is a small leap from the faulty nails on her foundation to the absurd trestle bridges and floodplain berms proposed by Vulcan.

Additional notes on the video

Finally, the cruel financial ruin experienced by many in the video is emblematic of a temporary shift in our society that is rapidly undermining itself and coming to an end, and which, in any case, we will not allow to obstruct the law in this proceeding. That shift is a shift in risk and cost, in this case from government and proposed upstream development on to individuals with existing good faith investments.

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Austin and Dallas, and local flood control districts. Numerous representatives of these agencies appear in the video. We have enclosed copies of it for review by you and all appropriate SEA staff.

We strongly urge you to view the DVD video presentation, which runs just under 1 hour, with your staff in the near future.

As a guide, we will provide a short summary of each of the sections of the video, which we recommend viewing on the DVD, and then we will summarize the data on the DVD-ROM.

Video Chapter 1

Texas leads nation in flood damage and deaths annually. The extensive damage history of flash flooding in Central Texas opens the video, which then describes why areas like Medina County are flood prone due to weather patterns. The video describes an example of severe river flooding to the east of our area. While we are obviously not claiming the 7-mile wide super-flood on the Guadalupe River will occur in the project area, the video makes clear that such massive scale downstream impacts are aggregations of many upstream floods in Hill Country canyons and washes.

In the interviews with flood victims, you will notice some similarities to Hurricane Katrina, and some important differences. These citizens received no warning. The control structures in their communities failed. They could not depend on the mapped floodplain. And they experienced a total loss of their biggest investment, their homes.

In Quihi, the proposed development is not homes – the homes in the project area are protected and were built up out of the floodplain. Vulcan's quarry and rail line are the new developments that are failing to plan for flood impacts.

Video Chapter 2

Documented catastrophic events dot the state, including Medina County, extending hundreds of miles in all directions around it. Medina County is in "Flash Flood Alley" - the most flash flood prone region in the United States according to the National Weather Service. Damaging storms in the Texas Hill Country result in canyon and wash flooding, and assumptions surrounding downstream flood prevention in the cities are based on that fact.

The nearby record US point rainfall that MCEAA first mentioned in its scoping comments is documented in this section of the video, along with other data.

This section of the video underscores that not all 100 year floodplains on FEMA floodplain maps are accurate, and that new development often tries to downplay the existence of a flood hazard rather than confront it and design for it.

Again, in our case, the proposed development is not homes – the homes in the project area are protected and were built up out of the floodplain. Vulcan's quarry and rail line are the new developments that are failing to plan for flood impacts.

Video Chapter 3

Catastrophic rainfall events can occur anywhere in Texas, particularly in Flash Flood Alley, which includes the Nueces Basin of which the project area is a part. "Even the most arid lands are

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You can see it in the story of the Lopez family. They lived over a mile from the river, were not in the floodplain, and had no flood insurance. Their house had never flooded, they received no warning, yet their property was a total loss. The husband later lost his job because of a health condition (Why couldn't his employer accommodate it? Was it even legal for them to fire him on that basis?), and now likely lacks health insurance to treat that condition. He's probably lucky if his company hasn't raided his pension yet, and his wages were probably flat long before he was fired. The Lopez family must now choose between rebuilding from the loss of their biggest investment, their home, and their other expenses like health care and college for their daughter. They will receive scant public financial support, because there is no safety net anymore.

We mention all of this because there is a waning element inside the Beltway that thinks it fashionable to blame the Lopez family for their recent troubles – for the flood loss, for the job loss, for the unforgivable financial choices they must now make to preserve their mere health and safety, much less their property, in the richest country on earth. Yet unlike some of the others in the video, the Lopez family did not come to the hazard. They did not build or move into in the mapped floodplain. They did everything a reasonable person would do. They thought they could rely on existing flood protection and planning mechanisms, as well as private property rights, to protect them. A waning element inside the Beltway denigrates this reliance and weakens its legal foundations. Then, they hold it up as proof that government can't plan ahead and protect private property from disasters, while absolving irresponsible developers under a doctrine of "common enemy" and preemption. This turns the lawless into the blameless.

This is part of why MCEAA finds Vulcan's lawless refusal to analyze flood impacts from the quarry and rail line so offensive, and why the agency should as well. Absent a federal forum, Vulcan would have to resolve these issues with the landowners and local government directly in order to obtain condemnation power. The federal forum, the STB licensing process, purports to remove that leverage and substitute it with the Environmental Impact Statement of the National Environmental Policy Act, to inform citizens and all levels of government. While Vulcan lacks the leverage of a purported federal common carrier license, it refuses to provide adequate information to the agency to satisfy NEPA obligations. When the floods come, Vulcan will blame everyone but itself, and fight landowner inverse condemnation and trespass claims as long as its deep pockets will allow. Assuredly, Vulcan would hold up the currently inadequate EIS, which doesn't even analyze flood impacts, to claim absolution, while simultaneously claiming the events never could have been foreseen. In short, Vulcan would blame everyone, including the citizens of Quihi who built their homes out of the floodplain, and blame anyone, except, of course, itself. To anyone at the agency who watched coverage of Hurricane Katrina and its aftermath, we don't have to spell it out any further—you know exactly what we are talking about.

Many of the people of Quihi and rural Medina County have a lot of pride in their heritage and their community. But many of them have a lot in common with the Lopez family in the video, some more than maybe they would admit. The temporary shift in our society that made it okay to shift risk and cost onto working families, and wrapped together corporate fraud and government negligence under a banner of false individualism, is coming to an end. The floods of the last decade in Texas have had an economic cost. Don't doubt that they have also had a social cost. If Vulcan thinks that it can evade a comprehensive up-front analysis of flood risks, and instead force the Quihi

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community to bear that unanalyzed, unmitigated risk, we have one message to send: Over our dead bodies.

Again, we hope you will view this presentation with your staff in the near future. We recommend the DVD for the best quality video viewing.

DVD-ROM Data

In addition to yet more documentation corroborating MCEAA's prior comments to the agency regarding flood risk, an extensive array of historical and current flood data appears on the DVD-ROM. You may also access this data, and the video segments, from the Floodsafety.com website.

Most of the data is on the Regional Programs – Texas page. You can browse through all of the sections on that page. The most useful is likely the USGS historic flood data page. This will give you a more robust picture of what is happening around the project area, which is in the Nueces River basin. Unfortunately, as you may know, the gauge data from within the project area is historic in nature and was only collected for a few years. We wish that it could be a better resource. Overall, however, these pages, combined with knowledge of the Corps of Engineers' hydrologic modeling software (<http://www.hec.usace.army.mil>) and the availability of data (including radar rainfall data and design storms) from the National Weather Service and local agencies such as the Edwards Aquifer Authority, Nueces River Authority, and San Antonio River Authority, should drive home the point that this risk is something that is modeled all the time by our local governments. The situation with Vulcan's projects requires more than a simple eyeballing of the risk.

The "Texas Challenge" in the Interactive Segments of the Media and Map Gallery section provides more detail on why severe storms impact Flash Flood Alley, and gives another geographic distribution of historically severe storms (note that the "Medina" point rainfall record is misplaced on this presentation's map, however. It should be in Medina's neighboring county, Bandera, not in South Texas).

We have also learned from the Medina County floodplain administrator that FEMA plans to remap the floodplains in Medina County with up-to-date technology within 2 years. As you will recall, the existing FEMA floodplain maps for the project area were completed in 1980.

Alternatives: Feasible Grade Data From Other Ongoing Proceedings Must Be Considered

In our letter dated October 5, 2005, our attorney discussed the need for the agency to establish physical feasibility criteria for the proposed rail line. These criteria would allow the agency to complete an adequate alternatives analysis, rather than relying on unfounded conclusory statements about potential impacts and cost to eliminate otherwise viable alternative routes.

One of our consultants has recently alerted us to data already within the agency's possession, and other data easily available to it, that further support the physical feasibility of the Medina Dam Route ("Original MDR") and Medina Dam Alternative ("MDA").

In each of those routes, there is a short (approximately 1 mile, a maximum of just under 100 feet in vertical gain) uphill portion south of Quihi Creek that requires grade adjustment, not unlike other sections of proposed alternatives in this proceeding.

Vulcan states that maximum permissible grade is 1.0%. Leaving aside the run-through power issue discussed in our October 5, 2005 letter, it is clear that a lower permissible grade increases the amount of cut and fill required. Vulcan also insinuates, but has never shown, that a loaded train leaving the quarry would be unable to ascend this segment, at whatever grade, despite more than two and a half miles of level acceleration.

Data from other rail lines around the country and from other proceedings currently before the agency disprove Vulcan's baseless assertions. A further description follows the chart below.

Chart 1: Feasible grades and cut and fill volumes on other rail lines

	Maximum feasible grade after cut and fill	Feasible cut and fill volume
Tongue River Railroad III, Montana 17 mile segment Four Mile Creek Alternative Loaded coal trains	2.31%	10.3 million cu yds
Tongue River Railroad III, Montana 17 mile segment Western Alignment Loaded coal trains	0.95%	17.0 million cu yds
Department of Energy Yucca Mountain, Nevada Caliente Corridor Nuclear waste caskets	2.0% (some areas are as high as 3.2-4.4% pre-cut and fill)	Unknown, easily in the millions of cu yds
Vulcan Medina Quarry 11.24 mile segment Modified Medina Dam Route Loaded aggregate trains	1.0%, alleged	729,778 cu yds, allegedly infeasible
Vulcan Medina Quarry 9.01 mile segment "SGR Eastern Route" Loaded aggregate trains	1.0%, alleged	336,566 cu yds, allegedly infeasible

Chart 2: Existing grades after cut and fill on major North American rail routes¹

Route	Grade
Canadian Pacific – Rogers Pass	2.2%
Union Pacific – Moffet Tunnel	2.1%
Cajon Pass, San Bernardino Mtns	2.2%
Donner Pass	2.2%
Proposed DOE Yucca Mtn Caliente Corridor	2.0%
Union Pacific – Hondo east to Houston	1.2 to 1.4%

The data for the Tongue River Railroad III STB construction proceeding (FD_30186_3) comes straight out of the Draft EIS dated December 6, 2004. The attorney for the Tongue River Railroad, making the grade feasibility arguments, is the same attorney that represents Vulcan in this proceeding.

Ironically, in the Tongue River DEIS there are two preferred alternatives, one with a grade of 0.95% and the one with 2.31%. But not surprisingly, the cut and fill for the first, more gradual route, is much larger, 17 million cubic yards, than for the other, steeper route, 10.3 million yards. The steeper one requires more fuel cost, but the more gradual one requires more up front cost.

It seems clear to us that neither of those cost bases was a legitimate ground for eliminating these otherwise physically feasible alternatives, and the agency agreed. It did not seem to make any difference in that case which direction the trains were traveling loaded and unloaded with coal, because in the DEIS the agency examined the risks and costs in both directions. In short, there is no factual distinction between physically feasible grades in that case and physically feasible grades in this case; at least not one that passes the straight face test.

Additionally, the segment in this case requiring grade modification is so short, compared to the millions of cubic feet of earthwork required in Tongue River III, that the existence of a legitimate cost objection seems impossible. This is particularly true given that the applicant's revenue projections for the line are wholly dependent on a quarry whose output it will solely control.

The data in Chart 2 shows that steeper post-cut and fill grades exist on major rail lines throughout North America, and are currently being proposed for rail lines that will handle nuclear waste caskets of comparable weight and far greater risk than the aggregate to be handled here. Certainly one feature of the segments in Chart 2 is that they may require more operating power (engines) or other operational constraints. At the same time, because the segment requiring grade adjustment along the Original MDR and MDA routes is so short, and because two and a half miles of open track separate the loading loop from the grade, those concerns may well be overblown. In any case, as in Tongue River III, they may not necessarily make an otherwise viable alternative an infeasible one. That is your job, for you all to decide.

¹ Source: U.S. Department of Energy, Office of National Transportation. http://www.ntp.doe.gov/oe/TECAgenda_Apr4_2005.pdf (Presentation of Gary Lanthrum, Director, slide 10)

The point is, however, that the agency has not yet made that decision, in large part because a consistent set of physical feasibility criteria to evaluate alternative routes against remains undisclosed. That the issue still exists, and the agency has not dealt with it, is because Vulcan has misrepresented the physically feasible post-cut and fill grade, which has the side effect of increasing the necessary cut and fill, and thus the overall cost.

The potential grade on the Original MDR and MDA routes remains unknown, but it is clear that there are post-cut and fill opportunities between 1.0 and 2.0% or higher, over a very short distance, that may well make the Original MDR and MDA feasible under a consistent set of physical feasibility criteria.

General Observations

As noted above, one of our consultants has long been aware of both the Tongue River III proceeding currently before the STB, as well as the Department of Energy's Yucca Mountain Caliente Corridor rail construction project, which is not (yet). As you probably know, back in early 2004, there was a lot of discussion over whether the STB should take jurisdiction over the Caliente Corridor. The House Committee on Transportation and Infrastructure's Railroads Subcommittee held a hearing about it on March 5, 2004, at which now-outgoing STB Chairman Nober testified.

To call it what it was, at the hearing and behind the scenes, there was a delicate dance between STB and DOE and the rail community. We are well aware of the fact that the Yucca Mountain rail line potentially raises the jurisdictional "what is a true common carrier?" issue, federal preemption vs. local control issues, and significant environmental impact issues (including flooding²).

The result was DOE issuing a Record of Decision selecting the Caliente Corridor in April 2004, where DOE made the decision to not submit the project to STB licensing. Nevada eventually sued and the question of whether DOE's statutory authority permits it to avoid the STB process will soon be decided by the Court of Appeals for the D.C. Circuit.

Regardless of how that case turns out, we recognize that the ultimate fate of Yucca Mountain rail construction is connected in so many ways to the core, practical issues that this proceeding raises.

There is something fundamentally wrong with the rail licensing system in this country when a 400 mile rail line to serve the Yucca Mountain nuclear waste project, potentially the most dangerous national security and environmental impact situation in the country's history, does not come before (indeed, arguably deliberately avoids) the agency that issues rail licenses, the STB; Yet, at the same time, the STB is conferring licenses on non-rail entities for 7-10 mile spurs to give them condemnation power and to circumvent local political responsibility for land use planning and environmental impact mitigation.

