Appendix A

Section 106 Process
Appendix A-1

Historic Resources under 1000 ft.
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Notes:
Resource #s are those used in the Rural Historic Landscape Study.
List includes all historic resources determined eligible or potentially eligible for the National Register of Historic Places.
Appendix A-2

Section 106 Related Correspondence

( Incoming and Outgoing)
# Appendix A-2

## Section 106 Process Related Correspondence

### Table of Contents

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**EI-Environmental Incoming**
**EO-Environmental Outgoing**
January 16, 2007

F. Lawrence Oaks
State Historic Preservation Officer
Texas Historical Commission
1511 Colorado
Austin, TX 78711

Re: Southwest Gulf Railroad Company, Medina County, TX
Project Review Under Section 106 of the National Historic Preservation Act of 1966

Dear Mr. Oaks:

Thank you for meeting with me, Tom Rausdell and Clay Upchurch on January 11 to discuss the Southwest Gulf Railroad ("SGR") matter. I thought that it would be useful to reiterate in writing the terms of the proposed agreement that SGR raised for your consideration, and appropriate to copy on this letter the STP's Section of Environmental Analysis ("SEA"), Advisory Council on Historic Preservation and each of the Section 106 consulting parties for their information. SGR fully appreciates the THC's interest in supporting alignments for the SGR rail route that avoid, minimize or mitigate impacts to cultural resources, and particularly to the Quihi Rural Historic District ("District"), as it has been defined by the Rural Historic Landscape Study submitted with the Supplemental Draft EIS. In that regard, SGR understands the THC's support for the Eastern routes that are addressed in the Supplemental Draft EIS. SGR also understands that the THC will timely offer its views on those routes to the SEA.

SGR hopes, however, that the THC also will give consideration to the proposal that SGR has made for additional mitigation with respect to the Proposed Route. That proposal is designed to build on the natural advantages of the Proposed Route by mitigating its impact on cultural resources. The benefits of the Proposed Route include: (1) a shorter length (essentially a straight line) and, related to that, a smaller footprint in the area than any of the Eastern routes under consideration; (2) likely fewer impacts to irrigated farm land than the Eastern alternative routes; (3) less cut and fill than any of the Eastern routes and therefore less disturbance to the area in general; (4) an alignment that traverses as much as possible along property boundaries and thus that is generally less intrusive than the Eastern alternatives to agricultural and other land uses for the property being traversed; (5) mostly level affected properties not owned by SGR or affiliates; (6) fewer impacts to biological habitats than any of the Eastern routes and (7) lower construction costs and operating costs, as well as lower air emissions.

SGR notes that the no-action proposal—which would contemplate a substantial volume of truck transport between the quarry site and a rail loading area that would be constructed near U.S. 90—also remains an option for Vulcan. In SGR's view, the economics favoring rail transportation along the Proposed Route over truck transportation are significant, but diminish meaningfully to the extent that a longer rail route such as any of the Eastern routes would be the only permitted options available. Thus, Vulcan could decide that it would have no choice but to consider truck transportation, at least for some period of time in that circumstance. In that event, routing of dozens of trucks through the District unfortunately would be unavoidable, and in SGR's view the impacts of such traffic would be much greater than the impact of two trains/day running through the area in each direction.

Of course, SGR recognizes that the Proposed Route also traverses the District. Even though it avoids the area of highest concentration of historic structures in that District (which is located in the southwest portion of the District), the Route would unavoidably have some impacts to the area. To specifically address the issues raised by that situation, and mitigate the impacts to the greatest degree possible, SGR has developed the following proposal for your consideration and the consideration of the Board's Section of Environmental Analysis:

1. SGR would offer a conservation easement on the property that it and/or its affiliates own in the Historic District proximate to the rail line. The easement would be designed so that THC would be in a position to control development on the property subject to the easement. The easement would be in place for a distance of at least approximately 1.5 miles, constituting almost half of the length of the portion of the Proposed Route traversing the District. Further, SGR would not oppose (and in fact would encourage) other landowners in the boundaries of the District from which it would need to acquire its right of way to establish similar conservation easements under which THC could exercise authority to control development within the District.

2. During the final engineering phase, SGR would adjust the alignment of the Proposed Route pursuant to the process that would be spelled out in a Programmatic Agreement to entirely avoid any direct impacts to specific contributing elements in the District, including the stone wall and any other structures identified in the Landscape Study. SGR would work closely with its own cultural resources consultant and consult with THC in doing so. In this regard, SGR is prepared to adjust the alignment of the Proposed Route so that it would follow a portion of Alternative 3 to avoid the stone wall and also traverse along a portion of a pipeline right of way already in the District.

3. By virtue of the construction cost savings that it would achieve were it able to construct the Proposed Route as opposed to any one of the Eastern alternatives, SGR would be in a position to provide a substantial contribution to the Texas Preservation Trust Fund for THC's discretionary use in supporting grants and loans designed to encourage preservation, rehabilitation, restoration or similar goals within the District. I have further discussed this contribution with my client and have been advised that the contribution would be in an amount of $500,000. Further, SGR is prepared to work...
with you and your staff to structure this contribution in a manner such that the amount of the contribution might be eligible, to the extent possible, for possible matching by government funds, or otherwise might prove as beneficial as possible to the advancement of the THC's goals in the area.

4. Vulcan and SGR would support the adoption of any local historic preservation ordinance that might be designed to preserve the historic integrity of the District and the listing of the District on the National Register. SGR would also be prepared to maintain natural vegetation in the area of the Proposed Route to mask the rail line to the greatest degree possible.

In regard to this last element of the proposal and the project generally, it bears note that SGR proposes only to construct a single track line that will not be visible unless one is very close to the line. In addition, as we discussed, the proposed line will be a very light density line, with only a very small number of trains (projected at two in each direction) operating over it daily. It also bears note that SGR believes that the portion of the line that would be most attractive to other shippers and thus the portion of the line potentially most likely to see additional traffic would be at the far south end of the line, in the area proximate to U.S. 90 and the proposed connection with the Del Rio subdivision of the Union Pacific. This area is almost two miles south of the southern boundary of the District. In this area, all of the alternatives under review, including the Eastern route alternatives, follow essentially the same routing.

SGR hopes that you will give further due consideration to these proposals and trust that you will agree that if this mitigation were provided, the benefits of building the line along the proposed route could be achieved. SGR looks forward to your views and to working with you and other interested parties to achieve a mutually satisfactory result in this matter.

Respectfully,

David H. Coburn
Attorney for Southwest Gulf Railroad

cc: Ms. Victoria Ratum, SEA
Ms. Rini Ghosh, SEA
Donald Kline, ACHP
Honorable Ciro Rodriguez
Mr. Robert Hancock, Medina County Historical Commission
Mr. Jim Anserberry, Comanche Nation
Mr. Archie Gerdes
Osalia Goosby, Kiowa Tribe of Oklahoma
Robert Fitzgerald, MD, MCEAA
Holly Houghton, Mescalero Apache Tribe
January 19, 2007

Ms. Kini Ghosh
Surface Transportation Board
Case Control Unit
Washington, DC 20403
STB Finance Docket No. 34284

Re: Project review under Section 106 of the National Historic Preservation Act of 1966, Review of Supplemental Draft Environmental Impact Statement, Southwest Gulf Railroad, STB Finance Docket No. 34284, Construction and Operation Exemption, Medina County, Texas (STB)

Dear Ms. Ghosh:

This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

Our staff has reviewed the Supplemental Draft Environmental Impact Statement (SDEIS). We greatly appreciate the Surface Transportation Board's cooperation in undertaking the rural historic landscape study and the careful consideration of alternative routes to potentially lessen the impact on historic resources. In addition to the study's importance for this project, we believe it provides crucial information for future planning in the community and within the region.

Our agency agrees with the findings and conclusions of the SDEIS. We strongly support the utilization of either of the environmentally preferred eastern routes. Both the Eastern Bypass Route and the MCEAA Medina Dam Alternative significantly lessen the impact of this project on critical historic resources. Both alternatives appear to meet the requirements of the National Historic Preservation Act to avoid or minimize adverse effects to historic properties.

We do offer one caveat regarding the environmentally preferred routes. We hope that the Surface Transportation Board will select whichever of these two routes that will result in the least division of current agricultural lands. We also believe that there may be an opportunity for slight adjustments or realignments to either of these routes to reduce the impacts on farmland operations. We pledge to work with the Surface Transportation Board to make either of these eastern alternative routes as functional as possible for the railroad and the landowners while still protecting the important historic resources of the eligible Upper Qu'Appelle Rural Historic District.

Again we appreciate your agency's efforts in the completion of this SDEIS and compliance with federal laws.

Yours truly,

F. Lawrence Oaks, State Historic Preservation Officer

cc: John Nau, III, Chair, Texas Historical Commission
    John Fowler, Advisory Council on Historic Preservation
    Albert Hassler, Texas Historical Commission
    David H. Coburn, Stuebe & Johnson, LLP
March 28, 2007

Victoria Rutson  
Section of Environmental Analysis, Chief  
U.S. Surface Transportation Board  
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VIA E- FILING

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VIA FAX (512) 475-4872  
AND REGULAR MAIL

Dear Agency Consulting Parties:

Re: U.S. Surface Transportation Board Finance Docket No. 34384  
Southwest Gulf Railroad – Construction and Operation – Medina County, TX  
NHPA Section 106 Consultation

Thank you all for your participation in and contribution to the consultation meeting this past Monday in San Antonio.

This letter will serve to restate and amplify the position of our client, the Medina County Environmental Action Association (MCEAA), with respect to the applicant’s mitigation proposal for the proposed route, which is the subject of the ongoing consultation.

Signed:

[Signature]

[Position]

[Name]
Delay and "Support"

At the outset, MCEAA must address the baseless charge of intent to delay that was leveled against it at the meeting.

It should be very clear to each of you that a situation that is least objectionable to all of the non-agency consulting parties except the applicant and perhaps the Weiblen\(^1\) already exists, outside of this reinitiated consultation process. That situation, of course, is the fact that Vulcan/SGR already has all of the state permits to open its quarry and has two eastern rail routes, one of which it proposed itself, that are deemed environmentally preferable in the Supplemental Draft Environmental Impact Statement (SDEIS) and are likely to be licensed by the STB. Vulcan/SGR could open a rail served quarry in a matter of months under that scenario, yet it refuses.

Further, since the quarry was proposed in 1999, Vulcan has had over seven years to obtain the state permits for that facility, and now, after applying in 2005, has them. It now also has a settlement agreement with MCEAA whereby MCEAA will not object to permitting actions necessary for the quarry to begin operations.\(^2\) Yet the quarry has not begun operations, even though Vulcan argues that it could under the no action alternative

So Vulcan clearly has no intention of opening the quarry without a rail license. Yet when confronted with the opportunity to proceed with an eastern route they suggested themselves, Vulcan/SGR instead chose this process, in order to push for, as they termed it at Monday’s meeting, "their route."

All resulting delay is thus a consequence of Vulcan/SGR’s selection to push for their Proposed Route, as it has been throughout the NEPA process (resulting in the SDEIS when Vulcan failed to present accurate information about eastern alternatives) and is now in the NHPA process.

The reason there is no intervening cause of delay—such as MCEAA’s suggestions that more design information is necessary to enable full disclosure of impacts and a genuine comparison between alternatives—is that, from the perspective of the majority of the non-agency consulting parties, the facts on the ground are not going to change.

As my law clerk stated quite clearly when responding to Mr. Coburn, we are at a point in the process where, from our perspective, we are trying to bridge the gap between information and guarantee.

\(^1\) Though, as made clear at the meeting, the Weiblen concerns can be resolved.
\(^2\) The rail license is specifically excepted from the agreement, in part because Vulcan/SGR vigorously maintains that the quarry and rail line are not connected actions under the National Environmental Policy Act.

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The issue is twofold: First, because the information is not adequate in its own right to result in a guarantee, MCEAA and the majority of non-agency consulting parties allied with it are going to apply the mitigation hierarchy of avoid, minimize, and mitigate and insist on avoidance given the existence of two eastern alternatives that have been deemed environmentally preferable in the SDEIS.\(^2\) MCEAA and the allied consulting parties will essentially apply the precautionary principle.

I brought this out in the meeting when I stated that MCEAA does not support any alternative for any rail line. The eastern alternatives are as good as it is going to get, and MCEAA recognizes that, which is why it concurred with the SDEIS finding that the two eastern routes were environmentally preferable. But it is a fact of life that residents opposed to the general idea of this project are not going to “support” any one route; rather, they will apply a precautionary principle and object least to the routes that are less impacting. In the end, there will never be “support,” but both this firm and MCEAA recognize that there is a difference between political objection and grounds for litigation, and if the mitigation hierarchy is followed, the likelihood of the latter is significantly reduced if not eliminated.

Second, and closely related to this idea of “support,” is the idea now being pushed by Vulcan/SGR in the reinitiated consultation that some guarantees can substitute for information and result in support. This is what Vulcan/SGR is selling the agencies, most specifically the Advisory Council (AChP) and the Texas Historic Commission (THC). What MCEAA and the majority of non-agency consulting parties said at the meeting on Monday was first, “What standard are these tradeoffs being made under?” and second, “We aren’t buying, because we’ve already got a better deal.” Thus, while it may have been frustrating to THC and AChP that MCEAA did not come out and express “support” for one route over another, even if it was not the Vulcan/SGR Proposed Route, from MCEAA’s perspective there is no reason to try to reach consensus on the Proposed Route at all. The agencies could sign an agreement for one of the eastern routes tomorrow, but regardless of whether MCEAA would “support” that agreement, that’s not what the purpose of the meeting Monday was. Monday’s meeting was to determine whether the consulting parties could reach consensus on the Vulcan/SGR Proposed Route in such a way that any agreement could be negotiated specifically for that route, which, it would be understood, would ultimately be the route constructed. The bottom line is that the agency consulting parties should not be concerned with whether MCEAA will “support” a NHPA agreement for the eastern routes; rather, they should be paying attention to the fact that very few of the non-agency consulting parties seem to support doing anything more with the Vulcan/SGR Proposed Route at this time.

In light of these facts, the more Vulcan/SGR insists on the Proposed Route, the more process and more delay there will be, regardless of any action taken by MCEAA. That result is compelled by where the process stands at this point, and, as we noted earlier, the record demonstrates that the two eastern alternatives are reasonable and feasible and the agency would easily be upheld in any challenge to the contrary.
the facts on the ground and the position of a majority of the non-agency consulting parties is not going to change.

II. The “cost” of overcoming avoidance in the mitigation hierarchy is a very high one.

To continue for a moment with the idea of bridging the gap between information and guarantee in the previous section: The agencies should consider that it may well be impossible to provide a sufficient guarantee to resolve adverse effect without the type of final design information that the applicant and the agencies deem so onerous. That is something that it may be difficult to see from the inside of the process, much like an observer affects their observation in physics. However, it is clear that if a process is set up that permits the applicant to proceed on the basis of less than final information, there is a corresponding introduction of uncertainty into other decisions and analyses contingent on that information. Thus it may well be that the price of overcoming the environmental and historic advantages of avoidance in the mitigation hierarchy is a price that the applicant is unwilling to pay. If I were making an economics of the law argument, I would further point out that this result is entirely rational, despite not being preferred by Vulcan/SGR, given the existence of two viable eastern alternatives likely to be licensed whose cost differential relative to the Proposed Route is less than the cost of final design on the Proposed Route.

Cost, as we pointed out, is not an appropriate consideration at this point in the process. If Vulcan/SGR wants to take it up at final argument before the Board, that is its prerogative, but it has no place in the NEPA/NIHPA consultation. What is significant, however, is that this threshold agreement by NEPA/NIHPA agencies to allow applicants to save money and defer final design is now playing out its logical consequence, which is, the information cost of overcoming avoidance in the mitigation hierarchy is a very high one.

Further, this information burden is one that, given the record in this case and the conclusions of the SDEIS in particular, the ACHP, STB-SEA, and THC cannot suddenly lower at this stage by putting the blinders on and signing off on the Proposed Route if Vulcan/SGR makes enough promises and pays enough money. There must be a connection between the information on impacts and the mitigating promise; there must be a connection between the promise and an enforceable guarantee; and collectively these guarantees must overcome the adverse effects of the Proposed Route and the advantages of avoidance, which they will not.

III. Consultation on the Proposed Route should be terminated after Vulcan/SGR’s follow-up submission.

The situation that the consulting agencies, particularly THC and ACHP, face now with their information requests is an intractable one. The issue we believe was correctly stated by THC at the meeting is whether the design features can be mitigated. Yet the consulting parties do not have, and the applicant does not intend to provide, design detail that could overcome the preference for avoidance in the mitigation hierarchy. The result is an endless spiral that ironically, Vulcan/SGR, the party that continues to push the Proposed Route, complained about. It seems to MCEAA that a guarantee of avoidance must be matched, as a practical matter, with a guarantee of similar certainty—not an estimate, not a back of the envelope, not a “trust us.” The danger is that any decision to form an agreement regarding the Proposed Route, which will not be supported by MCEAA or a majority of the non-agency consulting parties, will be taken on a standardless basis, because guarantees of similar certainty cannot be provided due to the assumptions and state of the information in the record.

Vulcan/SGR of course, offers promises in lieu of additional information. But as a practical matter, the lens anyone reviewing this project will be looking at it through, if it is ever reviewed, is the lens of “Why was the Proposed Route chosen over the environmentally preferred eastern routes?” That seems to go directly to whether the licensing agency and consulting agencies have adequately dealt with uncertainty over adverse effects from the Proposed Route, which was (in part) the issue in a case remanded to the STB in 2003. What MCEAA is saying is, you all can start down that long, arduous road for the Proposed Route in another consultation process, but the facts of impact along the Proposed Route are not going to change and are not going to be resolvable through that process.

Because the facts on the ground and the position of a majority of the non-agency consulting parties is not going to change, termination of consultation on the Proposed Route is warranted per 36 C.F.R. 800.7(a). The adverse effects of the Proposed Route are largely unmitigable and the mitigation hierarchy of avoid, minimize, and mitigate should be applied. Reasonable and feasible alternatives exist that satisfy the mitigation hierarchy and which the licensing agency has deemed environmentally preferable, with the SHPO’s concurrence. The conclusions of the licensing agency’s SDEIS on these points is supported by a rational basis and will likely be upheld.

Very Truly Yours,

THE GARDNER LAW FIRM
A Professional Corporation

David F Barton

COUNSEL FOR PARTY
MEDINA COUNTY ENVIRONMENTAL ACTION ASSOCIATION
April 5, 2007

VIA FACSIMILE AND COURIER

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Ms. Charlene Dwin-Vaughn
Ms. Katry Harris
Advisory Council on Historic Preservation
1100 Pennsylvania Ave.
Washington, DC 20004

Re: STB Finance Docket 34284, Southwest Gulf Railroad Company Construction and Operation Exemption – Medina County, TX

Dear Ms. Rutson, Mr. Oaks, Ms. Dwin-Vaughn and Ms. Harris:

This letter follows up on the March 26, 2007 consultation in San Antonio, TX concerning the line construction proposed by Southwest Gulf Railroad (SGR) Company in Medina County. At that meeting, it was agreed that SGR would present revisions to its proposed January 16, 2007 voluntary mitigation measures for the Proposed Route, as well as information about the bridge that will be used to cross Quihi Creek on that Route. Based on views expressed at the meeting, SGR here offers certain revised mitigation measures that it believes more appropriately address the historic preservation concerns expressed at that meeting. We understand that SEA will forward a copy of this letter to each of the non-government Section 106 consulting parties.
Specifically, SGR proposes the following revised voluntary mitigation for the Proposed Route to address the concerns that have been raised about the impacts of that route on the Quihi Rural Historic District and to minimize those impacts:

1. SGR will fund the preparation by a competent historic resources consultant of an Historic Preservation Plan ("HPP") for the Quihi Rural Historic District ("QRHD"). The purpose of the HPP will be to establish a plan for the current and long-range preservation, maintenance and use of the QRHD. The HPP will be developed in consultation with the Medina County Historical Commission and subject to review by the Texas Historical Commission ("THC") and the Advisory Council. The HPP would be designed to meet all appropriate State and Federal standards and guidelines for preservation planning. The consultant retained to prepare the HPP will meet, at a minimum, the "Professional Qualification Standards" detailed in the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9). The HPP will include the identification and evaluation materials that were utilized to determine that the QRHD met the criteria for inclusion in the National Register of Historic Places. It would also include a discussion of the available resources -- both existing and proposed -- that might be used to help achieve the recommendations of the HPP. In the event the HPP recommends the adoption of a local historic district ordinance to preserve the historic integrity of the QRHD and completion of a National Register nomination for the QRHD, SGR further agrees to support such an ordinance and nomination.

SGR is offering the above mitigation in recognition of the fact, made clear at the meeting, that there is present no mechanism for protecting the QRHD from development. In other words, there is no means of preventing the suburban sprawl, evident in eastern portions of Medina County since this project was first proposed, from spreading into the Quihi area. Absent a means of controlling growth in the area, talk about the historic resources will not protect them. SGR is prepared to work with the local community to change this situation. The development of an Historic Preservation Plan is an essential step in the process. SGR will support and fund this effort. 1

2. SGR agrees to implement a conservation easement program in consultation with the Medina County Historical Commission and the THC on those properties that it or its affiliates own in the QRHD. Those properties constitute about one half of the length of the Proposed Route in the QRHD. The purpose of this program would be to control development within the QRHD. The easement would work hand in hand with the preservation plans put forward in the HPP. Further, SGR will use its best efforts to encourage other landowners within the boundaries of the QRHD from which it would need to acquire its right of way to establish a similar conservation easement. If those landowners concur, the entire length of the line within the QRHD would be protected by an easement. As a result, no rail-served businesses could locate along the SGR line within the QRHD.

3. Should the Proposed Route be constructed, SGR would take steps (through rate incentives and other means) to incentivize any businesses desiring to locate on its line to do so outside of the QRHD and, instead, in the area near the southern terminus of its line, well outside the QRHD and near the US 90. As stated previously, SGR believes that this is the area in which businesses are most likely to locate due to its proximity to the highway and the existing rail line. However, to the extent that any business did choose to locate in the QRHD along a portion of the line, if any, that might be not be protected through an easement, SGR would contribute a fixed sum to either the Medina County Historical Commission or the THC to fund historic preservation within the QRHD. The size of the contribution would be commensurate with size of the area consumed by the rail-served business that locates in the QRHD under a formula that SGR would discuss with the relevant preservation agencies, but would not be less than $75,000. Of course, to the extent that the entire line within the QRHD were to be protected by an easement, or to the extent that Medina County were to enact a preservation ordinance protecting the QRHD from development, this measure would be unnecessary.

4. SGR will ensure that the Proposed Route avoids the historic stone wall as well as any other structures that are contributing elements to the QRHD. This re-routing is reflected on the attached map of the Proposed Route. In addition, natural vegetation in the area of the Proposed route will be maintained to screen the rail line as much as possible.

5. SGR will avoid bisecting the Gerdes farm, designated as a heritage property, by re-routing the Proposed Route along the edge of that property, adjacent to County Road 355 currently marks the edge of the property. This re-routing is also reflected on the attached map of the Proposed Route. The Proposed Route otherwise runs as close as possible to property boundaries and traverses fewer properties than any other route.

6. SGR will consult with the Tap-Pilam Tribal Council to develop a plan to ensure that any Tap-Pilam human remains and grave associated artifacts encountered during the construction phase of the project are reburied within 30 days and in a location where their subsequent disturbance is unlikely and in a manner consistent with Tap-Pilam Tribal custom and tradition. In addition, the SGR and the Texas SHPO will consult with the Tap-Pilam Tribal Council prior to completion of the SGR undertaking and afford them the opportunity to conduct a ceremony of their own design recognizing the significance of the project area to the Tribe.

7. To the extent that the STB approves the Proposed Route, SGR will submit final engineering plans and specifications for that Route to the Medina County Historical Commission and the THC for advance review and comment. SGR stands prepared to satisfy reasonable concerns based on historic preservation that are raised about the location of its line and the design of bridges.

1 It should be noted that SGR's original offer of a $500,000 contribution to a state historic preservation fund did not appear to be embraced by the THC (or other consulting parties). SGR has thus restructured that contribution as set forth in this letter, but is prepared to restore a contribution to the fund if that is preferred by the THC.
8. SGR will take steps to use natural vegetation and other available means to make the rail line, including stream crossings, as unobtrusive as possible.

9. SGR commits to adhering to the terms of the Programmatic Agreement as a means of addressing any archeological resources that may be located along the Proposed Route.