² Steve Curran, "Recent Floods Raise Questions About Yucca Rail," Las Vegas Sun, Feb. 11, 2005. <http://www.lasvegassun.com/subin/stories/special/2005/feb/11/518272727.html>

As we note above, absent a federal forum, Vulcan would have to resolve these issues with the landowners and local government directly in order to obtain easements through voluntary sale. The federal forum, the STB licensing process, purports to remove that leverage and substitute it with the Environmental Impact Statement of the National Environmental Policy Act, to inform citizens and all levels of government.

Yet Vulcan refuses to participate forthrightly in the existing NEPA process and complete the disclosures required by federal law. The leverage of local communities—control over their property, and impacts to that property—is eviscerated by the federal license, but then Vulcan refuses to comply with the disclosure process under NEPA that is supposed to replace that leverage and inform decisionmakers at all levels of government. The federal agency becomes the last line of defense. The result is the (arguably unnecessary) federalization of what are essentially local land use and drainage conflicts.

Because rail lines require land, the appropriate conceptual relationship is that of a triangle, between railroad-shipper-community, not a binary relationship between shipper and railroad where one is constantly trying to out leverage the other in a vacuum.

The most urgent issue for industrial shippers today is obtaining rail access and will only become more so as oil prices increase. Rail access at multiple facilities nationwide gives the shipper leverage over the railroad to control costs where competitive service is not available. We have a national rail backbone in place. The urgent national need is by and large not for surveying new routes through the Rockies. It is for spur lines between 2 and 15 miles in length that will likely benefit only the facilities they extend to, just like Vulcan's quarry.

Yet when the demand for rail construction increases in the coming years, is Vulcan's process seriously going to be the template for future licensing? Because if it is, there's no way the STB will be able to license a sufficient number of rail lines to meet the national need. This proceeding, for an 8 to 15 mile rail line, has been ongoing for over 3 years, and the applicant has been working on the overall proposal, including the connected quarry, for 6 years, since 1999.

It is a national embarrassment that it takes so long to license new rail lines. We do applaud the agency for requiring the necessary information from Vulcan, regardless of the delay, but that downplays the larger point, which is the applicant's refusal to address local concerns at the start. Let's be perfectly clear about why the licensing process takes so long: Recalcitrant applicants like Vulcan refuse to deal up front with local landowners and local representatives under state law. They then enter the federal process and drag their feet on disclosure to put pressure on the agency, creating a classically cynical "Problem-Reaction-Solution" situation. The alleged "problem" is that rail licensing under NEPA contains unwanted input from local communities; the "reaction" is to avoid disclosure of environmental impacts and thus avoid responsibility for mitigation, and the "solution" is to spawn more litigation and more delay, and to lobby for further exemptions (and arguably, unconstitutional preemption power) under federal law that weaken local community input and oversight even more.

Throughout the NEPA process, MCEAA has only raised the essentially same fundamental concerns as its County-level representatives, though in more detail. It has only raised the same

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national rail network. However, state and local laws and regulations are not Federally preempted with respect to construction of private track.

Currently the railroads have a lot of leverage over the shippers. They can force the shippers who want rail access to front all the costs of constructing the new line and acquiring land, then buy the federal common carrier license off the shipper and its paper railroad for pennies on the dollar once operation begins. The shipper eats the rest of the cost as part of the capital cost for the overall connected proposal. However, that leverage is a pricing power issue, not an access issue. The access issue plays into it, but only to the extent that the cost of obtaining access matters. What we are arguing is that the notion that proceeding under federal law is more cost effective, rather than dealing straightaway with local landowners and local governments under state law, may be false. And Vulcan's actions in this proceeding prove it and serve as case study #1.

Unless it holds Vulcan's feet to the fire on NEPA, the STB process will not be an adequate replacement for the leverage that private property owners have over a private, non-common carrier under state law. Otherwise, the clear answer is to force private paper railroad projects like Vulcan's to remain subject to state law, and not to issue a federal common carrier license. Only then will the applicant be forced to do an adequate preliminary investigation ahead of time, and meet the community's concerns up front, to convince them to release easements at a fair price, without litigation. Only then will we have political responsibility at the local level for enforcing laws like the County Floodplain Ordinance and County land use plans, as well as State Historic Preservation and Agricultural Land Use laws. And guess what: when it happens, it will still be faster and cheaper than the federal process and all its litigation.

There are three ways to get there from here. First, the STB could clearly disclaim jurisdiction over private paper railroads where a true railroad or rail operator is not even involved in the consortium or partnership applying for the license, and where the line would solely serve a facility owned by the applicant. We are unsure how many previous STB construction cases to a solely-served facility lack a true rail partner in the application, as Vulcan's does, but the Yucca Mountain case certainly presents a unique opportunity, one we do not expect the state of Nevada to pass up if it arises.

Second, Congress could more clearly remove jurisdiction and/or alter the balance between shippers, carriers, and communities.

But the most likely scenario is the one that relies on common sense and the shippers getting wise to the practical concerns of the communities they seek rail access in. The best solution is most often the one that doesn't have to resort to creating winners and losers by testing the bounds of the law. The only answer to *Cui bono?* under the current system is attorneys, consultants, and engineers.

For what purpose can anyone in their right mind defend what Vulcan is doing, and the cost and time involved? If the choice is A) running a federal licensing process that takes 10 years to build a rail line because of the litigation, or B) forcing companies like Vulcan to do what they should have done six years ago (investigating ahead of time) by subjecting them to the power of private property owners who cannot lose their land to a private rail line under state law, it seems the

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concerns that its members would have raised—and indeed, that any landowner would raise—when deciding whether to voluntarily sell easements across their land in the face of a combined quarry-rail project in their community and watershed. The federal licensing process has transferred these concerns to a federal forum, to be resolved, to the extent the "regulation" of railroads is concerned, under federal law.

Yet the only reason Vulcan and other paper-railroad applicants like it are in a federal forum is to obtain a federal common carrier license that purportedly gives them instant condemnation power under state law, removing local landowner leverage and local political accountability, and necessitating a replacement NEPA process.

Why?

Why do we need to keep pretending these private paper railroad lines are common carriers? Why do we need to keep pretending these private paper railroad lines are interstate commerce, when we build state and county roads of similar length every day? Why does the federal STB need to license these private paper railroad spur lines? Why do the shippers who want rail access stupidly think that they will get a better deal after 10 years of litigation than 10 months of negotiation? That approach might make sense in an extractive, neo-colonial economy, where wealth gets taken out and shipped elsewhere, regardless of what the locals want; perhaps it even made sense when we were first building the railroads and settling the West. We do not live in that world anymore, we live in a different world today.

There is no good reason why we shouldn't call private paper railroads like Vulcan's what they truly are. That is, but for the refusal of paper railroad applicants to get off their horse and deal with local landowners up front instead foolishly trying to out-leverage them by creating "problem-reaction-solution" situations in the NEPA process, then trying to preempt state condemnation law with their federal common carrier license.

As Chairman Nober laid out the STB's position in his March 5, 2004 testimony:

Construction and operation of private track — which is not covered by the Interstate Commerce Act and not subject to any aspect of the Board's jurisdiction — does not require any regulatory authorization by the Board at all. While the term "private track" is not defined in the statute, Congress described private track as follows in its Conference Report on the ICC Termination Act: "[N]on-railroad companies who construct rail lines to serve their own facilities [exclusively]... are not required to obtain agency approval to engage in such construction."

The courts and the Board have long recognized that wholly private operations conducted over private track are not subject to the agency's jurisdiction. This is so even when such operations are conducted by an operator that conducts common carrier rail operations elsewhere, if it operates on the private track exclusively to serve the owner of the track pursuant to a contractual arrangement with that owner. And, of course, the private track can connect to a common carrier line and the owner

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agency should push cases like Vulcan away, get out of the local land use business, get on to the big construction cases like Yucca Mountain that matter, and reap the national benefits of having more shippers obtaining rail access sooner rather than later.

So that it is perfectly clear, our observations above should not be interpreted as wavering one inch from our previous statements. We fully support the agency in its attempts to obtain further information from the applicant. We are in no rush for Vulcan to realize what has been plain to us from day one. We will continue to participate fully and pass on information to the agency as we obtain it and respond to it. We are only as ready to negotiate and litigate with Vulcan as we have been from the beginning, as private landowners impacted by this project, before Vulcan ever entered a federal forum.

It is just that we find it embarrassing when corporations think that they can evade community and landowner leverage by creating paper railroads to invoke the jurisdiction of federal forums, and then, once in that forum, try to have it both ways and avoid the leverage of the federal environmental disclosure process under NEPA. Anyone can see that type of having-your-cake-and-eating-it-too is not sustainable, and is not going to last for long. Only the most binary railroad-shipper worldviews can project that illusion for long. It is clear to us that a resurgence of the railroad-shipper-community triangle, or the railroad-shipper-community-agency tetrahedron, if you must, is required if the NEPA process is to be taken seriously as a replacement for landowner leverage under state law.

MCEAA and the Quihi community grow stronger each day that Vulcan continues to appeal to "facts" it has never shared with the agency, local government, or the public. The enclosed letter to the editor from landowners and MCEAA members Tom and Mary Walpole, in this week's *Hondo Anvil-Herald*, sums up the unity of our community on these issues.

Thank you for your work to date on the NEPA process. Please place a copy of this letter and the DVDs in the administrative record for this proceeding.

Sincerely,

Dr. Robert T. Fitzgerald, President
MCEAA, Inc.

MCEAA, Inc., for your Home, Health, and Heritage

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#E1-1750
RA

The Medina County Environmental Action Association, Inc.
202 CR 450, HONDO, TX 78861 Phone 830-741-5040
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November 4, 2005

Ms. Rini Ghosh
Section of Environmental Analysis
Surface Transportation Board
ATTN: Finance Docket No. 34284
1925 K Street, NW
Washington, DC 20423-0001

copy of
11/14/05

Re: Finance Docket 34284
Proposed Vulcan Materials/Southwest Gulf Railroad Rail Line
Medina County Texas

Dear Ms. Ghosh:

This letter will transmit an important presentation regarding flash flooding in the project area. It also provides additional publicly available data on physically feasible grades for the agency to take note of and consider when establishing feasibility criteria for alternatives in this proceeding. Finally, this letter concludes with thoughts on the present state of this proceeding, and encloses a letter published in this week's *Hondo Anvil-Herald*.

"Flash Flood Alley" and Medina County

We have been searching for a way to assist your agency in better understanding the flash flood risk in Medina County. As you know, flash flood risk is an important topic that needs to be addressed as part of the Environmental Impact Statement in this proceeding. We want to give you a better idea of how it works, why it happens in our area, and specifically what happens, and why the rapid, unpredictable rise and movement of waters in our nearby creeks is of such concern.

The project area—indeed, all of Medina County—is part of a region known as Flash Flood Alley. Recently, the federal government has partnered with state and local agencies to create a series of materials and data hosted on their website, Floodsafety.com. Specifically, they have produced a short DVD video, "Flash Flood Alley," that describes flash flooding in our area of central Texas, along with an accompanying DVD-ROM that contains the video, historic flood data up to the present day, and articles. "Flash Flood Alley" was sponsored and produced by the United States Geological Survey (which monitors and gauges many of the streams in the area), the State of Texas, the San Antonio River Authority (the basin just to the east of Medina County), the cities of

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<http://stb.dot.gov/Ect1/ecorrespondence.nsf/UNID/9529014B880FA81F852570B2001687...> 1/12/2007

Austin and Dallas, and local flood control districts. Numerous representatives of these agencies appear in the video. We have enclosed copies of it for review by you and all appropriate SEA staff.

We strongly urge you to view the DVD video presentation, which runs just under 1 hour, with your staff in the near future.

As a guide, we will provide a short summary of each of the sections of the video, which we recommend viewing on the DVD, and then we will summarize the data on the DVD-ROM.

Video Chapter 1

Texas leads nation in flood damage and deaths annually. The extensive damage history of flash flooding in Central Texas opens the video, which then describes why areas like Medina County are flood prone due to weather patterns. The video describes an example of severe river flooding to the east of our area. While we are obviously not claiming the 7-mile wide super-flood on the Guadalupe River will occur in the project area, the video makes clear that such massive scale downstream impacts are aggregations of many upstream floods in Hill Country canyons and washes.

In the interviews with flood victims, you will notice some similarities to Hurricane Katrina, and some important differences. These citizens received no warning. The control structures in their communities failed. They could not depend on the mapped floodplain. And they experienced a total loss of their biggest investment, their homes.

In Quihi, the proposed development is not homes – the homes in the project area are protected and were built up out of the floodplain. Vulcan's quarry and rail line are the new developments that are failing to plan for flood impacts.

Video Chapter 2

Documented catastrophic events dot the state, including Medina County, extending hundreds of miles in all directions around it. Medina County is in "Flash Flood Alley" – the most flash flood prone region in the United States according to the National Weather Service. Damaging storms in the Texas Hill Country result in canyon and wash flooding, and assumptions surrounding downstream flood prevention in the cities are based on that fact.

The nearby record US point rainfall that MCEAA first mentioned in its scoping comments is documented in this section of the video, along with other data.

This section of the video underscores that not all 100 year floodplains on FEMA floodplain maps are accurate, and that new development often tries to downplay the existence of a flood hazard rather than confront it and design for it.

Again, in our case, the proposed development is not homes – the homes in the project area are protected and were built up out of the floodplain. Vulcan's quarry and rail line are the new developments that are failing to plan for flood impacts.

Video Chapter 3

Catastrophic rainfall events can occur anywhere in Texas, particularly in Flash Flood Alley, which includes the Nueces Basin of which the project area is a part. "Even the most arid lands are

not immune," the video states, using the extreme example of Sanderson, Texas, some 250 miles to the west of Medina County. This once again puts the lie to Vulcan's constant self-serving assertions that Medina County does not experience severe floods.

Even unmarked streams and crossings are deadly in flash flood conditions. The story of Sharon Zambrzycki's experience at such an unmarked crossing on Brushy Creek, west of Austin, is particularly applicable to the crossings along Quihi and Elm Creeks in Medina County. The video notes that "12 to 18 inches of water across a roadway can float a vehicle." That situation routinely occurs along the creeks in the project area during even moderate rains.

A representative of the National Weather Service describes the Texas Hill Country as "the most flood prone area in the country." The video painstakingly documents the naive claims of skeptics and developers—claims that the locals and old timers "didn't know what they were talking about," only to have the skeptics face reality when the floods came.