SGR has attached to this letter a not-to-scale artist rendering of the crossing of Quihi Creek as requested at the meeting. The rendering reflects neither final engineering work, which has not yet been undertaken, nor the hydrological modeling that SGR has committed to employ in connection with all stream crossings as part of its voluntary mitigation. The sketch shows one scenario for crossing the Creek and CR 353. Under this scenario, the visual impacts of the stream crossing have been minimized by moving the road away from the Creek, to the west side of the Schweers House. SGR has advised the County Commissioner for the area of the possibility that it could seek permission to move CR 353. Other scenarios are also possible, including crossing the Creek at a point north of the current crossing point, where there is more land between the Creek and the road.

SGR looks forward to discussing these revised mitigation proposals and the attachments with you. To the extent that a determination is made to consult further with the non-government agency consulting parties, SGR wishes to note for the record that two of the consulting parties, the Schweers Foundation and the Weiblen family, favor the Proposed Route, as mitigated in the manner initially proposed by SGR. MCEAA, it bears noting, has expressly stated that it does not want any rail route in the area. Thus, the views of Dr. Fitzgerald on behalf of MCEAA should be understood in that context -- there is nothing that SGR could offer in terms of proposed mitigation for the Proposed Route to satisfy that party. SGR assumes that the same is true for the organization headed by Dr. Fitzgerald’s wife, the Quihi and New Fountain Historical Society, an organization whose membership appears to overlap significantly, if not entirely, with MCEAA’s. As to Section 106 consultant Mr. Archie Gerdes, SGR believes that it has fully satisfied his concerns with the suggested re-routing of the Proposed Route to the edge of his property. It also bears note that Mr. Gerdes was advised of this proposed re-routing at the meeting and he has advised SGR that he is comfortable with the re-routing.

SGR of course appreciates that the Eastern Routes, two of which have been tentatively determined to be environmentally preferable, bypass the QRHD. While SGR recognizes that the “path of least resistance” here relative to the concerns expressed about historic resources in the Quihi area would be to build along one of those routes, it should be recognized that doing so is not without its own costs. As SGR has stated, the cost of such construction is considerably higher, as would be the operational and maintenance costs. In addition, SGR has previously identified other issues with the Eastern Routes that, in its view, render the Proposed Route preferable, including intrusion onto the properties of fewer private landowners and less impacts to irrigated fields. Moreover, a review of the comments filed in this proceeding reveals, predictably, that numerous landowners (not only the Weiblens, but several others) who live in the area impacted directly by the Eastern Routes oppose the line running through their property for one reason or another. SGR notes this fact not because it believes that any of the commenters have raised disqualifying issues or issues that cannot be addressed, but merely to note that satisfying one group of landowners in the Quihi area, such as Dr. Fitzgerald and his wife, by routing the line away from their properties will inevitably lead to the dissatisfaction of others landowners. Thus, no option is available that does not create some issues for some persons, as is typical in any rail construction proceeding.

As noted, the cost to SGR of constructing and operating the longer Eastern Routes is much higher than the Proposed Route. Nothing in the Section 106 process, or the NEPA process, suggests that this fact should be ignored in assessing alternatives or that avoidance is necessarily mandated when mitigation can address the issues at hand.

Finally, SGR urges the parties to consider that its offer constitutes the best opportunity to protect the Quihi area against future intrusions and suburban growth, which is otherwise inevitable and not subject to any controls. The funding of the historic preservation plan, coupled with the easement, the incentives for businesses to locate away from the QRHD, the re-routing and other mitigation measures offered above, will go far toward preserving the area and thus fulfilling the letter and spirit of the National Historic Preservation Act.

We look forward to your views and to reaching a memorandum of understanding on the above points.

Sincerely,

[Signature]

David H. Coburn
Attorney for Southwest Gulf Railroad

cc: Ms. Diana Wood, SEA
Ms. Jaya Zyman Ponebshek, URS
There has been an important and urgent development regarding the NHPA consultation for the applicant’s proposed route that is described in the attached letter.

VIA E-FILING

Victoria Rutson
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Dear Agency Consulting Parties:

Re: Surface Transportation Board Finance Docket No. 34384
Southwest Gulf Railroad – Construction and Operation – Medina County, TX
NHPA Section 106 Consultation

A matter has come up that demands your immediate attention with respect to the above-captioned consultation.

You may recall at the conference call on March 26th that one of our client’s members, Medina County Environmental Action Association President Dr. Bob Fitzgerald, raised the issue of a proposed power line that would be constructed within the rail easement to provide electricity to the Vulcan Quarry.
Upon raising the issue, Dr. Fitzgerald received in response the now-familiar contempt and character attack stereotypical of initiatives that have entered the “bunker mentality” death spiral. Counsel for the applicants all but referred to the man as a complete nutcase for suggesting that a power line to the quarry would be built within the rail easement.

Come to find out, the Medina Electric Co-Operative (MEO) has been in talks with Vulcan since December of 2006 for just such a power line. Vulcan and MEO have met three times, this past December, January, and February to plan for the line. A fourth meeting was to occur this past Wednesday, April 4, but was cancelled.

During these meetings, running the power line to the quarry through the rail easement has been the focus. Indeed, where else would it be built? MEO has told Vulcan that the final rail alignment would need to be known because the plan was to run the power line through the rail easement. In addition, MEO would need to locate a substation along CIR 4516, and the location of this substation would vary depending on which rail alignment was chosen.

The lines would be built above ground, on utility poles of unknown height. Clearly the line and the substation would have an additional aesthetic effect on the historic district which has not been taken into account. In addition to further evidence of bad faith on the part of the applicant, this new information is additional justification for declaring the quarry and railroad connected actions.

The above information was provided by Mike Wade, Project Engineer, MECO (800-381-3334) in response to queries from our client, MCEAA. We would encourage the lead agency to contact him directly. Mr. Wade has no interest in Vulcan’s rail line or quarry project or in the MCEAA and was merely responding to the questions he was asked, which were whether any quarry power line proposal in fact existed and if so, what work had been done to date and what its status was.

Very Truly Yours,

THE GARDNER LAW FIRM
A Professional Corporation

David F. Barton

COUNSEL FOR PARTY
MEDINA COUNTY ENVIRONMENTAL ACTION ASSOCIATION

April 5, 2007

Diana Wood
Surface Transportation Board
Case Control Unit
Washington, DC 20423

RE: Southwest Gulf Railroad Company rail construction and operation, Medina County, Texas

Dear Ms. Wood:

I was contacted by Thomas Randsell, Vulcan Materials Company, on March 6, 2007 regarding the Surface Transportation Board’s Section of Environmental Analysis (SEA) recommended mitigation based on preliminary comments Texas Parks and Wildlife Department (TPWD) provided to URS Corporation in a letter dated May 28, 2003. The letter provided by TPWD included recommendations that graded embankments should not exceed a slope of 4:1. While the recommended slope is preferred to minimize erosion problems in many situations, it is not applicable in all situations and is provided as a general guideline in preliminary correspondence such as the May 28, 2003 letter from TPWD.

While a 4:1 slope for graded embankments is preferred in many situations, numerous variables (e.g., substrate type, depth of cut or height of fill) must be considered before it can be concluded that the appropriate slope for all sites within the proposed railroad tracks corridor. Based on information provided by Mr. Randsell, in the current project, requiring a 4:1 slope for some cuts and fills could decrease the footprint of the project beyond the limits of the proposed right-of-way (ROW), thus significantly increasing the area of disturbance.

TPWD has agreed that 4:1 slopes for graded embankments will most likely be appropriate in some areas along the proposed railroad tracks; however, TPWD recommends SEA be flexible in administering the recommendation requiring all slopes be 4:1 or flatter. Furthermore, TPWD will continue to coordinate with Southwest Gulf Railroad regarding the final slope of embankments, including cut and fill areas, and will work to achieve a solution that avoids or minimizes erosion in the project area while also minimizing the footprint of the project.

Since a final preferred route has not been selected, it is not possible to provide specific recommendations regarding slopes. However, in addition to incorporating moderate (4:1) slopes in project corridors, other alternatives exist to minimize potential erosion resulting from both temporary (construction) and permanent (operation) impacts. Where applicable, utilizing deep rooted, erosion resistant vegetation is strongly encouraged.

Robert L. Otek
Executive Director

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Ms. Wood  
Page 2  
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tolerant, native vegetation or other bioengineered embankment slope protection methods to stabilize topsoil in addition to standard best management practices could be as effective as requiring 4:1 slopes.

I appreciate your coordination on this project. If you have any questions regarding our comments, please contact me at (361) 825-3240.

Sincerely,

Russell Hooten  
Wildlife Habitat Assessment Program  
Wildlife Division

/rth

cc: Thomas Ransdell, Vulcan Materials Company

April 16, 2007

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Re: STB Finance Docket 34284, Southwest Gulf Railroad Company Construction and Operation Exemption – Medina County, TX

Dear Ms. Rutson, Mr. Oaks, Ms. Dvin-Vaughn and Ms. Harris:

We are in receipt of an April 5 letter from MCEAA’s counsel concerning the construction of power lines along the rail right of way for the SGR line. The letter claims that Vulcan has not been forthcoming in connection with plans to construct power lines in that right of way in order to provide power that the quarry will need to operate. This is not true.

As SGR recently advised SEA’s contractor in connection with its work in preparing the Final EIS in this proceeding, Vulcan has had discussions with the Medina Electric Co-Operative (“MECO”) relative to providing power to the quarry. The most recent substantive discussion took place in December 2006. All of the discussions have been preliminary. No agreement has been reached as to

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how the quarry would receive power were MECO to be the supplier of such power. Specifically, there is no agreement to allow any SGR rail right of way to be used by MECO in the event that a rail option is chosen for the quarry’s transportation needs. There is also no agreement as to whether electric power would be brought to the site from the south or from the east, which is another possibility. More specifically, there has been no decision made to run any power lines through the Quinhi Rural Historic District, either along any SGR right of way, along roads or otherwise. Nor has any final decision been made concerning the location of any MECO substation.

In fact, no agreement has been reached on any of these issues because the level of power needed at the quarry has not yet been determined. Only once that is done can a decision be made as to (a) whether power lines will approach the quarry from the south or from the east and (b) whether existing power poles would be used for the lines serving the quarry or whether new poles would be needed. Under no circumstances, however, would large transmission lines be required.

As stated, there is no agreement between SGR and MECO, or any other type of understanding, that would allow MECO an easement to use the rail right of way in the Quinhi Rural Historic District. Should the Proposed Line be approved, should MECO determine that it needs to bring power in from the south and should MECO seek SGR’s permission to use the rail right of way as opposed to existing lines in that Historic District — all of which possibilities are speculative at this point — SGR would be prepared to review alternatives to avoid the power lines following the rail right of way within that District, including working with MECO to use existing power rights of way in or near the District.

In short, MCEAA’s contention that SGR intends to run power lines over the rail right of way through the Quinhi Rural Historic District, and that SGR has hidden the ball on this point, is false. It has been and remains the case that (as SGR stated at the March 26 meeting) the SGR rail line proposal is no more and no less a proposal to build and operate a railroad. It is not a proposal to build power lines or allow power lines to use the rail right of way. Where power lines needed for the quarry may or may not be located remains to be determined by MECO, but SGR can commit — as it has at every stage — that it will work to minimize visual and other impacts should its Proposed Route be approved.

Please let me know if you have any questions on this matter.

Sincerely,

David H. Colburn
Attorney for Southwest Gulf Railroad

cc: Ms. Diana Wood, SEA
    Ms. Jaya Zyman Ponelishek, URS
My experiences in the past 18 years in Texas with Federal, State Governmental agencies & Private industries have been disappointing to say the least. No matter how well intended this process is meant to be by well meaning people, the actions of those after they have obtained their permits usually fail way short of their responsibilities that they are bound to. We respectfully offer the following reasons for our objections to this proposal route.

1. This proposed route with its necessary excavations, cuts, fills and alteration of the terrain will surely destroy much of those historical deposits.
2. State and Federal permitting processes in the past have been only perfunctory, no meaningful or with very little input and participation with Tribal communities that are most affected from this process.
3. Deadlines, cost factors, political pressure & interference become the sole basis for disregarding & ignoring Federal, State Laws compliance at the expense of Tribal communities.
4. Past excavations under these conditions have demonstrated it's of no or little benefit to our Communities.
5. Tribal communities in Texas have historically been omitted in the “scoping” and “monitoring” of the permitting process, with regards to projects that involve Indian cultural deposits, burials, etc...
6. It is clear to us who have had the difficult & burdensome experience of having to rebury many of our ancestors in the past that the offer in allowing us that privilege is somehow disingenuous and offensive. We do not only because we know the alternative of past abusive, and it is the only alternative that we have if we wish to protect our cultural past & heritage. We have a clear understanding between ignorance and stupidity. We would like to avoid that possibility or certainly minimize that possibility.
7. Our traditions, culture, & spirituality requires relevance to the sacredness of our past along with our responsibility to those ancestors whose sacrifices provided us with our very existence and hope for our future.

At the public hearing on 3-26-07 I commented on the high probability of encountering cultural deposits, and ancestral remains, these remarks were then supported by the Texas SHPO Mr. Larry Oaks. Therefore, the alternate routes proposed by the MCCA would present the lesser likelihood of encountering ancestral remains & deposits. In conclusion the Tap Pilam Coahuiltecan Nation respectfully requests that the STB, THC, and ACHP not approve the “Proposed route” as made by Southwest Gulf Railroad Co.

C.C. ATSCM

Tribal Council Representative
Historic & Cultural Preservationist
Raymond Hernandez

Honoring and Respecting the Past
Working for Equality and Justice Today
Committed to the Future Generations

April 17, 2007

Surface Transportation Board
Section of Environmental Analysis
1925 K Street NW
Washington, DC 20423-0001

Attention: Ms. Diana F. Wood, Project Manager
RE: Finance Docket No. 34284

Ms. Wood,

I would like to comment, in writing, to your letter of April 9, 2007 and the attached letter from Steptoe & Johnson, dated April 5, 2007, regarding the mitigation proposals made by the representatives of Southwest Gulf Railroad (SGR) at the meeting on March 26, 2007. It is my understanding that Vulcan Construction Materials and their subsidiary SGR are continuing to pursue the original proposed route through the Quihi Rural Historic District (QRHD). And, in spite of the conclusions and recommendations made by the Surface Transportation Board (STB) and the Board’s Section of Environmental Analysis (SEA) in their Supplemental Draft Environmental Impact Statement (SDEIS) issued in December 8, 2006, Vulcan and the SGR continue to insist that the original Proposed Route should be approved, apparently only because of the additional cost. From my reading it appears the SEA has concluded in its report “that the Eastern Alternatives are environmentally preferable to the Proposed Route or any of the alternatives.” Therefore, I cannot understand why these meeting and any negotiations or mitigations are necessary; the original Proposed Route is definitely unacceptable.

The representatives of the SGR makes several offers of mitigation in their letter and I have to question several of their offers. They offer to procure the services of consultants to assist in the preservation of the QRHD, but it must be understood that these services would not be necessary if there were there was no railroad in the QRHD. The SGR also emphasizes the importance of cost in the construction of one route versus another, but they do not stress the “cost” of the permanent loss or destruction of a historic heritage and culture which cannot be replaced, and the “cost” to hundreds of families whose lives will be adversely impacted by their project. No amount of money or mitigation can recoup that “cost.”

Then SGR offers to establish a conservation easement along the portion of property that it or its affiliates own and encourages the other landowners to do the same, thereby preventing any further commercial development along the rail route. This presents a major quandary, the SGR has applied for a permit from the government to operate a “public railroad” for the “public benefit,” and they have indicated that they will use the power of land condemnation provided to public railroads to acquire land for the “public benefit.” But, then they propose to establish a conservation easement along the

1 SDEIS, Dec. 8, 2006, Page 28-12
route, which, according to their letter would result in "no rail-served business could locate along the QRHD line within the QRHD. This is NOT a "public railroad" and it definitely will not service the "public benefit." They should NOT be allowed to acquire private land using eminent domain when there is NO "public benefit." Vulcan never intended to have a "public railroad", it is for their own private use and will profit only them. They are therefore making a mockery of our laws and the regulatory process of the STB and the SEA.

They also state that they will avoid the historic stone wall as well as any other elements contributing to the QRHD. Well it is apparent that SGR and Vulcan were oblivious to the majority of the historic sites in Quihi when they produced the original Draft Environmental Impact Statement (DEIS) in November 2004, and that was one of the reasons that the additional SDEIS was necessary. Why should we believe that the SGR and Vulcan have identified all historic sites at this point? Quihi is peppered with historic and multiple pre-historic sites which are still being identified. In my opinion, avoiding specific sites is not enough, they should avoid the entire area, and they need to stay far away from Quihi and from the QRHD.

The SGR also offers to move the Proposed Route and not bisect the Gerdes farm, a heritage property. They state the rail line will now be routed along the nearest fence line, this should really improve the quality of life for a farm family that has held this same property in the same family for over one hundred years. Having a garish train run along the edge instead of through the middle will NOT make the Gerdes family more comfortable, it is still intrusive and degrades the quality of their lives and their farm. SGR then offers to screen the rail line with natural vegetation and make it, the rail line, as unobtrusive as possible. It appears that they have now admitted that the railroad is invasive, obtrusive, and unsightly and requires screening to make it more palatable to the community. There is natural vegetation there now and a railroad will be obtrusive no matter what they used to try to hide it.

Finally, on a personal note, the letter writer states that "...the Proposed Route [is] preferable, including intrusions onto the properties of fewer private landowners and less impact to irrigated fields." Well, they apparently don’t have any problems impacting my irrigated fields. I have an Edwards Well and an extensive irrigation system and I irrigate my hay fields and pecan orchards. My hay fields are cut and baled sometimes as many as three times per year. The hay fields are the sole support of my farming operation, I use the hay to feed my cattle. I find it hard to understand why someone’s irrigated fields are more important than mine, and why the SGR uses the avoidance of one irrigated field as justification for their Proposed Route, but considers it okay to destroy my irrigation system and fields.

In summary, I object strongly to the Proposed Route or any other route that bisects the QRHD because it will have a definite negative impact on the Quihi Rural Historic District. The SEA should NOT designate the Proposed Route as a preferable alternative, and if a rail line is to be constructed anywhere near Quihi it should be as far away from any historic sites as possible. I cannot in good faith endorse or support any of the Eastern Alternatives, as I am personally against any commercial development within, over, or through the Edwards Aquifer Recharge Zone. In addition, I restate my opposition to Vulcan’s proposed route which is within, over, and through this very special, historic, and unique rural community of Quihi. The mission statement or motto adopted by the Quihi and New Fountain Historical Association is "We have no future without a past." Please help us preserve our past for the sake of all those who will come after us and need it for their future. Thank you for giving me the opportunity to express my concerns and submit my comments.

Sincerely,

Cynthia Lindsey, Section 106 Consulting Party
P.O. Box 93
Hondo, Texas 78861
April 20, 2007

MCEAA Section 106 Consultation Meeting Opening Statement

1. What is your overall reaction to SGR's modified proposal?

The modified proposal fails for the same reasons as the original proposal. Items 1, 2, and 3 of the April 5 modification letter address only future development. Items 6, 7, 8, and 9 are the same unenforceable promises pertaining to final design and engineering that we heard previously. Items 4 and 5 reflect a negligible minimization but still do not resolve the unavoidable, unmitigable aesthetic and environmental impacts from the location of the Proposed Route in the Quihi historic area.

2. Does the modified proposal address the issues that you raised during the meeting held Monday, March 26, 2007?

No.

3. If not, why not? Where specifically does the mitigation fall short?

Mitigation that addresses only the impacts of future development is irrelevant and is not mitigation of the adverse effects identified in the SDEIS.

The focus must be on the impact of this proposal, which is not complete. The shell game with the power line to the quarry is ludicrous. Vulcan/SGR has been undertaking planning for the connected action all along and it is obvious that the most convenient location for the power line, from their perspective, will be the rail easement. But now they are claiming the right to solely determine when their plans ripen into proposals. That is not for them to decide. At the very least, the power line is a reasonably foreseeable future action whose adverse effects have not been accounted for. Texas law regarding proprietary service areas of electric co-ops requires the Medina Electric Co-Op (MECO) to be the service provider for the Vulcan quarry. The shading that negotiations between Vulcan/SGR and MECO are somehow "preliminary" is insufficient to overcome the requirement to designate the power line as a reasonably foreseeable future action, particularly given that the quarry has completed the state permitting process.
Further, Vulcan/SGR's fallback position, even if they have to account for the power line, is the same final design and final engineering privilege they have cited previously for the bridges and other components that will have unmitigable impacts. They've already gotten the benefit of deferring final engineering, and they can't now double their benefit by using that as mitigation in lieu of analysis or use it to overcome the benefits of avoidance. That will be a significant legal issue which MCEAA will assert if the Proposed Route is deemed eligible for licensing.

4. What would be needed for you to find the Proposed Route acceptable?

MCEAA will not accept the Proposed Route under any circumstances, due to its unmitigable impacts. This process should be over, and it can be over very easily given the existence of the environmentally preferred Eastern Alternatives.

We do not appreciate the attempts of the applicant and anyone else who would enable them to push the impacts of this rail line from the quarry lessors in the east over to the residents of Quihi in the west. The idea that somehow the property interests along the various alternatives are equally situated and that, oh, it’s too bad that someone will get gored no matter what is nonsense when there is resistance to otherwise viable eastern alternatives by those with a financial interest in the connected action, i.e. the quarry. It is significant that, as Cynthia Lindsey noted in her letter, the supposedly equivalent burdens supposedly borne by landowners along the eastern routes have not been addressed for the Proposed Route, which only adds to the hypocrisy of casting the property interests here as equal. The quarry lessors have some latecomers to this process who are fronting for them, but the issues facing the eastern irrigators have been resolved and there is no reason to continue consultation on the Proposed Route. We have asked the STB to terminate consultation on the Proposed Route and after hearing everyone's views in the opening statements we urge it to do so, so there can be a reasonable outcome to this process that is more likely to avoid litigation.
April 27, 2007

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
U.S. Surface Transportation Board
195 E Street, SW
Washington, DC 20423-0001

RE: Proposed Southwest Gulf Railroard (SGR) – Construction & Operation
Medina County, Texas

Dear Ms. Rutson:

The Advisory Council on Historic Preservation (AICHP) wishes to thank STB for hosting the conference call on April 20, 2007, to continue the Section 106 consultation process regarding the referenced undertaking. The discussion among the consulting parties was very informative and allowed all the participants to provide their perspectives regarding the most recent utilization proposals for SGR’s Proposed Route. The comments and concerns expressed by the participants were generally related to the location of their property and broader economic and preservation interests of the community. The Texas State Historic Preservation Office (SHPO) and the Tam Pimas-Cobainita Nation expressed a preference for the Eastern alternatives.

As previously discussed, we understand that STB will carefully consider the information collected to date, including the historic landscape study prepared for STB, the mitigation SGR has proposed for its Proposed Route, and the views of the consulting parties, to determine which of the alternatives will be the subject of continued Section 106 consultation. Similar to the process undertaken for the analysis of SGR’s Proposed Route, STB should examine the full range of historic preservation issues for the Eastern alternatives. Further, these historic preservation issues should be considered in the broader environmental context, as one of several differentiating environmental factors.

As STB continues its evaluation of alternatives, we believe greater clarity is needed regarding the significance, defining characteristics, and integrity of the Quah and Upper Quah Tribal Historic Districts, since each alternative has the potential to adversely affect one or both historic districts. A clear identification of the contributing elements within the historic districts will assist the consulting parties in assessing which elements would warrant avoidance, preservation, or protection during project planning.

Accordingly, we request, pursuant to 36 CFR § 800.4(c)(2) of the AICHP’s regulations implementing Section 106, that STB obtain a determination of eligibility for these two historic districts from the Keeper of the National Register of Historic Places. A formal determination of eligibility from the Keeper, pursuant to 36 CFR § 63, will provide STB and the consulting parties definitive baseline information.

Sincerely,

Charlene Drawbaugh, AICP
Assistant Director
Federal Permitting, Licensing, and Assistance Section
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION
1100 Pennsylvania Avenue NW, Suite 809 • Washington, DC 20004
Phone: 202-665-8503 • Fax: 202-665-8647 • aicp@achp.gov • www.achp.gov
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<td>Docket #: FD 34284 A</td>
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<tr>
<td>Name of Sender: Richard C. Garay</td>
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<td>Group: Coahuiltecan Research Associates</td>
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<td>Date Received: 05/07/2007</td>
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<td>Date of Letter: 05/01/2007</td>
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Submitter's Comments
Request to become a Section 106 consulting party.

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Diana F. Wood
Section of Environmental Analysis
Surface Transportation Board
395 E. Street S.W. #1110
Washington, DC 20423
(202) 245-0302
(202) 245-0454 (fax)

RE: STB Finance Docket 34284, Southwest Gulf Railroad Co. in Medina Co. Texas.