Even a surge on a small tributary can overwhelm a town, as in the case of Peach Creek and Cuero. Peach Creek was a USGS gauged stream that became an ungauged stream when funding ran out, not unlike the streams in the project area. The lack of gauged data is not an excuse to avoid the necessary analysis, particularly in the face of the serious risk faced by Medina County.

When unanalyzed and unmitigated, poor development practices shift flood risk and cost onto landowners, as well as unquantifiable psychological trauma. That is what must be prevented in Medina County.

Video Chapter 4

Mentioned in the DVD-ROM data but not the video, is the near-failure of the Medina Dam, just to the north of the project area, in July 2002. This near-failure resulted when flash flooding filled Medina Lake to capacity in record time. The near-failure of the Medina Dam is analogous to the overtopping of Canyon Dam described in this segment of the video.

The events in the video are events you do not hear about because they don't always make the national news. It may surprise you, after watching the graphic video, to learn that so many disasters of this magnitude occurred before Tropical Storm Allison in 2001, and before Hurricanes Katrina and Rita this year. Part of the reason for that is the collective denial, at all levels of government, that these events are happening and must be analyzed, planned for and resolved in the course of licensing new projects. This denial is fed and abetted by applicants who do not want to take responsibility for the impacts of their proposed developments.

The foundation failure of Linda Coble's house is emblematic of an inadequate permitting process. It is a small leap from the faulty nails on her foundation to the absurd trestle bridges and floodplain berms proposed by Vulcan.

Additional notes on the video

Finally, the cruel financial ruin experienced by many in the video is emblematic of a temporary shift in our society that is rapidly undermining itself and coming to an end, and which, in any case, we will not allow to obstruct the law in this proceeding. That shift is a shift in risk and cost, in this case from government and proposed upstream development on to individuals with existing good faith investments.

You can see it in the story of the Lopez family. They lived over a mile from the river, were not in the floodplain, and had no flood insurance. Their house had never flooded, they received no warning, yet their property was a total loss. The husband later lost his job because of a health condition (Why couldn't his employer accommodate it? Was it even legal for them to fire him on that basis?), and now likely lacks health insurance to treat that condition. He's probably lucky if his company hasn't raided his pension yet, and his wages were probably flat long before he was fired. The Lopez family must now choose between rebuilding from the loss of their biggest investment, their home, and their other expenses like health care and college for their daughter. They will receive scant public financial support, because there is no safety net anymore.

We mention all of this because there is a waning element inside the Beltway that thinks it fashionable to blame the Lopez family for their recent troubles – for the flood loss, for the job loss, for the unforgivable financial choices they must now make to preserve their mere health and safety, much less their property, in the richest country on earth. Yet unlike some of the others in the video, the Lopez family did not come to the hazard. They did not build or move into in the mapped floodplain. They did everything a reasonable person would do. They thought they could rely on existing flood protection and planning mechanisms, as well as private property rights, to protect them. A waning element inside the Beltway denigrates this reliance and weakens its legal foundations. Then, they hold it up as proof that government can't plan ahead and protect private property from disasters, while absolving irresponsible developers under a doctrine of "common enemy" and preemption. This turns the lawless into the blameless.

This is part of why MCEAA finds Vulcan's lawless refusal to analyze flood impacts from the quarry and rail line so offensive, and why the agency should as well. Absent a federal forum, Vulcan would have to resolve these issues with the landowners and local government directly in order to obtain condemnation power. The federal forum, the STB licensing process, purports to remove that leverage and substitute it with the Environmental Impact Statement of the National Environmental Policy Act, to inform citizens and all levels of government. While Vulcan hails the leverage of a purported federal common carrier license, it refuses to provide adequate information to the agency to satisfy NEPA obligations. When the floods come, Vulcan will blame everyone but itself, and fight landowner inverse condemnation and trespass claims as long as its deep pockets will allow. Assuredly, Vulcan would hold up the currently inadequate EIS, which doesn't even analyze flood impacts, to claim absolution, while simultaneously claiming the events never could have been foreseen. In short, Vulcan would blame everyone, including the citizens of Quihi who built their homes out of the floodplain, and blame anyone, except, of course, itself. To anyone at the agency who watched coverage of Hurricane Katrina and its aftermath, we don't have to spell it out any further—you know exactly what we are talking about.

Many of the people of Quihi and rural Medina County have a lot of pride in their heritage and their community. But many of them have a lot in common with the Lopez family in the video, some more than maybe they would admit. The temporary shift in our society that made it okay to shift risk and cost onto working families, and wrapped together corporate fraud and government negligence under a banner of false individualism, is coming to an end. The floods of the last decade in Texas have had an economic cost. Don't doubt that they have also had a social cost. If Vulcan thinks that it can evade a comprehensive up-front analysis of flood risks, and instead force the Quihi

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One of our consultants has recently alerted us to data already within the agency's possession, and other data easily available to it, that further support the physical feasibility of the Medina Dam Route ("Original MDR") and Medina Dam Alternative ("MDA").

In each of those routes, there is a short (approximately 1 mile, a maximum of just under 100 feet in vertical gain) uphill portion south of Quihi Creek that requires grade adjustment, not unlike other sections of proposed alternatives in this proceeding.

Vulcan states that maximum permissible grade is 1.0%. Leaving aside the run-through power issue discussed in our October 5, 2005 letter, it is clear that a lower permissible grade increases the amount of cut and fill required. Vulcan also insinuates, but has never shown, that a loaded train leaving the quarry would be unable to ascend this segment, at whatever grade, despite more than two and a half miles of level acceleration.

Data from other rail lines around the country and from other proceedings currently before the agency disprove Vulcan's baseless assertions. A further description follows the chart below.

Chart 1: Feasible grades and cut and fill volumes on other rail lines

	Maximum feasible grade after cut and fill	Feasible cut and fill volume
Tongue River Railroad III, Montana 17 mile segment Four Mile Creek Alternative Loaded coal trains	2.31%	10.3 million cu yds
Tongue River Railroad III, Montana 17 mile segment Western Alignment Loaded coal trains	0.95%	17.0 million cu yds
Department of Energy Yucca Mountain, Nevada Caliente Corridor Nuclear waste caskets	2.0% (some areas are as high as 3.2-4.4% pre-cut and fill)	Unknown, easily in the millions of cu yds
Vulcan Medina Quarry 11.24 mile segment Modified Medina Dam Route Loaded aggregate trains	1.0%, alleged	729,778 cu yds, allegedly infeasible
Vulcan Medina Quarry 9.01 mile segment "SGR Eastern Route" Loaded aggregate trains	1.0%, alleged	336,566 cu yds, allegedly infeasible

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community to bear that unanalyzed, unmitigated risk, we have one message to send: Over our dead bodies.

Again, we hope you will view this presentation with your staff in the near future. We recommend the DVD for the best quality video viewing.

DVD-ROM Data

In addition to yet more documentation corroborating MCEAA's prior comments to the agency regarding flood risk, an extensive array of historical and current flood data appears on the DVD-ROM. You may also access this data, and the video segments, from the Floodsafety.com website.

Most of the data is on the Regional Programs – Texas page. You can browse through all of the sections on that page. The most useful is likely the USGS historic flood data page. This will give you a more robust picture of what is happening around the project area, which is in the Nueces River basin. Unfortunately, as you may know, the gauge data from within the project area is historic in nature and was only collected for a few years. We wish that it could be a better resource. Overall, however, these pages, combined with knowledge of the Corps of Engineers' hydrologic modeling software (<http://www.hec.usace.army.mil>) and the availability of data (including radar rainfall data and design storms) from the National Weather Service and local agencies such as the Edwards Aquifer Authority, Nueces River Authority, and San Antonio River Authority, should drive home the point that this risk is something that is modeled all the time by our local governments. The situation with Vulcan's projects requires more than a simple eyeballing of the risk.

The "Texas Challenge" in the Interactive Segments of the Media and Map Gallery section provides more detail on why severe storms impact Flash Flood Alley, and gives another geographic distribution of historically severe storms (note that the "Medina" point rainfall record is misplaced on this presentation's map, however. It should be in Medina's neighboring county, Bandera, not in South Texas).

We have also learned from the Medina County floodplain administrator that FEMA plans to remap the floodplains in Medina County with up-to-date technology within 2 years. As you will recall, the existing FEMA floodplain maps for the project area were completed in 1980.

Alternatives: Feasible Grade Data From Other Ongoing Proceedings Must Be Considered

In our letter dated October 5, 2005, our attorney discussed the need for the agency to establish physical feasibility criteria for the proposed rail line. These criteria would allow the agency to complete an adequate alternatives analysis, rather than relying on unfounded conclusory statements about potential impacts and cost to eliminate otherwise viable alternative routes.

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Chart 2: Existing grades after cut and fill on major North American rail routes¹

Route	Grade
Canadian Pacific – Rogers Pass	2.2%
Union Pacific – Moffet Tunnel	2.1%
Cajon Pass, San Bernardino Mtns	2.2%
Donner Pass	2.2%
Proposed DOE Yucca Mtn Caliente Corridor	2.0%
Union Pacific – Hondo east to Houston	1.2 to 1.4%

The data for the Tongue River Railroad III STB construction proceeding (FD_30186_3) comes straight out of the Draft EIS dated December 6, 2004. The attorney for the Tongue River Railroad, making the grade feasibility arguments, is the same attorney that represents Vulcan in this proceeding.

Ironically, in the Tongue River DEIS there are two preferred alternatives, one with a grade of 0.95% and the one with 2.31%. But not surprisingly, the cut and fill for the first, more gradual route, is much larger, 17 million cubic yards, than for the other, steeper route, 10.3 million yards. The steeper one requires more fuel cost, but the more gradual one requires more up front cost.

It seems clear to us that neither of those cost bases was a legitimate ground for eliminating these otherwise physically feasible alternatives, and the agency agreed. It did not seem to make any difference in that case which direction the trains were traveling loaded and unloaded with coal, because in the DEIS the agency examined the risks and costs in both directions. In short, there is no factual distinction between physically feasible grades in that case and physically feasible grades in this case; at least not one that passes the straight face test.

Additionally, the segment in this case requiring grade modification is so short, compared to the millions of cubic feet of earthwork required in Tongue River III, that the existence of a legitimate cost objection seems impossible. This is particularly true given that the applicant's revenue projections for the line are wholly dependent on a quarry whose output it will solely control.

The data in Chart 2 shows that steeper post-cut and fill grades exist on major rail lines throughout North America, and are currently being proposed for rail lines that will handle nuclear waste caskets of comparable weight and far greater risk than the aggregate to be handled here. Certainly one feature of the segments in Chart 2 is that they may require more operating power (engines) or other operational constraints. At the same time, because the segment requiring grade adjustment along the Original MDR and MDA routes is so short, and because two and a half miles of open track separate the loading loop from the grade, those concerns may well be overblown. In any case, as in Tongue River III, they may not necessarily make an otherwise viable alternative an infeasible one. That is your job, for you all to decide.

¹ Source: U.S. Department of Energy, Office of National Transportation. http://www.otp.doe.gov/tec/TECAgenda_Aug4-2005.pdf (Presentation of Gary Lantier, Director, slide 10)

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The point is, however, that the agency has not yet made that decision, in large part because a consistent set of physical feasibility criteria to evaluate alternative routes against remains undisclosed. That the issue still exists, and the agency has not dealt with it, is because Vulcan has misrepresented the physically feasible post-cut and fill grade, which has the side effect of increasing the necessary cut and fill, and thus the overall cost.

The potential grade on the Original MDR and MDA routes remains unknown, but it is clear that there are post-cut and fill opportunities between 1.0 and 2.0% or higher, over a very short distance, that may well make the Original MDR and MDA feasible under a consistent set of physical feasibility criteria.

General Observations

As noted above, one of our consultants has long been aware of both the Tongue River III proceeding currently before the STB, as well as the Department of Energy's Yucca Mountain Caliente Corridor rail construction project, which is not (yet). As you probably know, back in early 2004, there was a lot of discussion over whether the STB should take jurisdiction over the Caliente Corridor. The House Committee on Transportation and Infrastructure's Railroads Subcommittee held a hearing about it on March 5, 2004, at which now-outgoing STB Chairman Nober testified.

To call it what it was, at the hearing and behind the scenes, there was a delicate dance between STB and DOE and the rail community. We are well aware of the fact that the Yucca Mountain rail line potentially raises the jurisdictional "what is a true common carrier?" issue, federal preemption vs. local control issues, and significant environmental impact issues (including flooding²).

The result was DOE issuing a Record of Decision selecting the Caliente Corridor in April 2004, where DOE made the decision to not submit the project to STB licensing. Nevada eventually sued and the question of whether DOE's statutory authority permits it to avoid the STB process will soon be decided by the Court of Appeals for the D.C. Circuit.

Regardless of how that case turns out, we recognize that the ultimate fate of Yucca Mountain rail construction is connected in so many ways to the core, practical issues that this proceeding raises.

There is something fundamentally wrong with the rail licensing system in this country when a 400 mile rail line to serve the Yucca Mountain nuclear waste project, potentially the most dangerous national security and environmental impact situation in the country's history, does not come before (indeed, arguably deliberately avoids) the agency that issues rail licenses, the STB. Yet, at the same time, the STB is conferring licenses on non-rail entities for 7-10 mile spurs to give them condemnation power and to circumvent local political responsibility for land use planning and environmental impact mitigation.

² Steve Corbin, "Recent Floods Raise Questions About Yucca Rail," Las Vegas Sun, Feb. 11, 2005 <http://www.lasvegassun.com/stories/spoonil/2005/feb/11/S1827222.html>

concerns that its members would have raised—and indeed, that any landowner would raise—when deciding whether to voluntarily sell easements across their land in the face of a combined quarry-rail project in their community and watershed. The federal licensing process has transferred these concerns to a federal forum, to be resolved, to the extent the "regulation" of railroads is concerned, under federal law.

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As Chairman Nober laid out the STB's position in his March 5, 2004 testimony:

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As we note above, absent a federal forum, Vulcan would have to resolve these issues with the landowners and local government directly in order to obtain easements through voluntary sale. The federal forum, the STB licensing process, purports to remove that leverage and substitute it with the Environmental Impact Statement of the National Environmental Policy Act, to inform citizens and all levels of government.