Dear Ms. Wood,

My firm is in receipt of the materials sent by you to "Coahuiltecan Research Associates", as requested by me, on 04-24-07.

Thank you very much for your timely reply, to our request for information. We received all the requested items except the latest revised map of the "revised proposed route". I our conversation over the telephone, you made mention that "All I think I have is a Black and White copy I can send to you". If a B&W copy is all you can let us have please send that copy to us at the above listed address.

We request to be listed as, "Section 106 consulting party", due to our Native American roots in the lands around the project area. Please see our lengthy "Quahi Report" submitted to the record on 01-29-07, on behalf of the Tap Pilam Coahuiltecan Nation of San Antonio, Texas. Our firm is made up of Indians who descend from the Missions in San Antonio area. Most of our group are also active members with the Tap Pilam Coahuiltecan, but we are a stand alone entity. We ask that we be made "Consulting Parties" under 36 CFR Part 800.2(b)(5)&(d)(1), and Title 16 U.S.C.§ 470's all relevant parts.

Please refer all correspondence to Richard C. Garay, at the above sited address.

Sincerely, I am,
Richard C. Garay

cc file
May 6, 2007

Ms Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001
FAX 202-245-0454

Mr. F. Lawrence Oakes
Executive Director
Texas Historical Commission
P.O. Box 12275
Austin, TX 78711-2276
FAX 512-475-4872

Ms. Chriscind Drin-Vaughn
Ms. Kathy Harris
Advisory Council on Historic Preservation
1100 Pennsylvania Ave.
Washington, DC 20004
FAX 202-606-8647

Re: MCEAA Comments on Teleconference Meeting April 20, 2007
STB Finance Docket 34284 Medina County TX
Proposed Rail Line

Dear Ms. Rutson, Mr. Oakes, Ms. Drin-Vaughn, and Ms. Harris:

Thank you for your continued efforts and patience in this complex case. Although many comments, questions, and discussions have been submitted for consideration, there are other pertinent comments we would like to submit in the Section 106 process.

It is MCEAA’s opinion that the Southwest Gulf Railroad’s new relocation and mitigation measures for the Proposed Route (PR) will not compare with an eastern route because of the overall detrimental effects the very presence of this route has on the Quilhi Rural Historic Landscape (QRHL). No matter how hard SGR tries to convince the Surface Transportation Board (STB), the fact remains that a railroad does not fit into Quilhi’s rural landscape. It is important to remember that this landscape must be preserved as much as possible in its original authentic condition. It must not be altered by the addition of SGR’s proposed bridge needed for the crossing of the Quilhi Creek, its flood plain and CR 365, regardless of the bridges length, height, and other trappings. All of the above detract from the aesthetic value and feel of the rural landscape. None of the above belongs in this priceless, irreplaceable, one of a kind part of Texas and American History.
It must be noted that SGR’s desire to relocate CR 365 to “higher ground” is not done because it would be a better location for the road, but because SGR knows the road's original location adjacent to the Quill Lake Creek could not be utilized, nor could it be maintained due to the lack of adequate clearance by the proposed bridge. More importantly, the relocation of CR 365 destroys the site’s authenticity, and CR 365's intended purpose and design by the early settlers to connect Quill Lake with Upper Quill Lake, as the area’s population increased. Early settlers' wagons were purposely driven through the creeks so that water would swell the wooden wheels and keep the iron rims tightly adhered to the wheels. This is yet another reason the historic location of this road should not be relocated.

SGR's counsel’s April 18, 2007 letter informing the county that they would allow a portion of CR 365 to be relocated is a statement made in an attempt to mislead the STB, THC, and ACHP. The fact that any county road alterations (except for shortening the road) can only be done with the county Commissioner’s Court approval. Road alterations must be discussed as an agenda item in a Commissioner’s Court Meeting. Alterations of roads are not approved against opposition by the affected public, which is sure to be present in this instance.

SGR’s relocation of the proposed route in the Lindsey property to spare the division of a prehistoric rock wall is a proposal that goes from bad to worse. This new location infringes on another prehistoric site. It is 41ME132, registered by T. Hester and B. Mantold. This site’s location had incorrectly been listed in the SDEIS as being within 1000 ft. of the MCTA’s MDA route (Vol. 1, page 3-44, Table 5.9-3). This site is actually closer to the proposed route, and the new proposed relocation of the PR (around the east end of the rock wall) brings it even closer.

SGR’s new-proposed relocation of the PR to the eastern side of CR 353 to avoid bringing the Garden Family Heritage Ranch also causes other problems. This location now crosses the driveway access to property where eight individuals live, including 2 small children, soon to be three. Another house and a machine-shop-country complex access is also cut off. As the PR crosses further north and crosses CR 353 near its intersection with CR 354, it now comes dangerously close to the Dietz family house. This is a house which is eligible for listing in the National Register of Historic homes.

Resource 335, Vol II, page 54 of the SDEIS. Here a nocturnal settlement would not only destroy the home but would result in 4 fatalities.

After evaluating all the data, it should be clear to all of the parties participating in the Section 106 process that the proposed route PR does not belong in the Quill Lake Rural Historic Landscape. An eastern route which avoids the area and which has already been recognized by SEA as being less environmentally disruptive in many aspects should be chosen.

If Vulcan Materials/SGR does not choose to utilize an eastern route for the rail-limits construction, that will be their decision. The threat of an all-truck route, with its known increased costs, is one likely not to materialize when all factors are considered.

The Proposed Route as well as the eastern routes have been studied extensively and comments from consultants have been submitted. The fate of Quill Lake’s Rural Historic Landscape is now in SEA, THC, and ACHP’s hands. This fragile, irreplaceable bit of Early American and Texas History must be preserved.

In closing, MCTAA members wish to extend our thanks to the STB, THC, ACHP, and their staffs for their patience and hard work devoted to this matter.

Sincerely,
Robert Fitzgerald

cc: Medina County Judge Jim Hackett
cc: County Commissioner Pet 1 Ronnie Ulrich

"This is for your home, future, and heritage."
April 17, 2007

Ms. Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
395 E. Street SW
Washington, DC 20423-0001
FAX: 202-245-0454

Dear Ms. Rutson:

This letter is presented to offer comment on the Section 106 meeting via conference call March 26, 2007, and the letter from Steptoe & Johnson, Attorneys on April 5, 2007. Preservation Texas is the statewide nonprofit preservation organization that named Quihi to its Most Endangered List.

The mitigation proposal of the Southwest Gulf Railroad (SGR) Company is not a reasonable method to counter the adverse effect to the Quihi Rural Historic District (QRHD). The four eastern routes proposed provide the best and feasible alternative and we believe should be pursued. Therefore, we feel that no additional work would be required to address the adverse effects on Indian burial remains or negative visual effects that a large bridge would present.

SGR should use one of the eastern alternative routes for the rail line. It is important to protect the significant historic resources of Texas for our descendants and ourselves.

Sincerely,

Julianne Fletcher
Executive Director

CC: Mr. F. Lawrence Oaks
Ms. Charlene Dwin-Vaughn
Ms. Kathy Harris
Quihi & New Fountain Historical Society
Dr. Robert T. Fitzgerald
Quiri & New Fountain Historical Society

April 25, 2007

Ms. Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
395 E. Street, SW
Washington DC 20423-0001
FAX 202-245-0454

Mr. F. Lawrence Oaks
Executive Director
Texas Historical Commission
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FAX 512-473-4872

Ms. Charlene Dwin-Vaughn
Ms. Katri Harris
Advisory Council on Historic Preservation
1100 Pennsylvania Ave.
Washington, DC 20004
FAX 202-606-8647

Re: STB Finance Docket 34264 Medina County TX
Proposed Rail Line

Dear Ms. Rutson, Mr. Oaks, Ms. Dwin-Vaughn and Ms. Harris:

Thank you so much for holding the teleconference on the Section 106 proceedings on Friday, April 20. As a result of that meeting, and at the request of Ms. Rutson, I am submitting its writing for your records the answers to the four specific questions asked, on behalf of the Quiri and New Fountain Historical Society.

1. What is your overall reaction to SGR's modified proposal?

My overall reaction is that SGR offered no real solutions. Also, the true effect of the Proposed route on the cultural landscape was never acknowledged by SGR.

2. Does the modified proposal address the issues that you raised during the meeting held Monday, March 26, 2007?

No it does not. Actually it only brings up more unanswered questions.

3. If not, why not? Where specifically does the mitigation fall short?

There is no mitigation possible. In addition to aesthetic effects, the Proposed Route would have a tremendous effect on the Quihi Rural Historic Landscape by the earth-moving (cuts and fills) that will be required for the construction of this route, even though there may be less earth-moving for the Proposed route than for other routes. The LOCATION of the earth-moving is in the Quihi Rural Historic District, and that is critical. That is an important factor.

Consider, for instance, the Proposed rail route cutting through the historic old rock wall on the Lindsey property. Vulcan/SGR's original plan was to cut through the center of this wall with a 15 foot deep cut into the earth. Vulcan/SGR now proposes to move that route to the East end of the rock wall, with a 15 foot deep cut. That would not be any better. That would not be a solution. Avoiding the historic area is a solution, and that is possible and feasible, as already proven by the Sea's SDEIS.

There is also the matter of crossing historic CR 4512 (the Quihi-Ider Road, established August 13, 1888) north of the Lindsey property, by the Proposed route. SGR proposes to cross this road with a 7 foot deep cut. We strongly object to the defacing of this site. That area is particularly historically and archeologically sensitive.

Another instance in which the landscape would be drastically changed is at the crossing of CR 4516 (General Wolf's Road, circa 1842), and the area north and south of that crossing. Vulcan/SGR proposes to construct an 8ft high berm across this road, extending to an 11 ft berm to the south, in a marshy area. What effect will this ill-conceived plan have on the aesthetics of the QRHS, flooding, and vehicle safety in this dangerous location?

A further example to the disruption of the landscape is Vulcan/SGR's new proposal to relocate a historic county road, CR 162, at the Quihi Creek crossing. This adversely affects the rural historic landscape district. Mr. Daniel Canaday writes in his study submitted for the SDEIS, Vol II, Appendix F-1, page 28:

"The National Park Service has identified a number of impacts that may adversely affect rural historic landscape districts. Potential impacts relevant to the proposed rail project include:

- realignment of roadsides,
- widening and resurfacing of historic roadways,
- changes in land use and management that alter vegetation, change the shape and size of fields, erode boundary demarcations, and flatten the contours of land
- introduction of non-historic land uses
- loss of vegetation related to significant land uses
- construction of new buildings, structures, or landscape features
- loss of boundary demarcations and small-scale features (fences, walls, ponds, and paving stones)

Such impacts can adversely affect the qualities of design, setting, and feeling – three of the seven qualities that make a district eligible for the MRHP. And this proposed route through Quihi will adversely affect the area in that manner.

4. What would be needed for you to find the Proposed Route acceptable?

There is nothing that can make the proposed route acceptable. The very presence of the rail line through Quihi, with all the associated earth-moving, and the related baggage the rail line would bring in, would render the area ineligible for recognition as a district.

I cannot believe that after all the research conducted on the cultural landscapes in the area, that this study and the SDEIS would be ignored. Thank you for your diligence and attention in this matter.

Sincerely,

Alyne Fitzgerald
March 15, 2007

Ms. Diana Wood
Surface Transportation Board
305 E Street, SW
Washington DC 20423-0001
STB Finance Docket No. 34284

Re: Project review under Section 106 of the National Historic Preservation Act of 1966. Follow up to Supplemental Draft Environmental Impact Statement, Southwest Gulf Railroad, STB Finance Docket No. 34284, Construction and Operation Exemption, Medina County, Texas (STB)

Dear Ms. Wood:

This letter serves as comments on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

We wish to reiterate our comments offered in response to the Supplemental Draft Environmental Impact Statement (SDEIS). We strongly support the utilization of either of the environmentally preferred eastern routes. Both the Eastern Bypass Route and the MCEAA Medina Dam Alternative significantly lessen the impact of this project on critical historic resources. Both alternatives appear to meet the requirements of the National Historic Preservation Act to avoid or minimize adverse effects to historic properties.

A large component of historic and cultural significance of the area is its rural and agricultural character. Our agency’s role throughout this process has been to protect this important rural landscape from the immediate and future impacts of the proposed railroad. All of the proposed routes impact agricultural lands both inside and outside the eligible historic district boundaries. These agricultural lands and operations are critical to the preservation of the regions rural character.

We have been in consultation with members of the Weblen family, who operate approximately 1500 acres of irrigated agricultural lands along with additional ranchland acreage that will be directly impacted by any of the eastern alignments. While it is critical to avoid the historic resources to the west, we believe it is also imperative to minimize the impacts on agricultural operations of this and other families. Please refer to our initial, January response to the SDEIS in which we urged the avoidance of major agricultural lands.

Based on our consultations with the Weblen family members and the information found in the SDEIS, it is our understanding that they have offered to work with STB and the railroad to negotiate the use of some of the family’s land along their western property boundary. This offer would avoid the railroad bisecting their irrigated land, rendering their irrigation equipment useless, and literally destroying their home and farmstead. Our earlier statement of January 19

was offered with precisely this kind of situation in mind and we endorse their proposal for this unique property.

Given the magnitude of their operations along with their investment in land and equipment, we urge the Surface Transportation Board to condition the use of eastern alignments upon routing tracks along property boundaries and the avoidance of irrigated lands and equipment. We do not believe that the exact routes requested by the railroad are necessarily the only feasible options. We are not suggesting exploration of further alternatives, only the close examination of details and routing within the environmentally preferred alternatives that would lessen the impact on agricultural lands while still protecting the historic and cultural resources.

Considering the size of their land holdings and operations along with the potential direct impacts of the environmentally preferred routes to their property, we would support STB including the Weblen family as a consulting party. We appreciate your agency’s diligence in this matter and look forward to discussing this issue further during our March 26th meeting.

Sincerely,

F. Lawrence Oaks, State Historic Preservation Officer

cc: John Nau, III, Chair, Texas Historical Commission
    John Fowler, Advisory Council on Historic Preservation
    Albert Hauser, Texas Historical Commission
    David L. Cox, Steptoe & Johnson, LLP.
    Michael Weblen
May 6, 2007

Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: STB Finance Docket No. 34284 – Southwest Gulf Railroad Company
Construction and Operation Exemption – Medina County, TX

Dear Ms. Rutson:

Thank you for your letter of April 9th regarding the voluntary mitigation plan intended to minimize impacts on rural historical landscapes caused by construction and operation of SGR’s proposed rail route through Quitin, Texas.

We are sorry that the Comanche Nation could not participate in the conference call of April 20, 2007, but since the tribe did not receive the April 9th letter from your office, we were not aware that a conference call had been set-up. After reading the plan which was provided with the April 9th letter, the Comanche Nation still has no immediate concerns or issues regarding this project; however, please continue to keep us informed as your planning proceeds. We look forward to receiving any further project reports or other information that is derived from the planning, preparation, and construction work.

If in the process of the project human remains or archaeological items are discovered, we request that you immediately cease the project work and notify us so that we may discuss appropriate disposition with you and the other Tribal Nations that may be affected by such discoveries.

We look forward to your reports as activities proceed.

Sincerely,

Ruth Toahy, NAGPRA Coordinator

P.O. Box 908 • Lawton, Oklahoma 73502 • PHONE: (580) 355-2250 • FAX: (580) 355-2270
If you have not done so already, we suggest that you formally request that STB grant you or your family, consulting party status under Section 106 of the National Historic Preservation Act. This will allow you to formally participate in the discussions throughout the remainder of the process, including aspects of the actual design should STB approve any of the alternatives.

We appreciate your concerns for your family’s historic farmstead and hope to find a solution that protects it along with the other historic resources of Quihi. Please feel free to contact my office with any questions or concerns at 512/463-6100.

Sincerely,

F. Lawrence Oaks, State Historic Preservation Officer

FLO/BP

Cc: Diana Wood, Surface Transportation Board
Archeological Resources and Additional Areas of Significance Under Criterion D

While it is clear from the technical memorandum submitted with the documentation entitled, TECHNICAL MEMORANDUM: Supplement to the Preliminary Cultural Resources Assessment, STB Finance DocSt #3428 – Southwest Gulf Railroad Company – Construction and Operation Exemption – Medina County, Texas, prepared by Daniel Cassidy, that the proposed rural historic district is likely to be eligible under Criterion D in the areas of Prehistoric Archeology, Historic Archeology (Aboriginal) and Historic Archeology (Non-Aboriginal), there is no meaningful evaluation of Criterion D in this supplement or in the subsequent reports. Furthermore, the Rural Historic Landscape Analysis, Quillie Vicinity, Medina County and the accompanying inventory identify the presence of numerous contributing sites (mostly consisting of standing ruins associated with the area’s early Euro-American settlement) but lack an explanation of the significance of these sites for their ability to provide important information in the area of Historic Archeology (Non-Aboriginal), Ethnic Heritage (European), Exploration Settled, and/or Architecture. Evaluation under Criterion D will require the examination of data sets and historical data sets within the district and the development of a research design that discusses their ability to provide important information under each of the three areas of significance relating to Archeology – Prehistoric, Historic (Aboriginal), and Historic (Non-Aboriginal).

Please provide a discussion that addresses the likely origins, historic use, and archeological significance of the known and predicted precontact sites, the likely below ground historical archeological deposits, and ascertained historical archeological features such as the 2000-foot stone wall, domestic and other ruins, lime kilns, and cemeteries. Archeological resources within a district do not need to be individually eligible, they only need to contribute to the significance of the district, thus, you should consider how standing ruins, when considered archeological resources, are important and what information they are likely to reveal about early agricultural practices, settlement patterns, or building techniques.

Periods of Significance/Natural Resources

The archeological record predates 1466, the date of Euro-American settlement (chosen as the beginning date for the Quillie districts period of significance), and likely extends to periods in prehistory as well as the occupation of Native American groups before, during, and after the region’s historical Mission era.

For these reasons, the period of significance should be expanded appropriately and rural landscape characteristics, such as land uses and activities, response to the natural environment, and circulation networks, be considered for the expanded period(s) of time. For example, the context should be expanded to discuss the exceptionally important natural water features of the area and explain the use, meaning, and value they had to the various cultural groups who became closely associated with this area in various periods of prehistory and history. These features include the creeks, lakes, springs, and stockholes (also called cemcasts) characteristic of the region’s karst topography. You should discuss the importance of the natural features, such as Quillie Lake and any naturally occurring ponds (perhaps adapted for use as stock ponds), in the study area, and explain the ways in which these features were used modified by Euro-American settlers or had been used by various aboriginal groups who previously occupied the land. Similarly, the changing agricultural patterns that shaped the proposed district should be discussed, including the relationship of water resources to...
raising crops or livestock, the region’s reliance on the Edwards Aquifer, the presence of irrigation features (cistals, impoundments, etc.), and technological advances (e.g., rural electrification) of the 20th century.

Maps and Boundaries

In addition, please provide original U.S.G.S. quadrant maps for the area proposed as the rural historic district; the maps should identify the UTM coordinates marking the boundaries of the proposed Quihi and Uppes Quihi Rural Historic Districts. Does the evaluation of an expanded period of significance, and identification of archeological resources and TCPs suggest that the boundaries should be changed to take in, for example, the interstitial areas formed by the tributaries to the East, areas subject to seasonal flooding, or traditionally used for plant-gathering or fishing.

Canoes and Other TCPs

The documentation submitted to the National Register does not include enough information to determine the presence or significance of canoes or any other natural features within the project area that individually or collectively forms a National Register eligible TCP. It appears, from the documentation provided in the supplement to the preliminary Cultural Resource Assessment and the January 2007 report prepared by the Tap Pilam-Coahuiltecan Nation, that such TCPs likely exist within or adjacent to the area currently identified as the Quihi and Upper Quihi rural historic districts. Such places may be natural features (lakes, creeks, springs, sinkholes, etc.) that figured importantly in traditional customs, ceremonies, or rituals; resources embodying the stories of one or more of the cultural groups associated with this region; and sites of traditional activities such as hunting, fishing, or plant-gathering.

In order to determine the significance of canoes or any TCPs located in this area, documentation submitted to the National Register should include three things: 1) detailed information about the defining characteristics of the sites in particular and site types in general located in the district; 2) a context for these types of sites, including a comparison to other known sites of the type found within and outside of the district; and 3) an evaluation of the site or sites under the National Register Criteria. We strongly encourage the STB to work with interested Tribes to define the significance of canoes and other TCPs within the district and gather the information needed to evaluate these resources.

We understand that some of this information may be privileged. Please be aware that under Section 304 of the National Historic Preservation Act, the Secretary of the Interior has the authority to withhold from public disclosure information about the location, character, or ownership of a historic resource that may cause a significant invasion of privacy, risk harm to the resource or impede the use of a traditional religious site by practitioners. If the updated documentation includes sensitive information, please specify what that information is so that the information can be withheld from the public under Section 304.

If you find that a property does not meet the National Register characteristics as a TCP, you may evaluate the property as an historic or precontact site under the National Register Criteria.
July 18, 2007
Linda McClendon
National Register of Historic Places
National Park Service
1201 Eye St., NW
8th Floor (MS 2280)
Washington, DC 20005

RE: Quelhi and New Fountain Historic Districts, Medina County, Texas.

Dear Ms. McClendon:

This letter serves as comment from the Texas HCHO regarding the report Rural Historic Landscape Analysis, Quelhi Vicinity, Medina County, Texas, prepared by Terri Myers and Elizabeth Beutman for the Surface Transportation Board in 2006.

Texas Historical Commission staff reviewed the document, and has determined that the documentation supports the eligibility of three distinct historic districts in the vicinity of Quelhi, Texas. This area of the state is known for its settlement during the Texas Republic period and early Texas period by German and Alsatian colonists organized by engravers Heinrich Castro. While the nearby settlement of Castroville (NHRP 1970) has been well known as the most successful of Castro’s settlements, the rural communities of Quelhi and New Fountain date to the same settlement period and still retain many of their historical features, including early houses and outbuildings based on European forms, late 18th and early 19th century popular style buildings that indicate the assimilation of the settlers’ successive generations, and rural landscapes that remain relatively true to 19th century land patterns.

We concur that properties within the Quelhi and New Fountain areas should be nominated to the National Register as part of a Multiple Property Submission, with at least two distinct historic districts encompassing the core of each community, including a combined Quelhi/upper Quelhi district reflecting the extensive community to the north through the mid-20th century. The proposed district boundaries are drawn to encompass the majority of contributing properties and avoid concentrations of non-contributing properties, generally those built within the past 50 years. Lack of access to some properties on the periphery of each district prevented the surveyors from assessing the eligibility of some properties, and thus they were not drawn with district boundaries. Future access may reveal eligible properties that could merit extending the boundaries to include them. Several historic properties that are physically separate from the districts retain integrity and could probably be nominated individually under an MPS.

Since both districts share a historic context with Castroville and Heinrich Castro’s successful efforts to establish German/Alsatian settlements in Texas, and both retain contributing properties dating to this early period of Texas settlement, they should be nominated to the National Register at the
Victoria Rutson  
Chief, Section of Environmental Analysis  
Surface Transportation Board  
395 E. Street SW, Rm. 1110  
Washington, DC 20423  
(202)245-0302  
(202) 245-0454 (fin)

September 3, 2007

Dear Ms. Rutson,

As a landowner whose property is involved in the Easter Routes of the planned Southwest Gulf Railroad - FD34284, I would like to be designated as a consultant on the programmatic agreement on this proceeding.

My house is eligible for the historical district early American archeological artifacts.

If you require any additional information, please do not hesitate to contact me, and thank you for your attention to this matter.

Respectfully,

Richard T. Fourrier  
200 PR 3531  
Hondo, Texas  
512.663.4503  
830.741.2294

Victoria Rutson  
Chief of Section of Environmental Analysis  
Surface Transportation Board  
395 E. Street SW  
Washington DC 20423

Dear Ms. Rutson,

I request to be listed as a Section 106 Consulting Party as my family has deep ties to the Upper Quahog area and has interest, history, and knowledge of the rural historic landscapes of this area. Our farm and residence is 776 CR 354 in Lubbock County which is a few hundred yards north of the proposed rail line.

The Texas Family Land Heritage program recognizes our farm as it was founded in 1884 and had homes in continuous ownership and operation as a family agricultural enterprise for more than a century. In addition, knowledge of the other local heritage farms and ranches in the area is available.

I have been closely following the Veterans Materials project since 2000, and have also attended a town meeting and a San Antonio meeting held for Section 106 Consulting Parties. I feel that my family knowledge, history, and interest in this project area can aid to identify and receive effects important to the historical area.

Please grant this request to be a Consulting Party under section 106 of the National Historic Preservation Act.