Yet Vulcan refuses to participate forthrightly in the existing NEPA process and complete the disclosures required by federal law. The leverage of local communities—control over their property, and impacts to that property—is eviscerated by the federal license, but then Vulcan refuses to comply with the disclosure process under NEPA that is supposed to replace that leverage and inform decisionmakers at all levels of government. The federal agency becomes the last line of defense. The result is the (arguably unnecessary) federalization of what are essentially local land use and drainage conflicts.

Because rail lines require land, the appropriate conceptual relationship is that of a triangle, between railroad-shipper-community, not a binary relationship between shipper and railroad where one is constantly trying to out leverage the other in a vacuum.

The most urgent issue for industrial shippers today is obtaining rail access and will only become more so as oil prices increase. Rail access at multiple facilities nationwide gives the shipper leverage over the railroad to control costs where competitive service is not available. We have a national rail backbone in place. The urgent national need is by and large not for surveying new routes through the Rockies. It is for spur lines between 2 and 15 miles in length that will likely benefit only the facilities they extend to, just like Vulcan's quarry.

Yet when the demand for rail construction increases in the coming years, is Vulcan's process seriously going to be the template for future licensing? Because if it is, there's no way the STB will be able to license a sufficient number of rail lines to meet the national need. This proceeding, for an 8 to 15 mile rail line, has been ongoing for over 3 years, and the applicant has been working on the overall proposal, including the connected quarry, for 6 years, since 1999.

It is a national embarrassment that it takes so long to license new rail lines. We do applaud the agency for requiring the necessary information from Vulcan, regardless of the delay, but that downplays the larger point, which is the applicant's refusal to address local concerns at the start. Let's be perfectly clear about why the licensing process takes so long: Recalcitrant applicants like Vulcan refuse to deal up front with local landowners and local representatives under state law. They then enter the federal process and drag their feet on disclosure to put pressure on the agency, creating a classically cynical "Problem-Reaction-Solution" situation. The alleged "problem" is that rail licensing under NEPA contains unwanted input from local communities; the "reaction" is to avoid disclosure of environmental impacts and thus avoid responsibility for mitigation, and the "solution" is to spawn more litigation and more delay, and to lobby for further exemptions (and arguably, unconstitutional preemption power) under federal law that weaken local community input and oversight even more.

Throughout the NEPA process, MCEAA has only raised the essentially same fundamental concerns as its County-level representatives, though in more detail. It has only raised the same

national rail network. However, state and local laws and regulations are not Federally preempted with respect to construction of private track.

Currently the railroads have a lot of leverage over the shippers. They can force the shippers who want rail access to front all the costs of constructing the new line and acquiring land, then buy the federal common carrier license off the shipper and its paper railroad for pennies on the dollar once operation begins. The shipper eats the rest of the cost as part of the capital cost for the overall connected proposal. However, that leverage is a pricing power issue, not an access issue. The access issue plays into it, but only to the extent that the cost of obtaining access matters. What we are arguing is that the notion that proceeding under federal law is more cost effective, rather than dealing straightaway with local landowners and local governments under state law, may be false. And Vulcan's actions in this proceeding prove it and serve as case study #1.

Unless it holds Vulcan's feet to the fire on NEPA, the STB process will not be an adequate replacement for the leverage that private property owners have over a private, non-common carrier under state law. Otherwise, the clear answer is to force private paper railroad projects like Vulcan's to remain subject to state law, and not to issue a federal common carrier license. Only then will the applicant be forced to do an adequate preliminary investigation ahead of time, and meet the community's concerns up front, to convince them to release easements at a fair price, without litigation. Only then will we have political responsibility at the local level for enforcing laws like the County Floodplain Ordinance and County land use plans, as well as State Historic Preservation and Agricultural Land Use laws. And guess what: when it happens, it will still be faster and cheaper than the federal process and all its litigation.

There are three ways to get there from here. First, the STB could clearly disclaim jurisdiction over private paper railroads where a true railroad or rail operator is not even involved in the consortium or partnership applying for the license, and where the line would solely serve a facility owned by the applicant. We are unsure how many previous STB construction cases to a solely-served facility lack a true rail partner in the application, as Vulcan's does, but the Yucca Mountain case certainly presents a unique opportunity, one we do not expect the state of Nevada to pass up if it arises.

Second, Congress could more clearly remove jurisdiction and/or alter the balance between shippers, carriers, and communities.

But the most likely scenario is the one that relies on common sense and the shippers getting wise to the practical concerns of the communities they seek rail access in. The best solution is most often the one that doesn't have to resort to creating winners and losers by testing the bounds of the law. The only answer to *Cui bono?* under the current system is attorneys, consultants, and engineers.

For what purpose can anyone in their right mind defend what Vulcan is doing, and the cost and time involved? If the choice is A) running a federal licensing process that takes 10 years to build a rail line because of the litigation, or B) forcing companies like Vulcan to do what they should have done six years ago (investigating ahead of time) by subjecting them to the power of private property owners who cannot lose their land to a private rail line under state law, it seems the

agency should push cases like Vulcan away, get out of the local land use business, get on to the big construction cases like Yucca Mountain that matter, and reap the national benefits of having more shippers obtaining rail access sooner rather than later.

So that it is perfectly clear, our observations above should not be interpreted as wavering one inch from our previous statements. We fully support the agency in its attempts to obtain further information from the applicant. We are in no rush for Vulcan to realize what has been plain to us from day one. We will continue to participate fully and pass on information to the agency as we obtain it and respond to it. We are only as ready to negotiate and litigate with Vulcan as we have been from the beginning, as private landowners impacted by this project, before Vulcan ever entered a federal forum.

It is just that we find it embarrassing when corporations think that they can evade community and landowner leverage by creating paper railroads to invoke the jurisdiction of federal forums, and then, once in that forum, try to have it both ways and avoid the leverage of the federal environmental disclosure process under NEPA. Anyone can see that type of having-your-cake-and-eating-it-too is not sustainable, and is not going to last for long. Only the most binary railroad-shipper worldviews can project that illusion for long. It is clear to us that a resurgence of the railroad-shipper-community triangle, or the railroad-shipper-community-agency tetrahedron, if you must, is required if the NEPA process is to be taken seriously as a replacement for landowner leverage under state law.

MCEAA and the Quihi community grow stronger each day that Vulcan continues to appeal to "facts" it has never shared with the agency, local government, or the public. The enclosed letter to the editor from landowners and MCEAA members Tom and Mary Walpole, in this week's *Hondo Anvil-Herald*, sums up the unity of our community on these issues.

Thank you for your work to date on the NEPA process. Please place a copy of this letter and the DVDs in the administrative record for this proceeding.

Sincerely,

Robert T. Fitzgerald

Dr. Robert T. Fitzgerald, President
MCEAA, Inc.

MCEAA, Inc., for your Home, Health, and Heritage

- 12 -

Your turn

P. O. Box 400, Hondo TX 78861 1601 Ave. K
Email: anvil@hondo.net Fax: (830) 426-3348

Still waiting for facts from Vulcan

Dear Editor:

As a landowner living in the Medina County flood plain, I feel a need to respond to Tom Ransdell's Sept. 1 letter to the editor.

He stated, "These include the group's belief that this project, unlike rail projects throughout the world (and Texas) will cause cataclysmic flooding. In fact, we all know that rain falls and trains move and the world keeps turning, without disastrous results."

Mr. Ransdell; if the flooding is on your property, it is a disaster! Vulcan, give us the facts about the quarry and rail line as it affects flooding in the existing flood plain. Construction of a quarry and rail line with berms and trestles will change the flooding patterns. Can you prove otherwise?

Tom Ransdell's letter is just more promises about getting the facts, but never coming up with them, even after six years. What a waste of time.

Vulcan's quarry-rail project is supported by one of the most costly, ineffective, and wasteful public relations and lawyering operations in the history of federal licensing and Ransdell's letter is more proof of this. Who in their right mind would represent

to the public, in their local newspaper, that the "facts" are being found in some mysterious, opaque, behind the scenes process when these facts have never been publicly disclosed in the ongoing public process required by law? Has the Surface Transportation Board ruled out a flood risk? Has this newspaper reported the lack of a flood risk? Have the people of Medina County ruled out a flood risk? The questions keep coming, six years on, from the agencies and the citizens. But all Vulcan can do is point to "facts" it doesn't have, and consistently has never shared with the citizens, the media, and local, state, and federal government.

Anyone in Medina County who has questions and concerns about the proposed quarry-rail line project should make it their business to contact the Medina County Environmental Action Association (MCEAA) at 830-741-5040. Flooding is the tip of the iceberg. We want answers about our squifers, our wells, our county roads, railroad safety and operations. Basic questions that remain unaddressed while Vulcan and their expensive lawyers crank out more meaningless "facts".
Tom and Mary Walpole
Quihi

STB Incoming Correspondence Record

Page 1 of 1

Surface Transportation Board Incoming Correspondence Record

#EI-1752

Correspondence Information

Docket #:	FD 34284 0	Date Received:	11/10/2005
Name of Sender:	Dr. Robert T. Fitzgerald	Date of Letter:	11/10/2005
Group:	MCEAA		

Submitter's Comments

Dear Rini,

We wish to make something explicit about the Original Medina Dam Route ("Original MDR") and Medina Dam Alternative ("MDA") that may have been implicit in our previous letters and comments. That is, there is no need or requirement for these routes to pass through the Castroville West subdivision. If necessary, extremely minor deviations to the east of the subdivision, traveling in the general northward direction of the historic route on the level topography that characterizes that area, can easily be devised to avoid the subdivision boundary. We refer you to the topographic maps submitted by us earlier in the proceeding and by Vulcan in EI-1684.

We think that point should have been obvious from the start, if the agency, which studies rail design nationwide, is doing anything more than stenography with Vulcan's submissions. Nevertheless, we are stating it explicitly now. And indeed, this obvious point did not stop Vulcan from analogizing straw men routes to the Original MDR and MDA. It is no surprise that Vulcan would ignore the obvious need to detour around existing homes, because it does not desire a feasible eastern alternative.

It is true that the original MDR went through the eastern edge of the Castroville West Subdivision. However, the land east of the subdivision boundary is level. There should be no problem devising a feasible deviation that avoids the subdivision, is a suitable distance away from the homes to avoid safety impacts, and would not cross a dirt road (driveway) leading south from CR4516 approximately 1/4 to 1/2 mile away. As we have stated in the past, it would be best to design such a route once the agency has defined a consistent, uniformly applied set of physically feasible criteria for alternative routes. There is NO reason to dismiss the eastern alternatives such as the Medina Dam Alternative simply because Vulcan's straw men analogs to this route refuse to recognize a feasible route slightly eastward from the Castroville West Subdivision. It should be noted that the deviation required by the MDA would not come any closer to homes than any of the original routes proposed by SGR and would cross fewer county roads, and cross in safer locations on level ground.

Sincerely,
Dr. Robert T. Fitzgerald

Note to #EI-1750:

The information on the two DVDs submitted with this letter may be obtained through the website floodsafety.com.

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November 22, 2005

VIA HAND DELIVERY

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

Re: **STB Finance Docket No. 34284, Southwest Gulf Railroad Company –
Construction and Operation Exemption – Medina County, TX**

Dear Ms. Rutson:

In an October 5, 2005 letter, the Medina County Environmental Action Association ("MCEAA"), through its attorneys, makes certain claims and arguments that require response in order to ensure an accurate record in this proceeding. Southwest Gulf Railroad ("SGR") will hereby reply to these points. Further, should SEA desire a further response from SGR on any other points raised in the MCEAA letter (many of which have already been addressed in prior submissions), SGR will be pleased to provide such further response.¹

First, we note that MCEAA criticizes SGR for not supplying data on various proposed alternatives. That charge is grossly unsupported; SGR has supplied volumes of data required by SEA and its contractors for environmental analysis. SEA is obviously the best judge of the sufficiency of data and clearly it determined that it had sufficient data when it issued its Draft EIS.

MCEAA interprets the fact that SEA has asked for more data as a sign that initial submissions by SGR were inadequate, but again this is wrong. It is not at all unusual for an agency to ask for

¹ SGR will of course cooperate fully with SEA in connection with any further environmental analysis it may choose to undertake on any issue in this proceeding, just as SGR has fully cooperated with SEA to date.

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Ms. Victoria Rutson
November 22, 2005
Page 3

specific, this is work that can be undertaken only once a final alignment is chosen. MCEAA's suggestion that hydrological mitigation has been left entirely in SGR's hands "to do whatever it wants" is grossly wrong – SGR will be obligated to adhere to the numerous ground water and related mitigation measures proposed by SEA, which will presumably be adopted as binding conditions/obligations by the STB upon issuance of a final decision in this proceeding. Failure to adhere to these conditions would jeopardize SGR's right and operate to construct its line.

Moreover, SGR will require permits from the Corps of Engineers to the extent that its rail construction will impact waters of the United States. It will need a permit from the Medina County Flood Administrator for structures built in the 100 year floodplain. SGR is legally obligated to seek any required permits, and likely also will be required to do so by mitigation measures it expects will be adopted in this proceeding. The Corps and Flood Administrator thus will have an opportunity to apply their expertise to assess any potential flooding impacts from the line to be constructed and further ensure that the concerns raised by MCEAA are addressed. SGR would also be obligated by mitigation conditions proposed by SEA to consult with FEMA and adhere to its reasonable requirements regarding construction of the rail line in the 100 year floodplain.

Further, SGR remains subject to requirements that it prepare and file a Stormwater Pollution Prevention Plan and a Water Pollution Abatement Plan (WPAP), both of which are also required to be prepared by SGR under the mitigation proposed by SEA in its Draft EIS. The mitigation would also require SGR to use Best Engineering Practices in the design of rail stream crossings.

Contrary to MCEAA's contentions that the WPAP for the Vulcan quarry will not address the implications of any downstream runoff from the quarry on the areas traversed by the rail line, the fact is that Vulcan is in the process of preparing a WPAP based on its on-going study of drainage in the area of the quarry. Vulcan's consultants working on the WPAP for the quarry are in the process of determining water flows and developing best management practices (BMPs) based on 1 foot contours (as opposed to the 10 foot contours more frequently used.) Thus, the WPAP process will allow Vulcan to design BMPs to limit and control water flows outside the quarry area. In that regard, Vulcan does not intend to route flood waters from the quarry area into streams, as MCEAA wrongly assumes. Indeed, most streams in the quarry area will not be affected by the quarry and thus current flow patterns will not be disrupted. Moreover, as the quarry pit grows, rainwater that would otherwise find its way into these streams will instead end up in the pit, reducing flooding potential.