Sincerely,

[Signature]

Richard T. Fourrier  
200 PR 3531  
Hondo, Texas  
512.663.4503  
830.741.2294

[Signature]

Ranger R. Landrum  
Lander R. Landrum  
776 CR 354  
Quan, TX 79251  
(830) 426-8285
Aug 31, 2007

Donato Rios Jr
6009 FM 2676
Hondo (Quihi) Tx
78861

Surface Transportation Board
Attn: Ms Victoria Rutson

Ms Rutson,

I purchased some property four (4) years ago seeking the serenity of the country style living in the Quihi, Tx area which is very sacred with old historical buildings and Indian grounds. On our property we have an historical landmark that would be either razed or destroyed of its history should the proposed railroad route be laid out thru our property. This is not to mention our only source of drinking water, our windmill, of which the rail would run very close to its proximity. Should this rail line come thru our property our new home would also be in jeopardy as it would be approximately 100ft from our dwelling.

I would like to be considered a consultant in reference to FD 342A4 of your programmatic agreement in this quest to keep the rail from entering our property and damaging our historical landmarks as well as our homesteads.

Sincerely,

Donato Rios Jr
Los Papalotes Ranch.
September 12, 2007

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

FAX: 202-245-0454
RE: Finance Docket 34284
Question on Home and Farm Location

Dear Ms. Rutson:

I would like to be made a consulting party to the programmatic agreement which is currently being prepared by the Texas Historical Commission.

I am an heir to a historic home that will be affected by the Eastern Route. At this time my mother is residing in this home. This historic home is in a flood zone. Any changes to the terrain will increase the danger of flooding.

Sincerely,

Lynette Stewart

Anthony Weiblen
2918 Darlington Drive
Highland Village, TX 75077

Diana Wood
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

Re: STB Finance Docket No. 34284 - Southwest Gulf Railroad Company - Construction and Operation Exemption - Medina County, TX

Dear Ms. Wood:

This is in response to Southwest Gulf Railroad’s (SGR) letter dated September 5, 2007 regarding the Weiblen Modification. The Weiblen Family disagrees with SGR’s request to soften the position of the SA mitigation measure by using the wording of “to the extent feasible.” The Weiblen Family requests the word “ensure” remain in the mitigation measure and include stronger language in this measure requiring SGR to work with landowners to protect their property and business, which they have worked years to build and protect.

The Weiblen Family met with SGR on August 17, 2007 to review the Weiblen Modification. In this meeting, the Weiblen Family offered SGR access to their property allowing them to perform any necessary engineering analysis to prove the Weiblen Modification was an acceptable refinement to the eastern route. SGR chose to perform desktop studies to assess the Weiblen Modification.

Upon completion of SGR’s assessment of the Weiblen Modification, SGR met with the Weiblen Family on September 7, 2007 and stated that they could work with the Weiblen Modification. In this letter, SGR stated "SGR has not identified any fatal flaws with the Weiblen Modification," but "SGR has not undertaken an intensive engineering analysis of the proposed Weiblen Modification to make a definitive judgment in that regard." In the same letter, SGR is requesting softer language in the SA mitigation measure, which was created to help protect the private property and business owners, by replacing the word "ensure" with "to the extent feasible."

The Weiblen Family disagrees with the change to the SA mitigation measure and requests that the SEA add stronger language to the mitigation measure requiring SGR work with the private property and business owners since they have not definitively stated that the Weiblen Modification is an acceptable alternative.
The Weiblen Family again offers SGR access to their property to perform an intensive engineering analysis to determine if the Weiblen Modification is acceptable. If you have any questions, please contact me at 972-897-8640.

Sincerely,

Anthony Weiblen

Cc: Tom Ransdell
Vulcan Construction Materials, LP
P.O. Box791550
San Antonio, TX 78279-1550

MEMORANDUM FOR: Victoria Rutson
FROM: Joseph & Vicki Salomon
SUBJECT: Consulting Party Status

Hello and Good afternoon we would like to request that we be given consulting party status on the final programmatic agreement for the Finance Docket #34284. We are less than 4000 ft from the proposed quarry/railroad site and in the possible path of the eastern route if that is the one that is decided. We live on this property that has a home that was built in the 1940-1950 timeframe. We feel that we will be greatly impacted by this route and would like to take part in the final programmatic agreement. Thanks for your consideration and have a great day.

Joseph & Vicki Salomon
1040 CR 353
Hondo, Texas 78861-6425
(830) 741-8352

Joseph Salomon
b) Personal scientific research in the prehistory of the area

Over the past year or so, I have been a personal study of archaeological collections and sites on the Mangold Ranch near Quihi. My interest in these lies in the fact—which further subject project studies must area—that this area is largely unknown in terms of Texas prehistory.

One of the sites, 41ME132 [official State of Texas site number], the Gap Site, is directly beneath or at least closely adjacent to Alternative 3 of the proposed railroad route southeast of Quihi. This site has just been barely studied. However, a test pit dug by the
late Buddy Mangold, found a zone of Frio points just below the surface. Further exploration could (1) expand our knowledge of the Late (Transitional) Archaic by better defining this Frio-age campsite or (2) could find earlier, stratified deposits below Frio. This site is on a terrace of Quibi Creek, and while no geoarchaeological studies have yet been done at the site, it appears that Quibi Creek has shifted its channel repeatedly in this zone (of 41ME34). This site alone points out the errors of the statements re: occurrence found in the subject report.

However, it is she 41ME133 (the Buddy Mangold she) that points out the incredible deficiencies in the treatment of prehistory in the subject report. This was partially excavated by the late Buddy Mangold in the 1990s. Much of the site remains intact. The artifacts from the site are incredibly extensive, as I am sure will be the case at many sites yet to be found in the Quibi area.

Although my analysis of the collection is far from complete, I have already identified a Folsom end-scraper (10,800 years ago), and even more importantly, a substantial number of Wilson points. The stemmed Wilson type is a poorly known, but well-dated, Paleoindian time marker in the 10,500 year old tune frame. The key she for this type is Wilson-Leonard near Austin, published by Michael B. Collins in a 5-volume report in 1998. Collins tells me that aside from the Wilson-Leonard site, the Buddy Mangold site contains more of these points than any other she in Texas. There are also Plainview, Golondrina, and Angostura points at the she (10,200-8,800 years ago).

Moreover, the Archaic and Late Prehistoric artifacts are in great abundance, representing the broad time frame from 8,000 years ago up to about the time of Spanish contact. Indeed, there are some points that appear to be of the Guerrero type, associated with Indians of the Spanish Mission period in the 18th century. There is also a piece of obsidian volcanic glass that does not occur in Texas. I have led the study of Texas obsidians since 1970, working with nuclear chemists at the Lawrence Berkeley National Laboratory in Berkeley, CA. Obsidian is very rare in this part of the state, yet our precise geochronal sourcing places some of it as coming from geologic outcrops as far away as southern Idaho (the Malad source) and from sources in northern New Mexico (several sources in the Jemez mountains). We have not yet had this obsidian fragment sourced, but it is reflective of the widespread trade networks that ran along the margin of the Edwards Plateau, and is part of a pattern that extends westward into Uvalde County.

As best as I can tell with limited data, 41ME133 lies outside (perhaps 1.5 mi E) of any of the proposed railroad routes. However, its importance goes farther than immediate impact. It is reflective of the long time depth of Native American prehistory to be expected along Quibi creek and any of its (now) small drainages. It is reflective of intensive prehistoric populations, of trade contacts, and of continuity into the Spanish Colonial period. These sorts of patterns should be expected at other Quibi/project area sites, as ancient "hunters and gatherers" were highly mobile and didn't just occupy single sites like 41ME133!

3) Implications for Historic Archaeology

While STB Finance Docket 34248 report on cultural resources does a more useful job of treating the numerous historic sites in the project area, it falls far short of what is to be expected, the significance of these sites, and the great amount of work (and money) that will go into their investigation. The stone (and other structures) of 1850s Quibi represent one of the most remarkable, surviving constellations of early architecture in southcentral Texas. In my own experience, it is unique. To date, the Quibi and New Fountain Historical Society has already filed with the Texas Historical Commission more than 30 Endangered Historic Property Identification Forms as part of the THC's new HELP program. These forms contain details on the structures, their ages, and are accompanied by photographs. However, there are at least 60 known structures of this vintage. Many of these are in the path or win be impacted by any of the 3 alternative subject railroad routes. This means that formal site assessments will have to be done - the use of professional preservation architects, measured drawings, high quality photographic documentation, oral histories, and archaeological investigations all being part of such studies.

This is a highly time consuming and very expensive endeavor, but these sites are part of the history of the development of Texas and cannot be given short shrift. Neither can they, or their archaeological deposits, be "preserved" by having them "moved" to a "protected" location! There are stories, not yet confirmed by me, of a special cemetery set aside for Native American remnant populations in the area. This will require extensive Native American consultation, probably with the Mescalero Apache (who represent the Lipan Apache on a Federal level), the Kickapoo, and the Lipan Apache Tribe of Texas, a very active (or activist) group in San Antonio.
It is also apparent that the preliminary cultural resource assessment did not identify a property registered in the Texas Family Land Heritage Program, slated to have the main route or an alternate rail route go right through the middle of it. This program has been around since the 1970s, and is a favorite of the State government, particularly the Secretary of Agriculture. This will be a highly sensitive issue, to say the very least, and should the routes continue to be slated for the property, a great deal of very expensive historical archaeology will have to be carried out.

4) Closing Observations

It is likely that no worse area in southcentral Texas could have been chosen for a quarry and railroad facilities that the Quihi region. This is one of the richest areas for the historical development of Texas, and is incredibly important in terms of the preservation in place of many of the buildings and related aspects of this historical record. In addition, this is an area where no substantial archaeological work had ever been done before, but which even the most minimal research has demonstrated the high probability for the discovery of numerous, and important, archaeological sites. These will have to be fully assessed and perhaps in some cases, folly excavated (mitigated). This issue has already been brought to the attention of the Texas Historical Commission and the Advisory Council on Historic Preservation. The subject applicant should have funded historical and archaeological research well prior to land purchases and planning if the applicant hoped to avoid the destruction of important pieces of Texas history and prehistory - which can now be done only at a very high cost in time and money. This is an issue that we as professional archaeologists, the Texas Historical Commission, and other agencies have been trying to make clear to developers at all levels for decades.

Now, we are left facing a potential disaster in terms of the historical and archaeological record. It is therefore incumbent on the STB to require extensive and well planned historical and archaeological studies in the area prior to permitting any rail construction. If the STB does not follow its mandate, there are other Federal and State regulatory agencies waiting in the wings to make sure that this process is done properly.

Thank you for the opportunity to provide these data and these comments.

Sincerely yours,

Thomas R. Hester, Ph.D.
Professor of Anthropology, Emeritus
The University of Texas at Austin
mailing address:
PO Box 625
Utopia, TX 78884
email: secocreek@ricc.net

September 21, 2007

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
395 E Street, S.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:

Supplementing my August 31, 2007 letter on this matter, I have attached a cut and fill profile of the so-called Weiblen Modification and a map of the Modification. These materials were prepared by Carter Burgess at the request of SGR in connection with some engineering work that that firm has undertaken. Please note that at the south end of the line the map shows the Weiblen Modification as parallel to, and slightly east (by no more than a few hundred feet), of the original preferred alignment for a distance of about one mile, which shows up in red on the map. This is in contrast to the representation of the Weiblen Modification as shown in Figure 2-2 of the Supplemental Draft EIS, which shows the Modification as being co-extensive with the originally preferred alignment for the southernmost mile. The reason for the slight change in alignment shown in the Carter Burgess map relates to an effort to minimize cut/fill.

The cut and fill profile has allowed SGR to conclude that the Weiblen Modification is feasible from the perspective of cut/fill and grade. The depiction of the line on the attached profile document reflects no more than a 1% grade.

The map shows that the Modification does not traverse any FEMA flood plains, which are illustrated in blue striping on the map. The map also shows the various properties that will be traversed by the Weiblen Modification.

Sincerely yours,
We would be pleased to answer any questions that you might have about these materials.

Respectfully,

David H. Cobum
Attorney for Southwest Gulf Railroad

cc: Ms. Diana Wood
    Ms. Jaya Zyman-Ponchbesh
    Mr. Harold Weiblen
The Michael Churchill Jones Ranch Trust  
Barbara H. Jones, Trustee  
209 Newbury Terrace  
San Antonio, TX 78209  
September 27, 2007

Victoria Ruston, Chief  
Section of Environmental and Analysis Surface Transportation Board  
395 E Street SW Room 1110  
Washington, DC 20423

Dear Ms. Ruston:

As the trustee of the Michael Churchill Jones Ranch Trust, I am concerned about the proposed placement of an eastern railroad route on this property which is located on CR 4516 in Medina County, Texas.