Also contrary to MCEAA's assumption, Vulcan also plans to have at least two detention/retention ponds in the quarry area to handle rainfall from the plant area. Vulcan is in the process of conducting studies to help determine the size and location of these ponds. Vulcan will also have settling ponds on the quarry site, which will be used to collect and recycle rain water. Stormwater will be directed to these settling ponds as part of Vulcan's BMPs.

Once Vulcan's WPAP application is submitted to TCEQ, that agency will evaluate the application and the underlying data/assumptions used to prepare it. TCEQ will only approve the

supplemental data in response to comments the agency has received. This is the way the process is supposed to work. On the other hand, while critical of SGR's data on the eastern routes it has developed, MCEAA offers few details about its own alignment proposals and impacts that might flow from those alignments.

Second, on the fifth page of the MCEAA letter, MCEAA takes issue with SGR's statement that the original cut and fill data provided by SGR (which was subsequently amended by SGR in its September 7 letter) was based on a slope calculation of 0.5:1. MCEAA claims that the original slope assumption used by SGR was actually 1:1, citing the report of TRAX Consultants, a firm that Vulcan had retained to do initial feasibility studies on rail alignments.

However, MCEAA's assertion is factually incorrect. While the TRAX Report cited the 1:1 slope ratio, this was an obvious typographical error in the TRAX Report since that Report makes clear that it assumed 10 foot wide benches and 20 foot high intervals – which is a obviously ratio of 0.5:1. SGR's September 7 letter thus correctly noted that the original SGR cut/fill calculations were based on the TRAX Report's 0.5:1 ratio, and not a 1:1 ratio. In other words, the original cut/fill calculations performed by SGR were based on the "bench cut" template, with a 10 ft wide benches and a 20 ft height intervals, a 0.5:1 ratio.

As explained in its September 7 letter, SGR decided to reevaluate the slope assumptions made in the original TRAX report. Based on the assessments of knowledgeable engineers, site visits, inspection of road cuts in the area, and after reviewing the same data TRAX apparently relied on from the University of Texas-Austin maps, SGR determined that the TRAX slope ratio of 0.5:1 throughout the length of the line warranted further scrutiny and that it would be more appropriate to rely on a more conservative side slope assumption of 1.5:1 in calculating cut/fill data. The sole reason for these revised calculations was to offer SEA cut/fill data based on a more appropriate and conservative slope ratio than was used initially. In any event, the fact remains that the eastern alignments under review will (under any set of slope assumptions SEA may find appropriate) require relatively more cut and fill than the alignments previously considered.

Third, MCEAA takes issue with the SGR design criteria that the SGR line have a ruling grade not in excess of 1%. SGR believes that this grade criterion is a reasonable and attainable assumption to use for purposes of preliminary design engineering. This is the grade assumption that was used in the development of the alternatives previously considered by SEA, and for consistency SGR believes that the same grade criteria should be used in comparing those alternatives to any eastern alternatives.

Fourth, MCEAA claims that inadequate data has been presented on cumulative flooding and groundwater impacts. MCEAA overlooks the extensive mitigation that SGR has committed to provide on this point – see pages 5-2 through 5-3 of the Draft EIS. SGR will undertake extensive floodplain modeling prior to construction and will incorporate that modeling into the design of the rail line and bridges so as to mitigate impacts on ground water and address any threat of flooding. SGR will also be required by the proposed mitigation to coordinate as appropriate with the US. Army Corps of Engineers and the Medina County Flood Administrator. Since this modeling and consultation is alignment-

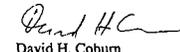
Ms. Victoria Rutson
November 22, 2005
Page 4

application if it satisfies regulatory requirements, including Edwards Aquifer rules for water quality protection.

In addition, as it has previously stated, Vulcan will consult with the Medina County Floodplain Administrator relative to the quarry in the event that its plans change and construction in the 100 year floodplain were to be undertaken. Vulcan also plans to consult with the Administrator once the WPAP for the quarry is completed.

We would be pleased to respond to any questions that you might have concerning the above.

Respectfully,


David H. Coburn
Attorney for Southwest Gulf Railroad Company

cc: Ms. Rini Ghosh
Ms. Jaya Zyman-Ponebshek

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December 5, 2005

Ms. Rini Ghosh
Section of Environmental Analysis
Surface Transportation Board
ATTN: STB Finance Docket No. 34284
1925 K Street, NW
Washington, DC 20423-0001

VIA EMAIL
& Regular Mail

RE: STB Finance Docket No. 34284 -- Adequate analysis under NEPA for:

- (1) Vulcan Materials Company's planned Medina County stone quarry; and
- (2) Vulcan Materials Company subsidiary Southwest Gulf Railroad Company's proposed rail line to serve Medina County stone quarry.

Dear Ms. Ghosh:

MCEAA has reviewed the recent submission, EI-1769, by the applicant, Vulcan/SGR ("Vulcan"), dated November 22, 2005. That letter from Vulcan essentially purports to respond to a previous October 5, 2005 submission by MCEAA, EI-1698, and perhaps other recent submissions.

There are really only three points to be made in response to EI-1769, most of which we have already made in previous letters:

- 1. The semantics of whether the 1:1 cut ratio in the TRAX report should have been 0.5:1 ignores the fact that MCEAA is right about the bottom line of Vulcan's September 7, 2005 changes to the ratio: Wider benches result in higher cut and fill volume. There has been no basis shown for why the wider benches are suddenly required—only an

allegation that they are more "conservative." How can they be more "conservative" if narrower benches were feasible before?

2. In contrast to its haste to change the cut ratio used on its original alignments, Vulcan insists on preserving its original ruling grade of 1.0%. Unfortunately, this 1.0% limit presents the opposite situation from the cut ratio. Where the original cut ratio was a "floor" that was deemed sufficient, the ruling grade is an "upper limit" that has never been justified. Indeed, MCEAA has submitted evidence from past and present agency construction proceedings involving heavy haul freight, including loaded coal trains, to show that 1.0% is by no means an "upper limit."

Vulcan is trying to whipsaw the agency and any reviewing body by trying to turn a "floor" (the cut ratio) into an "upper limit" while utilizing its alleged "upper limit" (the ruling grade) that is really a "floor." The agency, with its expertise, should know the difference and make findings accordingly when it defines a common set of physical feasibility criteria for the alternative routes.

3. Finally, Vulcan again challenges the need to evaluate cumulative flood and groundwater impacts, among others, from the quarry and rail line in accordance with governing law. This is despite the fact that the agency has designated Vulcan's quarry, in the record, as a related action within the meaning of the cumulative impact regulation, 40 C.F.R. 1508.7. The agency has also recognized that quarry impacts will be at least cumulative with those of the rail line.

Vulcan's argument is simple and baseless: "Since this modeling and consultation is alignment-specific, this is work that can be undertaken only once a final alignment is chosen." This has never been the law, and with good reason. Anyone can see that this irrational position renders the alternatives analysis under NEPA a sham. Indeed, it should be clear to the agency that since NEPA is a procedural, rather than substantive statute, that bare promises to mitigate significant impacts along one pre-chosen route are no replacement for their analysis and disclosure in the EIS.

Vulcan's reliance on future, post-licensing actions creates many serious legal and factual problems in the administrative record for the agency. In our mind, these problems are unnecessary and unjustifiable in light of governing law on cumulative impacts and the alternatives analysis, and the agency should abandon any support for Vulcan's meritless position—support for which has never been disclosed to date, probably because it does not exist—on these issues.

Very truly yours,
THE GARDNER LAW FIRM
A Professional Corporation
/s/

David F. Barton

cc:
U.S. Congressman Henry Bonilla
Senator John Cornyn
Senator Kay Bailey Hutchison
Texas Agriculture Commissioner Susan Combs
Texas Senator Frank Madla
Texas Representative Tracy King
County Judge James Barden
County Commissioner, Pct. 1, Chris Mitchell
County Floodplain Administrator Pat Brawner
Texas Historical Commission Executive Director Larry Oaks

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EI-1802
R4

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December 16, 2005

VIA HAND DELIVERY

Ms. Victoria Rutson
Chief
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1925 K Street, N.W.
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Re: **STB Finance Docket No. 34284, Southwest Gulf Railroad Company – Construction and Operation Exemption – Medina County, TX**

Dear Ms. Rutson:

On November 4, 2005, the Medina County Environmental Action Association, Inc. (MCEAA) submitted a letter to your office accompanied by a DVD and a DVD-ROM concerning flash flooding in Central Texas. While the DVDs provide information about flash flooding in the Central Texas area, the MCEAA letter asserts that the construction of the Southwest Gulf Railroad (SGR) will somehow create or exacerbate such flooding. The MCEAA letter thus states repeatedly that, "Vulcan's quarry and rail line are the new developments that are failing to plan for flood impacts."

SGR has responded on numerous occasions to MCEAA's claims about flooding impacts. Suffice it to say that SGR is not unmindful of the concerns that have been raised or the discussion and analysis of flooding impacts set forth in the Draft EIS. Further, SGR has stated that it will accept the mitigation conditions proposed in the Draft EIS to address those concerns. That would of course include the voluntary mitigation incorporated into the Draft EIS which would obligate SGR to undertake extensive hydrological surveys prior to design and construction of its stream crossings.

At the risk of stating the obvious, SGR has no interest in building a rail line that will be susceptible to being destroyed or placed out of service by flooding. Dozens of rail lines currently traverse the same areas of Central Texas depicted in the video submitted by MCEAA. SGR is not aware of any claims made in the DVDs submitted by MCEAA, or elsewhere, that such rail lines contribute to flooding. This is the case even though virtually all of these existing rail lines were designed and

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constructed prior to the enactment of NEPA and thus without any environmental reviews or mitigation conditions of any kind. The various alternative alignments being considered for the SGR line, by contrast, will have undergone careful study of flooding and other impacts by SEA and its contractor prior to construction, and that line will be designed to minimize the risk of any adverse groundwater impacts. Moreover, SGR would be required by mitigation conditions that have been proposed to consult with FEMA and the Medina County Flood Administrator, and to obtain Corps of Engineers permits to the extent required.

SGR's planned construction of a rail line stands in sharp contrast to the actions of some housing developers who are apparently building homes in floodplains along rivers and streams prone to flooding, as shown in the video submitted by MCEAA. Some of those developers may be ignoring historical flooding patterns when building and selling homes, and then moving on to another project. SGR, on the other hand, is not building its line entirely in a floodplain (under any of the alignments under consideration, most of the line would be outside the 100 year floodplain). Also, SGR will be constructing bridges across the few streams in the area after studying hydrological impacts and taking these into account. In addition, SGR will continue to operate its line once it is built; as noted above, the incentive to avoid flooding impacts in the area is obviously strong.

It also bears note that the video submitted by MCEAA does not suggest that structures located in or near floodplains are the cause of flooding problems. The video also notably does not even mention railroad lines or bridges as a contributing factor to the flash floods. Rather, the flooding described in the video is the result of natural forces. The video makes clear that the flooding dates back to the 1800's and earlier, before there were any significant structures in the floodplains. Structures in the floodplain can of course be damaged by floods if they are not properly designed; but such structures were not the cause of the floods shown in the video.

The video also makes clear that structures can be safely constructed in areas that might flood, such as the building in Austin shown in the video that was properly designed to meet certain standards. The SGR line also will be designed to minimize flooding risks, consistent with FEMA requirements.

SGR would be pleased to respond to any other issues raised in the MCEAA November 4 letter should SEA request a response.

Respectfully,

David H. Coburn
Attorney for Southwest Gulf Railroad Company

cc: Ms. Rini Ghosh
Ms. Jaya Zyman-Ponebshek

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December 2, 2005

Ms. Rini Ghosh
Section of Environmental Analysis
Surface Transportation Board
ATTN: STB Finance Docket No. 34284
1925 K Street, NW
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VIA EMAIL
& Regular Mail

RE: STB Finance Docket No. 34284 -- Adequate analysis under NEPA for:

- (1) Vulcan Materials Company's planned Medina County stone quarry; and
- (2) Vulcan Materials Company subsidiary Southwest Gulf Railroad Company's proposed rail line to serve Medina County stone quarry.

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There are really only three points to be made in response to EI-1769, most of which we have already made in previous letters:

1. The semantics of whether the 1:1 cut ratio in the TRAX report should have been 0.5:1 ignores the fact that MCEAA is right about the bottom line of Vulcan's September 7, 2005 changes to the ratio: Wider benches result in higher cut and fill volume. There has been no basis shown for why the wider benches are suddenly required—only an allegation that they are

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Ms. Rini Ghosh
December 2, 2005
Page -2-

more "conservative." How can they be more "conservative" if narrower benches were feasible before?

2. In contrast to its haste to change the cut ratio used on its original alignments, Vulcan insists on preserving its original ruling grade of 1.0%. Unfortunately, this 1.0% limit presents the opposite situation from the cut ratio. Where the original cut ratio was a "floor" that was deemed sufficient, the ruling grade is an "upper limit" that has never been justified. Indeed, MCEAA has submitted evidence from past and present agency construction proceedings involving heavy haul freight, including loaded coal trains, to show that 1.0% is by no means an "upper limit."

Vulcan is trying to whipsaw the agency and any reviewing body by trying to turn a "floor" (the cut ratio) into an "upper limit" while utilizing its alleged "upper limit" (the ruling grade) that is really a "floor." The agency, with its expertise, should know the difference and make findings accordingly when it defines a common set of physical feasibility criteria for the alternative routes.

3. Finally, Vulcan again challenges the need to evaluate cumulative flood and groundwater impacts, among others, from the quarry and rail line in accordance with governing law. This is despite the fact that the agency has designated Vulcan's quarry, in the record, as a related action within the meaning of the cumulative impact regulation, 40 C.F.R. 1508.7. The agency has also recognized that quarry impacts will be at least cumulative with those of the rail line.

Vulcan's argument is simple and baseless: "Since this modeling and consultation is alignment-specific, this is work that can be undertaken only once a final alignment is chosen." This has never been the law, and with good reason. Anyone can see that this irrational position renders the alternatives analysis under NEPA a sham. Indeed, it should be clear to the agency that since NEPA is a procedural, rather than substantive statute, that bare promises to mitigate significant impacts along one pre-chosen route are no replacement for their analysis and disclosure in the EIS.

Vulcan's reliance on future, post-licensing actions creates many serious legal and factual problems in the administrative record for the agency. In our mind, these problems are

THE GARDNER LAW FIRM
A PROFESSIONAL CORPORATION

Ms. Rini Ghosh
December 2, 2005
Page -3-

unnecessary and unjustifiable in light of governing law on cumulative impacts and the alternatives analysis, and the agency should abandon any support for Vulcan's meritless position—support for which has never been disclosed to date, probably because it does not exist—on these issues.

Very truly yours,

THE GARDNER LAW FIRM
A Professional Corporation

David F. Barton

DFB:nf

- cc: U.S. Congressman Henry Bonilla
Senator John Cornyn
Senator Kay Bailey Hutchison
Texas Agriculture Commissioner Susan Combs
Texas Senator Frank Madla
Texas Representative Tracy King
County Judge James Barden
County Commissioner, Pct. 1, Chris Mitchell
County Floodplain Administrator Pat Brawner
Texas Historical Commission Executive Director Larry Oaks

#E1-1805
R24

TO: Members of the Surface Transportation Board
of the U. S. Department of Transportation
Section of Environmental Analysis

2.

Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

December 15, 2005

المستند رقم
12/17/05

Members of the Surface Transportation Board:

We wish to reaffirm that we support Vulcan Mining and Materials Company and their plans to develop an aggregate quarry in the northeast section of Medina County, Texas. To move their product seven miles from the proposed mining site to an established rail line, they need the Southwest Gulf Railroad (SGR) to build a new line through a rural area. We ask that you approve the construction of this railroad for the reasons cited below.

1. Transportation and Traffic Safety

Railroads have become a necessity to transport goods of every origin throughout our country. When compared to hauling aggregate by truck, the railroad will minimize the inconvenience to persons who live and travel in this area. Public safety is a legitimate issue of railroad crossings, but we trust the SGR will be required to install all appropriate and necessary warning signals. The Texas Department of Transportation (TexDOT) will offer expert planning for these crossings to ensure safety for those who travel the roadways nearby. Medina County citizens have experienced railroad crossings since 1861 and travel through them frequently. SGR crossings shouldn't cause any greater problems here than others throughout America.

2. Water Resources

Flooding and erosion can be concerns when a railroad is built, but the U. S. Army Corps of Engineers will address these issues and design construction plans and policies to prevent significant problems. Historical flooding in flood plains may continue regardless of whether there is a rail line or not. Protecting water resources is of great importance, so SGR will be made to comply with all local and federal guidelines to prevent negative impacts on groundwaters and the Edwards aquifer.

3.

The Vulcan Company has spent nearly five years conducting environmental studies and has proven its dedication and ability to work with the Surface Transportation Board while complying with the National Environmental Protection Act. They seek to address the mitigations listed in the Draft EIS. This company has remained a good neighbor to housing developments and their schools which were constructed in San Antonio and Helotes long after their mining sites were in full production. O'Connor High School and Clark High School chose locations on property which adjoins Vulcan industries, and a large youth baseball complex exists across the fence from one of its quarries. Realtors state that rural land in the Quihi and SGR area has increased in value despite negative predictions by those who oppose the quarry and the railroad.

For all the reasons stated above, we feel that no significant cumulative impacts would result from a seven mile rail line operating from a Vulcan quarry going south to the Union Pacific railway already in place. We also believe that the proposed quarry and the SGR project should not be united as a singular endeavor. It is unfair to predict that sufficient progress in the Quihi area will never occur and that other entities will never benefit from using the proposed rail line.

We commend you for your dedication and efforts during these many months of studying and assessing the environmental impact of the proposed SGR rail line and encourage this board to approve the Southwest Gulf Railroad project in Medina County. You proved at the public meeting in Hondo during December, 2004, that you were very thorough in addressing the many concerns of the community members. We believe that Vulcan Mining and Materials and the Southwest Gulf Railroad has spent the past year working diligently to overcome all mitigations stated in the Draft Environmental Impact Statement. We look forward to your next meeting in Hondo and appreciate the opportunity to express our points of view.

FROM: Glenn R. Schweers, Sr. Mary Jo Schweers
Glenn R. Schweers, Sr. Mary Jo Schweers

2602 Avenue K
Hondo, Texas 78861

3. Air Quality

We know the Texas Commission on Environmental Quality will demand that SGR comply with its requirements, causing less air contamination than the option of trucking these materials.

4. Land Use

Your board members can impose conditions to ensure landowners access to their land and enforce regulations which allow land bordering the rail line to continue to appear in its natural state.

5. Noise

Increased noise does result near railroads, but people continue to build homes, establish businesses, construct schools, etc. quite close to railroads across our country without severe negative noise impact on citizens. In our community many people live comfortably, and many retail owners manage profitable operations within one block of the Southern Pacific Railroad. We can hear train whistles throughout the day and night in Hondo, but they do not cause great anxiety nor awaken us repeatedly.

7. Vibration

It has been said railroad noises and vibrations will damage or destroy historical sites and water wells along the proposed route. Nowhere in Medina County have century-old structures near railroads suffered more severe damages than those buildings which exist many miles from a rail line. No one has proven that wells were harmed by vibrations in the area where a rail line was used long ago on land east of the proposed SGR rail route.

6. Cultural Resources

Homes and business operations within one to two blocks of Hondo's railroad tracks have existed for over a hundred years. None of them have been abandoned because of damage caused by vibrations from the railway. Architects who specialize in renovation of historical structures are presently assisting with plans to restore homes on either side of the proposed rail line with little concern that passing trains will damage or destroy them.

#E1-1808
R24

TO: Members of the Surface Transportation Board
of the U. S. Department of Transportation
Section of Environmental Analysis

Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

December 14, 2005

I have followed the efforts made by Vulcan Mining and Materials Company to develop a quarry near the community of Quihi in Medina County, Texas. To move crushed limestone from the mining site, Southwest Gulf Railroad (SGR) has proposed to build a seven-mile rail line to connect the quarry with the Union Pacific Railroad. I want your board to be aware that I am in favor of the Vulcan project and support construction of a railroad which will operate with a minimum negative effect on the environment and people living within this area. My interest in this project results from family ownership of three parcels of land near the quarry site and proposed rail line. Please consider the reasons for my support stated below.

1. Transportation / Traffic Safety - I trust the SGR will be required to install appropriate warnings, and believe that the Texas Department of Transportation (TexDOT) are experts in planning for complete safety for all persons who travel these routes. Medina County citizens and other travelers are accustomed to warning signals at railroad tracks since 1861 and are capable of observing and heeding such devices which precede railroad crossings. The crossings of SGR should not cause any greater problems than others throughout the United States. To transport the expected amount of material by truck would create many adverse impacts on traffic safety.

2. Water Resources - Flooding and erosion are concerns, but the U. S. Army Corps of Engineers and Vulcan engineers will address these possible problems by designing construction plans and policies to prevent significant impact. Historical flooding in identified flood plains could continue even if a quarry or a rail line does not exist there. Water resources are of great importance, so the quarry and SGR will be required to protect groundwaters and the Edwards aquifer by complying with all local and federal guidelines to prevent additional negative effects.

3. Air Quality - Vulcan has numerous quarry locations in Texas and throughout the United States. They are pledged to use all necessary techniques to prevent excess pollution of the air. I am confident the Texas Commission on Environmental Quality will demand that Vulcan and SGR comply with its requirements to reduce air contamination, ensuring a higher level of air quality than that which would result if the materials were moved by trucks.

4. Noise - Railroads have operated in Medina County for over one hundred forty years. Throughout this time homes, businesses, schools, etc. continue to locate quite close to railroads there and across America without significant adverse noise impact on the citizens. People living within one block of railroad tracks in Hondo continue to relax or carry on business during the day and rest well at night. Residents and visitors have become accustomed to noises from trains and do not avoid areas where train whistles are frequently heard.

5. Cultural Resources - Several old homes set along the proposed route for the railroad and are in poor condition. However, historical architects are presently assisting with plans to restore two of them with little concern that passing trains will damage or destroy them. Homes and business sites are located within one to two blocks of Hondo's railroad tracks and have existed for over a hundred years. None of them have been damaged because of impacts from the railway.

6. Vibration - There are many historical buildings over a hundred years old and numerous early wells in Medina County. They have existed within close range of busy railroads with no significant damages due to vibration. Monitoring rail design and construction along the proposed route would minimize vibration impact. Nowhere in Medina County have century-old structures near railroads suffered more severe damages than those buildings which exist many miles from a rail line. There have been no proven cases where rail vibration has resulted in harm or loss of water wells.

7. Land Use - This Board can impose conditions to ensure landowners access to their land and enforce regulations to continue the natural appearance of land bordering the rail line.

THOMAS C. WOOTEN
989 CR 342
HONDO, TX 78861

#E1-1810
RJB

December 15, 2005

received
1/3/06

Surface Transportation Board
Case Control Unit
Washington, D.C. 20423
Attn: Rini Ghosh
STB docket no. FD 34284

To Whom It May Concern:

I am writing you in support of the proposed Vulcan Materials quarry to be located in Medina County, Texas.

I am the President and C.E.O. of Community National Bank in Hondo and have been a Medina County resident for more than 19 years. My wife and I own a home just a few miles west of the proposed quarry site. I was a founding Director of the Medina Economic Development Foundation, and am a past member of the Hondo Airport Advisory Board, as well as past President and Director of both the Hondo Area Chamber of Commerce and Hondo Lions Club, among others.

In all my years as a leader of this community I have seldom, if ever, encountered an economic development opportunity as attractive as that which is represented by the proposed Vulcan Materials quarry. With a proposal to create as many as 150 new jobs, Vulcan may well become the largest private employer in Medina County. The enhancement of the tax base for the County and the local school district will bring much-needed funds to local budgets, not to mention ancillary improvements such as a rail line and the paving of several miles of County roads.

Further, I am convinced that Vulcan Materials has been and will continue to be a model corporate citizen. In my mind, the potential advantages of the proposed quarry to Medina County and its citizens and businesses far outweigh any possible inconveniences to surrounding landowners.

Therefore, I respectfully request that you give favorable consideration to Vulcan's application for a quarry in Medina County. Thank you.

Sincerely,

Thomas C. Wooten
Thomas C. Wooten

8. Cumulative Impacts - For the reasons stated above, I believe that no significant cumulative impacts would result from a seven-mile rail line operating from a quarry to the Union Pacific rail line in eastern Medina County.

I feel that the proposed quarry and the SGR project should not be viewed as a combined endeavor. It is unjust to predict that additional progress and growth in the Quihi area will never occur and that no other companies will ever benefit from using the proposed rail line.

The Vulcan Company has spent nearly five years conducting environmental studies. They have shown dedication and the ability to work with the Surface Transportation Board while complying with the National Environmental Protection Act. This company is addressing the mitigations listed in the Draft EIS. They and the railroads which presently serve them have proven to be good neighbors to housing developments and their schools which were constructed in San Antonio and Helotes long after Vulcan mining sites were in full production.

I appreciate your efforts during these months of studying the environmental impact of the proposed SGR rail line. Your Draft Environmental Impact Statement demonstrates that you were extremely thorough in addressing any and all concerns of the community involved. You are to be commended for your dedication, and I request that you offer support for the Southwest Gulf Railroad Company's proposed project in Medina County.

Sincerely,

Lisa J. Schweers

Lisa J. Schweers

8627 Berrywest Court
San Antonio, Texas 78240

#E1-1812
RJB



City of Hondo

1600 Avenue M * Hondo, Texas 78861 * 830-426-3378 * FAX 830-426-5189

December 27, 2005

received
1/4/06

Surface Transportation Board
Case Control Unit
Attention: Rini Ghosh
STB Docket Number FD34284
Washington, D.C.

Dear Ms. Ghosh:

The construction of the proposed quarry and a short line railroad by Vulcan Material Company in Northeast Medina County should have a very favorable impact upon the economies of both Medina County and the City of Hondo. As Mayor of the City of Hondo and Chairman and President of The Hondo National Bank, I am fully in support of the project. It seems that the benefits of the economic contributions greatly surpass the very questionable environmental concerns being raised by the opponents to the construction of the quarry.

It has been my pleasure to reside in Hondo for over twelve years, to be very active in the business community and to be involved heavily in the community's economic growth. In my recent dialogue with members of the business community I have heard only favorable comments about the construction of the quarry and the railroad. The impacts of around one hundred fifty jobs, a payroll of about one million dollars to the county and the ad valorem tax benefits to the county and the local schools all are very advantageous to the local economy.

It also seems to be a universal opinion that the installation of the railroad is both an environmental and economic benefit to the area versus the possibility of the hauling of the aggregate by truck which would be more harmful to our roads and to our air quality.

We urge you to complete the regulatory approval action on these proposals and allow Vulcan Materials to finalize the projects.

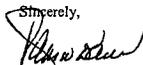
#E1-1817
R24

Page 2 of 2
December 27, 2005
Surface Transportation Board
Rini Ghosh

From Ray Jagge
To Surface Transportation Board Section of Environmental Analysis

January 4, 2006

Thank you for your consideration.

Sincerely,

James W. Danner
Mayor

JWD/yim

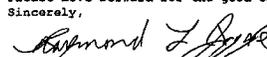
cc: Commissioner R.B. "Ralph" Marquez
Commissioner Larry R. Soward
State Representative Tracy O. King
U.S. States Representative Henry Bonilla
U.S. States Senator John Cornyn
U.S. States Senator Kay Bailey Hutchison
Texas State Senator Frank Madla
Medina County Judge James Barden
Medina County Commissioner Beverly Keller
Medina County Commissioner Chris Mitchell
Medina County Commissioner Arturo Barrientes
Medina County Commissioner Kelly Carroll
Hondo I.S.D. School Board President Wayne Stein

I have been in business for many years in Medina County and San Antonio, Texas. My family has lived in Medina County, and I am proud to call it home. We have fine people here, and we add more people all the time. However, we desperately need to expand our tax base.

I'm writing to encourage you to move forward with allowing Vulcan Materials to build a rail line from their quarry to Highway 90. Much of our county was settled along rail lines, providing transportation for people and materials. For many years the railroad was what made our county a viable place to live and do business. Another rail line such as the one Vulcan will build will help our county's economic growth.

Most people in our county do not mind this rail line. Business people and civic leaders are 100% for it. When I first heard of this project years ago, I was immediately convinced of its benefits. I still am. The people who have raised their voices to protest this rail line, are a vocal minority. They do not represent the rest of the county or even their neighbors. I have heard their concerns about the environment and can refute every one of them. The fact is that this rail line will be good for Medina County, and it will decrease the pollution involved in the quarry operation.

Please move forward for the good of my county.

Sincerely,

Ray Jagge

cc:
U.S. Senator John Cornyn
U.S. Senator Kay Bailey Hutchison
U.S. Congressman Henry Bonilla
State Senator Frank Madla
Representative Tracy O. King
Texas Commission on Environmental Quality
Texas Agriculture Commissioner Susan Combs
Texas Historical Commission
Judge Jim Barden
Commissioner Chris Mitchell
Commissioner Beverly Keller
Commissioner Arturo Barrientes
Commissioner Kelly Carroll
Wayne Stein
Pat Browner

#E1-1826
R24

#E1-1872
R24

Surface Transportation Board
Section of Environmental Analysis
Case Control Unit
Washington, D.C. 20423

December 16, 2005

To Whom It May Concern:

As chairman of the Medina County Historical Society, I feel a need to contact you regarding the analysis being conducted for Vulcan Materials' quarry and rail line. I first heard of the project years ago while I was mayor of Castroville and had several questions about it. Since then I have been involved in many meetings about the project and have performed hours of research.

I have found that Texas continues to lead the nation in fatalities involving 18-wheel trucks. At the same time our county is projected to be one of the fastest growing counties in the state. Those two facts combine to generate certain economic growth while jeopardizing safety in Medina County. To enable growth without that danger, I encourage the rail option that you are researching. With Vulcan's plans to start a quarry here, I understand the choices of transporting rock by truck or rail. I strongly encourage rail as the safer choice.

I also have listened to some people's concerns about historic structures and areas near possible rail routes. Like them, I want to make sure that this project does not destroy any or our historical values. I live in a home that is on the National Register and believe in preserving our past as a guide to the future. With many hours of research and thought behind me, I have not been convinced that this project will cause any disruptions to the historical integrity of those areas.

Overall, I see this project as a plus for the jobs it will bring, the spending it will create, and the growth it will provide for. The rail line will add to the value of nearby property and reduce the impact of the quarry on our homes, our lives, and our historic areas.

I and the other members of the Medina County Historical Commission would appreciate the opportunity to explain our thoughts and raise any concerns might exist.

Sincerely,


Bob Hancock
President Medina County Historical Society
1202 Gentilez Street
Castroville, Texas, 78009
830-931-9276

cc:
Texas Commission on Environmental Quality, Representative Tracy O. King, Wayne Stein, Commissioner Chris Mitchell, Commissioner Beverly Keller, Commissioner Arturo Barrientes, Commissioner Kelly Carroll, Judge Jim Barden, U.S. Congressman Henry Bonilla, U.S. Senator John Cornyn, U.S. Senator Kay Bailey Hutchison, State Senator Frank Madla, Texas Agriculture Commissioner Susan Combs, Pat Browner, Texas Historical Commission

The Medina County Environmental Action Association, Inc.
202 CR 450, HONDO, TX 78861
www.dontmesswithquihi.com

Phone 830-741-5040
Fax 830-426-2060

January 13, 2006

Ms. Rini Ghosh
Section of Environmental Analysis
Surface Transportation Board
ATTN: Finance Docket No. 34284
1925 K Street, NW
Washington, DC 20423-0001

Re: Finance Docket 34284
Proposed Vulcan Materials/Southwest Gulf Railroad Rail Line
Medina County, Texas

Dear Ms. Ghosh:

We have reviewed E1-1802, Vulcan's reply to an earlier submission of ours regarding flood hazards in the Quihi area.

In that letter, Vulcan disputes that its quarry and rail line will create and exacerbate flood hazards and are, as presently proposed, failing to plan for flood impacts through the National Environmental Policy Act (NEPA) process. As expressed in E1-1802 and E1-1769, Vulcan's current position is that flood modeling is "alignment specific" and therefore can only be done during the mitigation process. This of course, illegally renders the Surface Transportation Board's environmental review a rubber stamp on Vulcan's preferred alignment alternative, causing the agency to illegally abdicate review of the most relevant factors within its jurisdiction: design of the rail line and its structures, including bridges and embankments.

Having not seen from Vulcan any grounding in law or the facts of this case that would allow such delegation of the most relevant factors, we were pleasantly surprised to see a new tack in E1-1802.

[Vulcan] is not aware of any claims made in the DVDs submitted by MCEAA, or elsewhere, that such rail lines [with trestle bridges and embankments] contribute to flooding. This is the case even though virtually all of these existing rail lines were designed and constructed prior to the enactment of NEPA and thus without environmental reviews or mitigation conditions of any kind.

There are times when representatives of the applicant should stop speculating and stretching for arguments, because it just puts the agency further behind the eight-ball in the analysis of whether relevant factors have been ignored. This is one of those times.

As we have stated from the start, trestle bridges and rail embankments across floodplains are *per se* flood hazards in areas subject to flash flooding. The historical record is full of evidence of trestle bridges washing out and embankments and levees altering the course of floodplains. As we have noted, in January 2005, embankments and trestles were washed out in a flash flood along the Union Pacific's Caliente route in Nevada, which has been proposed to haul high-level nuclear waste to Yucca Mountain. Closer to home, a trestle bridge over Hondo Creek failed in flash flooding in 1997, after first backing water up Quihi, Elm, and Cherry Creeks. We could no doubt collect, from news reports and the agency's own files, overwhelming evidence of the *per se* flood hazard posed by building these structures in and around floodplains in flash flood prone areas.

Fortunately, there is a comprehensive historical study that concludes the same. A 1999 historical study of the Los Angeles River basin, a basin where flash flooding is essentially the exclusive class of hydrologic event, leaves no doubt of the role of railroad structures:

But nothing exacerbated the flood danger more than the railroads. The most serious problem caused by the three national lines built across Los Angeles County during the last three decades of the nineteenth century was their use of trestle bridges, which often obstructed the free flow of water in the rivers and streams. Such bridges were typically built upon wood piles driven at close intervals into riverbeds. The bridge supports were so close together that they frequently acted as dams during heavy storms, when rain-swollen streams carried large quantities of trees, brush, and other debris. If enough material accumulated behind the trestles, water was forced out of stream channels and over nearby lands. Sometimes, when the pressure upon the trestles became great enough, the bridges themselves gave way, unleashing a torrent of water and debris that endangered bridges, buildings, and human lives downstream.

Even railroad bridges that did not rely on trestles for support often impeded the free flow of storm waters. The Los Angeles and San Gabriel Valley Railroad bridge over the Los Angeles River, for example, was built so low to the ground that it would seem to have been designed by someone who had seen the river only in summer. It was clearly destined to fail. Railroads further heightened the flood danger by building their tracks across floodplains, thus confining waters that would have formerly spread unimpeded over a wide area. Such tracks were often built on artificial embankments several feet high. Where natural stream banks were low, these embankments, in effect, became set back levees and, by forcing the floodwaters into an area smaller than the river's natural floodplain, increased the depth, speed, and cutting power of flood flows. The purpose of levees built for flood protection is to keep water away from development, but these embankments sometimes enclosed already settled areas.

Gumprecht, The Los Angeles River: Its Life, Death, and Possible Rebirth 151-152 (Johns Hopkins 1999).

- 2 -

this time, the railroads built their trestle bridges and embankments. The results are in the historical record and the enclosed chapter from The Los Angeles River: Its Life, Death, and Possible Rebirth for everyone to see: *per se* cause of and contribution to flood hazards when constructed in flash flood areas. As the chapter explains, this was true even for structures constructed on tributary streams; the adverse impacts were by no means limited to the main river stems.

The "lessons learned" that should apply in this proceeding were literally recognized over a century ago. In this proceeding, there is no serious debate that the design of the rail structure is the most relevant factor in the analysis of direct impacts from the rail line. It is also a necessary component of any adequate cumulative impact analysis.

Vulcan is out of arguments. Their reliance on a post-licensing delegation of analysis from the agency is legally impermissible if the design of the rail line is a relevant factor in determining flood impacts that must be analyzed in the EIS. Obviously, design is a relevant factor. So the new tack has been to deny the obvious—that design is a relevant factor—by claiming that, because they have been used historically, trestle bridges and embankments couldn't cause flooding here because they allegedly didn't cause flooding elsewhere. But, surprise, they do cause flooding! And it has been recognized for over 100 years in flash flood prone areas.

Even a glance at MCEAA's scoping comments, where we present an output from a flood analysis model showing the clear alterations in the floodplain caused by five rail bridges in the Brownsville, Texas area, underscores this. Combined with the *per se* cause and contribution evidence from Los Angeles, it is clear once again that the entity speculating that historical lessons and evidence do not apply to this project is Vulcan, not MCEAA.

We commend the enclosed historical study to the agency. We have underlined the most relevant paragraphs and sections to assist the agency, but the whole chapter is well worth the read. It is our hope that this will give all of the agency's technical and environmental review staff a deeper understanding of the *per se* hazard posed by building rail trestle bridges and embankments in flash flood prone areas.

The "debate" over whether the design of the rail line is a relevant factor in an analysis of flood impacts is over. The evidence shows that it was settled before any of us were even born. Because design is *the* relevant factor, a comparison of modeled flood impacts among the alternative design alignments is required before a license may be issued. Runoff impacts from the quarry must be input to produce an adequate cumulative impact analysis. Because the quarry's contribution is highly relevant in determining the preferred alignment design, and because it is allegedly certain to occur, it should be assumed as part of a baseline scenario in the impact analysis for the alignments.

Finally, we decline to address Vulcan's repeated attempts to save its argument that delegation through mitigation is a sufficient substitute for disclosure in the environmental impact statement and comparison of alternatives, because it has no legal basis. We do reiterate, however, that it is the position of the agency and Vulcan that no other agency or unit of government's laws, regulations, or standards—procedural or substantive—will be enforceable besides those STB chooses to require compliance with in the license. This is interesting because attempting to convert NEPA from a procedural to a substantive statute in the manner proposed by Vulcan begs the

- 4 -

Trestle bridges . . . often acted as dams during heavy storms, when stream-carried debris backed up behind bridge supports.

Railroad embankments, such as this one built across the river floodplain . . . confined floodwaters into a smaller area, which increased the intensity of flood flows and heightened their destructive power.

Id. at 152.

The sequence of events in the [January 1886] flood demonstrated the effect of railroad development on flood risk.

Id. at 159.

Once again [in 1889], storm-induced damage to the railroad bridges precipitated destruction and contributed to flooding farther downstream.

Id. at 162.

More than ever before [in February 1914] the railroads were a factor in the flooding . . . The Los Angeles River was crossed in sixteen places by railroad bridges, many of them trestle bridges, which slowed and sometimes blocked debris-laden flood flows. After the flood, county flood control officials received "a large number" of letters from residents critical of the railroads for their continued use of trestle bridges. Within days of the flood, furthermore, the Los Angeles County Board of Supervisors passed a resolution calling on the railroads to replace their pile bridges with more permanent span structures that would allow stream flows to pass more freely. Railroad representatives expressed a willingness to cooperate.

Id. at 170.

The above excerpts from The Los Angeles River: Its Life, Death, and Possible Rebirth are just a preview of the irrefutable historical evidence that the study presents. We have enclosed the entire chapter pertaining to flooding for the agency's review and inclusion in the record.

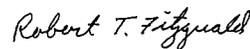
As the introductory pages to the chapter make clear, the common denominators here are 1) flash flooding as the dominant if not exclusive means of significant runoff; 2) significant underground flow and hydrologic connections between groundwater and surface water; 3) shallow stream channels often filled with debris washed down from higher elevations; 4) surrounding agricultural lands that absorbed overland flow and frequent out-of-channel flow; 5) significant groundwater withdrawals for consumptive use and irrigation in the basin; 6) high flood frequency as historically documented by local residents. The hydrologic conditions in pre-railroad Los Angeles had much in common with those currently existing in Quihi basin.

As the railroads arrived in Los Angeles, settlement boomed and agrarian land use in and around the floodplain became crowded out in the late 19th century and early 20th century. During

- 3 -

question of where STB will derive its mitigation standards from. Are they strictly procedural, or, if they include substantive mitigation targets, are there situations where more substantive mitigation is required? We know that your argument cannot be that delegation of analysis is always permitted, because that position is probably worthy of sanction. So, is the ultimate substantive mitigation standard that would allegedly justify the delegation of procedural analysis from the agency to the applicant a "no impact" standard, a "no significant impact" standard, a less stringent standard, or no standard at all? Given the potential for arbitrary and capricious action between fact patterns and cases, perhaps the agency can understand why this is not a question that NEPA leaves to its discretion.

Sincerely,



Dr. Robert T. Fitzgerald, President
MCEAA, Inc.

Enclosure:
Gumprecht, Blake, The Los Angeles River: Its Life, Death, and Possible Rebirth 131-171 (Johns Hopkins 1999).

cc:

U.S. Congressman Henry Bonilla
County Judge James Barden
County Commissioner, Pct. 1, Chris Mitchell
County Floodplain Administrator Pat Brawner
Texas Historical Commission Executive Director Larry Oaks

MCEAA, Inc. for your Home, Health, and Heritage



Fig. 4.13. The Los Angeles River, looking east from the bridge at the Los Angeles Harbor. The crowd of people gathered on the bridge to watch the flood. The bridge is the Harbor Freeway.

When this was the case, the Los Angeles River was a major source of water for the city. The river was a major source of water for the city. The river was a major source of water for the city.

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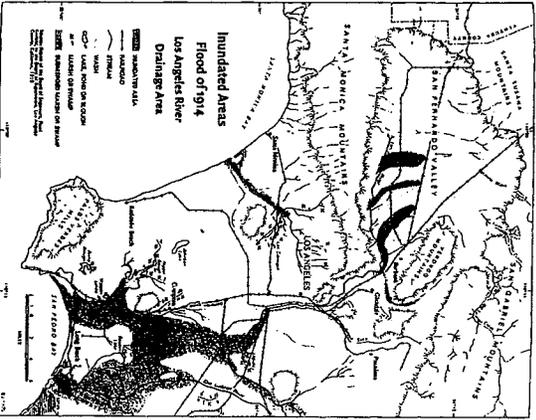


Fig. 4.14. Inundated areas in the Los Angeles County were inundated during the flood of 1914. This map is based on a 1915 map, published by the County Flood Control Board, which was more precise in its delineation of the flooded areas than earlier maps produced for that flood. As a result, the map would tend to show a larger area of inundation than the graphic dimensions of the flood. Map by the author.

When this was the case, the Los Angeles River was a major source of water for the city. The river was a major source of water for the city. The river was a major source of water for the city.

#E1-1898
R29

#E1-1899
R29

FD 34284

FD 34284

no covered
1/30/06

no covered
1/30/06

January 17, 2006
Rini Ghosh
Surface Transportation Board
Section of Environmental Analysis
Case Control Unit
Washington, D.C. 20423

January 17, 2006
Rini Ghosh
Surface Transportation Board
Section of Environmental Analysis
Case Control Unit
Washington, D.C. 20423

Dear Ms. Ghosh,

Dear Ms. Ghosh,

I am writing in support of the construction and operation of the rail line in Medina County, Texas, that would connect the proposed Vulcan Materials quarry and the Union Pacific Railroad, near Dunlay.

I am writing in support of allowing the rail line in Medina County, Texas, proposed by Vulcan Materials quarry needed to transport rock to the Union Pacific Railroad, near Dunlay.

The quarry project will bring much needed economic growth to the County. It is important that this project move forward in the safest manner possible. The two modes of transporting quarry rock are by truck or rail. It seems obvious that rail transportation would be the safest option.

Vulcan would prefer to transport the rock by rail rather than truck. I fully support that choice, since it is obviously the safest means for the residents of the County, as well the environment.

The company and their employees have been both generous and active in the local community. I believe that Vulcan deeply cares about the residents of the County and is committed to the safety of the quarry operations as a top priority. In order for Vulcan to live up to their promise of safety, the rail line must be approved.

The benefits of the Vulcan quarry to the community are enormous. The prosperity through jobs and economic growth and community support is needed in this County. There commitment to being a good neighbor is already evident and has been growing since the project began a few years ago.

I look forward to Vulcan's continued presence in our community.

I fully support the rail line and believe that it will add value to the County, while reducing the impact of this project on the nearby residents.

Sincerely,
Clovis M. Boehme
Clovis M. Boehme

Sincerely,
John T. Boehme
John T. Boehme

#E1-1925
R24

Rini Ghosh
Surface Transportation Board
Washington, D.C. 20423

FD 34284
received 2/24/06

February 7, 2006

As a resident and business person of Medina County, I support Vulcan Materials' effort to start a quarry and rail line near Quihi. The project will provide tremendous economic benefits to our county while having insignificant impact on our environment and safety. Please move forward on the necessary approvals for this project to allow Vulcan Materials to begin operations as soon as a possible. We look forward to your reply.

Sincerely,

Tim Hardt
James Toney
Joey Decker
James Toney
Bob Eitze

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RICHARD EITZE
JULIE EITZE

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Email: joseph.decker@holti.com

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JAMES TONNE, JR.
Owner

#E1-1926
R24

Surface Transportation Board
Section of Environmental Analysis
Case Central Unit
Washington, D.C. 20423
Feb. 19, 2006

FD 34284
received 3/1/06

To Whom It May Concern:

The purpose of my letter is to retract my letter dated December 16, 2005. My letter of Dec. 16, 2005, reflected only my personal views and not those of the Medina County Historical Commission. The Medina County Historical Commission passed a resolution stating that the commission would remain neutral on the Vulcan Project and that remains our official position on the subject.

Regards,

Bob Hancock
Bob Hancock

Medina County Historical Commission Chairman

cc:

Texas Commission on Environmental Quality, Representative Tracy O. King, Wayne Stein, Commissioner Chris Mitchell, Commissioner Beverly Keller, Commissioner Arturo Barrientes, Commissioner Kelly Carrol, Judge Jim Barden, U.S. Congressman Henry Bonilla, U.S. Senator John Cornyn, U.S. Senator Kay Bailey Hutchinson, State Senator Frank Madla, Texas Agriculture Commissioner Susan Combs, Pat Browner, Texas Historical Commission

- Post Office Box 93
- Hondo, TX 78861
- (830) 741-4041

Quihi & New Fountain Historical Society

March 1, 2006

Ms. Rini Ghosh
Section on Environmental Analysis
Surface Transportation Board
1925 K Street NW
Washington, D. C. 20423

received
3/1/06

Re: Finance Docket 34284
Vulcan Materials/Southwest Gulf Railroad
Proposed Quarry and Rail Project
Medina County, Texas

Dear Ms. Ghosh:

It has come to the attention of the Quihi & New Fountain Historical Society (Q&NFHS) that Mr. Robert Hancock, chairman of the Medina County Historical Commission (MCHC), has sent to the Surface Transportation Board two letters, one dated December 16, 2005, and another dated February 19, 2006. Copies of both letters are enclosed.

In the December 16, 2005, letter, Mr Hancock states that he does not believe that the proposed Vulcan project will affect the historic features of Quihi. Additionally, we are told by some angry members of MCHC that this letter, which Mr. Hancock sent to STB and to other persons and agencies, was sent without the knowledge or approval of any of the members of the board. However, the letter implies that they were participants in its' writing.

We are outraged that Mr. Hancock has taken this position on this very serious threat to historic Quihi. He is a resident of Castroville (one of four of the Castro Colonies established in the 1840's), and has been very supportive of his hometown's historical preservation through the Castro Colonies Heritage Association. Yet he ignores Quihi, a Castro Colony, and refuses to support Quihi at this critical time. Indeed, in February 2006, Quihi was placed on the list of Texas' most endangered historic places by Preservation Texas, Inc., because of the threat of the Vulcan project.

When asked by the rest of MCHC to write a letter of retraction, Mr. Hancock wrote the second letter dated January 16, 2006, in which he stated "that the commission would remain neutral on the Vulcan Project and that remains our official position on the subject." The MCHC has already taken a position in this proceeding (See enclosed copy of STB EI-250, Resolution dated July 17, 2003), and it is not 'neutral'. Much to the chagrin of some of the board, he sent this second letter without having first shown it to the rest of the MCHC.

To state that the commission will 'remain neutral' in the face of Vulcan's threat to the historic and archaeological preservation of Quihi is ludicrous. The purpose for the very existence of the county commission is historic preservation. As stated by Texas Local Government Code Chapter 318, the MCHC has the task of preserving the historic and archeological features in the county. Therefore, it cannot be 'neutral' in these matters.

#E1-1928
R24

Mr. Hancock has personal reasons for his bias. It is common knowledge that Mr. Hancock and at least one of the landowners of the proposed Vulcan quarry site (Mr. Glenn Schweers) are longtime friends.

We regret that we must send copies of this letter to the extensive list of persons noted at the end of this letter. However, since Mr. Hancock chose to send copies of his letters to so many persons, we feel that it is necessary for those same persons, and other involved persons, to know the truth.

We ask the STB and others to disregard the two letters submitted by Mr. Hancock, as he is biased in favor of the proposed Vulcan project. We thank you for your attention to this matter, and, as designated party to the proceedings, we ask that you place this letter and its enclosures with the official record of Finance Docket 34284.

Respectfully,

The Quihi & New Fountain Historical Society:

Nacey Schulte
Nacey Schulte, President
Velda Jarrell
Velda Jarrell, Vice-President
Nehette Portenier
Nehette Portenier, Secretary
Cynthia Lindsey
Cynthia Lindsey, Treasurer
Joe Balzer
Joe Balzer, Director
Archie Gerdes
Archie Gerdes, Director

Encl.
Cc: Texas Commission on Environmental Quality
Representative Tracy O. King
Wayne Stein
Commissioners of Medina County:
Chris Mitchell, Beverly Keller, Arturo Barricentos, Kelly Carroll
Jim Barden, Judge, Medina County
U.S. Congressman Henry Bonilla
U.S. Senator John Cornyn
U.S. Senator Kay Bailey Hutchinson
Texas Senator Frank Madla
Texas Agriculture Commissioner Susan Combs
Medina County FEMA Floodplain Administrator Pat Brawner
Larry Oaks, Executive Director, Texas Historical Commission
Juliannc Fletcher, Preservation Texas, Inc.
Members of the Medina County Historical Commission:
Robert & Priscilla Hancock, John & Margaret Bergman, Charles & Janet Rothe,
Jonell Weimers Taylor, Bob & Joyce Bendele, Karen Muennink,
Laura Maney, J. A. Rios, Dr. Thomas & Lynda Hester.

Surface Transportation Board
Section of Environmental Analysis
Case Central Unit
Washington, D.C. 20423
Feb. 19, 2006

To Whom It May Concern:

The purpose of my letter is to retract my letter dated December 16, 2005. My letter of Dec. 16, 2005, reflected only my personal views and not those of the Medina County Historical Commission. The Medina County Historical Commission passed a resolution stating that the commission would remain neutral on the Vulcan Project and that remains our official position on the subject.

Regards,

Bob Hancock
Bob Hancock
Medina County Historical Commission Chairman

cc:
Texas Commission on Environmental Quality, Representative Tracy O. King, Wayne Stein, Commissioner Chris Mitchell, Commissioner Beverly Keller, Commissioner Arturo Barricentos, Commissioner Kelly Carroll, Judge Jim Barden, U.S. Congressman Henry Bonilla, U.S. Senator John Cornyn, U.S. Senator Kay Bailey Hutchinson, State Senator Frank Madla, Texas Agriculture Commissioner Susan Combs, Pat Browner, Texas Historical Commission

#E1-1226
RSL

250

#E1-
RSL

Surface Transportation Board
Section of Environmental Analysis
Case Central Unit
Washington, D.C. 20423

December 16, 2005

To Whom It May Concern:

As chairman of the Medina County Historical Society, I feel a need to contact you regarding the analysis being conducted for Vulcan Materials' quarry and rail line. I first heard of the project years ago while I was mayor of Castroville and had several questions about it. Since then I have been involved in many meetings about the project and have performed hours of research.

I have found that Texas continues to lead the nation in fatalities involving 18-wheel trucks. At the same time our county is projected to be one of the fastest growing counties in the state. Those two facts combine to generate certain economic growth while jeopardizing safety in Medina County. To enable growth without that danger, I encourage the rail option that you are researching. With Vulcan's plans to start a quarry here, I understand the choice of transporting rock by truck or rail. I strongly encourage rail as the safer choice.

I also have listened to some people's concerns about historic structures and areas near possible rail routes. Like them, I want to make sure that this project does not destroy any of our historical values. I live in a home that is on the National Register and believe in preserving our past as a guide to the future. With many hours of research and thought behind me, I have not been convinced that this project will cause any disruptions to the historical integrity of those areas.

Overall, I see this project as a plus for the jobs it will bring, the spending it will create, and the growth it will provide for. The rail line will add to the value of nearby property and reduce the impact of the quarry on our homes, our lives, and our historic areas.

I and the other members of the Medina County Historical Commission would appreciate the opportunity to explain our thoughts and raise any concerns might exist.

Sincerely,

Bob Hancock
Bob Hancock
President Medina County Historical Society
1202 Canfield Street
Castroville, Texas, 78009
630-831-8278

cc:
Texas Commission on Environmental Quality, Representative Tracy O. King, Wayne Stein, Commissioner Chris Mitchell, Commissioner Beverly Keller, Commissioner Arturo Barricentos, Commissioner Kelly Carroll, Judge Jim Barden, U.S. Congressman Henry Bonilla, U.S. Senator John Cornyn, U.S. Senator Kay Bailey Hutchinson, State Senator Frank Madla, Texas Agriculture Commissioner Susan Combs, Pat Browner, Texas Historical Commission



MEDINA COUNTY HISTORICAL COMMISSION
MEDINA COUNTY COURTHOUSE
HONDO, TEXAS 78661

July 21, 2003

Rini Ghosh
Attorney Advisor
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N. W. Suite 500
Washington, D.C. 20423-0001
Attn: FD 34284

To Whom It May Concern:

Please find the enclosed Resolution from the Medina County Historical Commission regarding the proposed railroad and quarrying plans of Vulcan Materials Company.

Feel free to contact me if you have any question or need any further information.

Regards,

Robert N. Hancock
Robert N. Hancock, Chairman
Medina County Historical Commission

cc: Vulcan Materials Co.



MEDINA COUNTY HISTORICAL COMMISSION
MEDINA COUNTY COURTHOUSE
MCNDO, TEXAS 78661

RESOLUTION NO. 2

A RESOLUTION OF MEDINA COUNTY HISTORICAL COMMISSION URGING VULCAN MATERIALS TO CONSIDER PROTECTING THE HISTORIC RESOURCES OF THE QUILBI AREA IN THE CONSTRUCTION OF A PROPOSED RAILROAD AS IT RELATES TO ITS PROPOSED QUARRYING ACTIVITIES IN THAT PART OF MEDINA COUNTY.

WHEREAS, the Medina County Historical Commission has a continuing commitment to the preservation, study, and recognition of the county's cultural heritage;

WHEREAS, the Commission is aware of the plans of Vulcan Materials to construct a railroad through the Quilbi area related to its proposed quarrying activities in that part of Medina County; and

WHEREAS, Quilbi is a highly important historic area of Medina County, representing a settlement established in 1846, and is marked by the presence of numerous homes and buildings of that period; and

WHEREAS, there are also important prehistoric archeological sites, as old as 10,000 years, in the area; and

WHEREAS, the Commission urges the Surface Transportation Board to use all proper review procedures during its consideration of the Vulcan applications for its railways and proposed alternative routes.

WHEREAS, this will involve detailed consultation with the Texas Historical Commission, charged with the implementation of Section 106 regulations related to cultural resources.

WHEREAS, the Commission will monitor the process and will receive the comments of concerned citizens of the Quilbi area during all phases of cultural resource studies related to this project.

NOW THEREFORE, BE IT RESOLVED BY THE MEDINA COUNTY HISTORICAL COMMISSION:

Section 1. That the Directors of the Commission urge the Vulcan Materials Company to consider preserving the historic resources in the Quilbi area of Medina County, Texas while planning the construction of the railroad for their proposed quarrying activities.

PASSED AND APPROVED this the 17th day of July, 2003.


ROBERT N. HANCOCK, Chairman
Medina County Historical Commission