I should like submit my request to be a consulting party to the Programmatic Agreement.

Any route built through the eastern section of the property would block the flow of creek water into a retention tank which provides water for both livestock and wildlife. As a result of that, the property would be without any source of drinking water for the animals.

Also, on the property there is located an old, abandoned mine dug by hand in the late 1800's. That site has historical and archeological significance for current and future generations.

Please grant my request to be a consulting party to the Programmatic Agreement for FD 34284.

Very truly yours,

Barbara H. Jones, Trustee  
The Michael Churchill Jones Ranch Trust  
209 Newbury Terrace  
San Antonio, TX 78209
September 5th, 2007

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
395 E. Street, S.W.
Washington, D.C. 20423

FAX# 202-245-0454

RE: Finance Docket 34284
Question on Home and Farm Location
6710 FM 2676, Hondo TX 78661

Dear Madam:

If not already a member, I would like to be made a consulting party to the programmatic agreement which is currently being prepared by the Texas Historical Commission.

My justification for this request stems from the fact I have a Texas Heritage farm and ranch inherited from the original Saathoff settlers in Quihi. On this property my mother currently lives in a home that is eligible for listing as an historic home. The Eastern Medina Dam alternate route would adversely affect our home, ranch and farm. The rail line will cause flooding of our home and farm land. The rail line will also divide our farm and land, leaving approximately 35 acres west of the rail line and approximately 285 acres east of the rail line. The only access to the land is from FM 2676 and if a rail line goes through, it will cause us to lose the value of the land as a farm and cattle operation. I am against any rail line in the area and fail to see how they can be deemed a "public carrier" giving Vulcan the right to condemn our land for their private use. If they were a public carrier why don't they go straight to Rio Medina (Mumme's Grain Company) where at least something besides Vulcan's rocks can be carried.

Sincerely,

Curtis Saathoff
7506 Pipers Run
San Antonio, TX 78251
210-684-4989
210-326-1556
Surface Transportation Board
Outgoing Correspondence Record

Dear Section 106 Consulting Party:

As you know, the Surface Transportation Board’s Section of Environmental Analysis (SEA) issued a Supplemental Draft Environmental Impact Statement (SDEIS) on December 8, 2006. In the SDEIS, SEA recommended two environmentally preferable routes: the Eastern Bypass Route and the MCEAA Medina Drain Alternative (see map). Petitioner Southwest Gulf Railroad (SGR) has subsequently proposed certain voluntary mitigation measures for the proposed route that they believe would make this route an additional environmentally preferable option. SGR’s mitigation proposals are reflected in a January 16, 2007, letter from the SGR’s counsel to the Texas State Historic Preservation Officer. The letter was also copied to the Section 106 consulting parties; a copy is enclosed here for your convenience.

Consistent with the Section 106 regulations of the National Historic Preservation Act (NHPA), SEA is providing an opportunity for the project’s official Section 106 consulting parties to offer comments to SEA regarding SGR’s proposed voluntary mitigation measures for the proposed route. SEA has therefore determined, in consultation with the Advisory Council on Historic Preservation, to make SGR’s proposals public and allow a discussion regarding the proposed mitigation measures in a meeting with the Section 106 consulting parties.

The meeting will be held at 1:30 p.m. CDT on March 26, 2007, at the Embassy Suites Hotel – San Antonio Northwest in San Antonio, TX. Directions to the hotel can be found on its website at:


1 The above web address can be copied and pasted into your search engine. You may also go to www.embassysuites.hilton.com and search for Embassy Suites Hotel San Antonio Northwest/1-10. The room will be accessible to persons with disabilities.
The purpose of this meeting is to allow for a free and open discussion regarding SGR’s proposed mitigation measures of the proposed route. All of the Section 106 consulting parties will have an opportunity to provide their opinion on SGR’s proposal. If space permits, those individuals in attendance who are currently not Section 106 consulting parties may sit in on the discussion. Priority for attendance in the discussion must be given to the project’s current official Section 106 consulting parties due to limited seating at the proposed meeting site.

A representative of SEA’s third party consulting firm, URS, will be present to take notes during the meeting. The meeting notes will be scanned onto the Board’s website and will be publicly available a few days after the meeting. Because of limited travel funds, SEA will not be present at the meeting site, but will participate via conference call.

If you have questions, please feel free to contact Diana E. Wood, Environmental Protection Specialist by telephone at (202) 565-1552 or by email at woedd@stb.dot.gov. As of March 5, 2007, the STB’s new address will be 395 E Street, SW, Washington, D.C. 20423-0901 and Ms. Wood’s telephone number will be (202) 245-0302.

We look forward to your participation in the Section 106 consulting party meeting.

Sincerely,

Victor R. Russon
Chief, Section of Environmental Analysis

Enclosures (2)
Mr. F. Lawrence Oaks
January 16, 2007

properties not owned by SGR or affiliates; (6) fewer impacts to biological habitats than any of the
Eastern routes and (7) lower construction costs and operating costs, as well as lower air emissions.

SGR notes that the no-action proposal — which would contemplate a substantial volume of truck
transport between the quarry site and a rail loading area that would be constructed near U.S. 90 — also
remains an option for Vulcan. In SGR's view, the economics favoring rail transportation along the
Proposed Route over truck transportation are significant, but diminish meaningfully to the extent that a
longer rail route such as any of the Eastern routes would be the only permitted option available. Thus,
Vulcan could decide that it would have no choice but to consider truck transportation, at least for some
period of time in that circumstance. In that event, routing of dozens of trucks through the District
unfortunately would be unavoidable, and in SGR's view the impacts of such trucks would be much
greater than the impact of two trains/day running through the area in each direction.

Of course, SGR recognizes that the Proposed Route also traverses the District. Even though it
avoids the area of highest concentration of historic structures in that District (which is located in the
southwest portion of the District), the Route would unavoidably have some impacts to the area.
To specifically address the issues raised by that situation, and mitigate the impacts to the greatest degree
possible, SGR has developed the following proposal for your consideration and the consideration of the
Board's Section of Environmental Analysis:

1. SGR would offer a conservation easement on the property that it or its affiliates own in the
Historic District proximate to the rail line. The easement would be designed so that THC would be
in a position to control development on the property subject to the easement. The easement would be
in place for a distance of at least about 1.3 miles, constituting almost half of the length of the portion of
the Proposed Route traversing the District. Further, SGR would not oppose (and in fact would encourage)
other landowners in the boundaries of the District from which it would need to acquire its right of way
to establish similar conservation easements under which THC could exercise authority to control
development within the District.

2. During the final engineering phase, SGR would adjust the alignment of the Proposed
Route pursuant to a process that would be spelled out in a Programmatic Agreement to entirely avoid
any direct impacts to specific contributing elements in the District, including the stone wall and any
other structures identified in the Landscape Study. SGR would work closely with its own cultural
resources consultants and consult with THC in doing so. In this regard, SGR is prepared to adjust the
alignment of the Proposed Route so that it would follow a portion of Alternative 3 to avoid the stone
wall and also traverse along a portion of a pipeline right of way already in the District.

3. By virtue of the construction cost savings that it would achieve were it able to construct
the Proposed Route as opposed to any one of the Eastern alternatives, SGR would be in a position
to provide a substantial contribution to the Texas Preservation Trust Fund for THC's discretionary use in
supporting grants and loans designed to encourage preservation, rehabilitation, restoration or similar
goals within the District. I have further discussed this contribution with my client and have been
advised that the contribution would be in the amount of $300,000. Further, SGR is prepared to work
with you and your staff to structure this contribution in a manner such that the amount of the
contribution might be eligible, to the extent possible, for possible matching by government funds, or
otherwise might prove as beneficial as possible to the advancement of the THC's goals in the area.

4. Vulcan and SGR would support the adoption of any local historic preservation ordinance
that might be designed to preserve the historic integrity of the District and the listing of the District on
the National Register. SGR would also be prepared to maintain natural vegetation in the area of the
Proposed Route to mask the rail line to the greatest degree possible.

In regard to this last element of the proposal and the project generally, it bears note that SGR
proposes only to construct a single track line that will not be visible unless one is very close to the line.
In addition, as we discussed, the proposed line will be a very light density line, with only a very small
number of trains (projected at two in each direction) operating over it daily. It also bears note that SGR
believes that the portion of the line that would be most attractive to other shippers and thus the portion
of the line potentially most likely to see additional traffic would be at the far south end of the line, in the
area proximate to U.S. 90 and the proposed connection with the Del Rio subdivision of the Union
Pacific. This area is almost two miles south of the southern boundary of the District. In this area, all of
the alternatives under review, including the Eastern route alternatives, follow essentially the same
courting.

SGR hopes that you will give further due consideration to these proposals and trust that you will
agree that if this mitigation were provided, the benefits of building the line along the proposed route
could be achieved. SGR looks forward to your views and to working with you and other interested
parties to achieve a mutually satisfactory result in this matter.

Respectfully,

David H. Coburn
Attorney for Southwest Gulf Railroad

cc: Ms. Victoria Bunton, SEA
Ms. Rini Ghosh, SEA
Donald Klama, ACHP
Honorable Ciro Rodriguez
Mr. Robert Hancock, Medina County Historical Commission
Mr. Jim Arntzerry, Comanche Nation
Mr. Archie Gordon
Dorla Goosby, Kiowa Tribe of Oklahoma
Robert Fitzgerald, MD, MCEAA
Holly Houghton, Mesquakie Apache Tribe
Ruth Toahky
c/o Comanche Nation
Nagpra Coordinator
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Lawton, OK 73505

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Holly Houghton
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Mesquakie Apache Tribe
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F. Lawrence Oaks, State Historic Preservation Officer
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450 CR 351
Hondo, TX 78861

Robert Fitzgerald, MD
President
Medina County Environmental
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202 CR 450
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Mrs. Cynthia Lindsey
Quin & New Fountain Historical Society
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190 CR 4512
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Raymond Hernandez
Tap Pilam Tribal Council
Tap Pilam Coahuiltecan Nation
273 Nicks Road
Comfort, TX 78013

Robert Hancock
Chairman
Medina County Historical Commission
Medina County Courthouse
Hondo, TX 78861

The Honorable Ciro Rodriguez
2459 Rayburn House Office Building
Washington, DC 20515

Hon. Ciro Rodriguez
1950 Southwest Military Drive
San Antonio, TX 78221

David Coburn
Steptoe & Johnson, LLP
1330 Connecticut Avenue, NW
Washington, DC 20036-1796

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

March 27, 2007

Harold Weihsen, President
Weihsen Farms
560 County Road 461
Hondo, TX 78861

Re: STB Docket No. 34284, Southwest Gulf Company – Construction and Operation Exemption – Medina County, TX; Request to be a Consulting Party under Section 106 of the National Historic Preservation Act

Dear Mr. Weihsen:

On March 19, 2007, the Surface Transportation Board's Section of Environmental Analysis (SEA) received a verbal request from Mr. Andy Weihsen to designate you as the Weihsen Farms consulting party representative to participate in the National Historic Preservation Act (NHPA) section 106 process. As you know, SEA is conducting an environmental review of the Southwest Gulf Railroad Company's proposed rail construction and operation in Medina County, Texas, pursuant to the National Environmental Policy Act and related regulations, including NHPA.

We appreciate your interest in our environmental review process and your request to become a consulting party in the NHPA section 106 process. Although your property has not been deemed culturally or historically significant under the NHPA, the large landholdings in your family's possession enable such participation in the NHPA process under the governing regulations. Accordingly, you qualify under 36 CFR 800.2(c)(3), which states: "Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties interest."

We are pleased to include you in your capacity as a private landowner as a section 106 consulting party for this proceeding and will ensure that you receive all information regarding the
ongoing section 106 process. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.

Sincerely,

Victoria Rutson
Chief
Section of Environmental Analysis

cc: F. Lawerence Oaks, Texas Historical Commission
Brad Patterson, Texas Historical Commission

Chair Persons: Victoria Rutson, Chief, Section Environmental Analysis, STB
Charlene Dwin Vaughn, Assistant Director, Federal Permitting, Licensing
and Assistance Section, Advisory Council on Historic Preservation

Attendees: Charlene Dwin Vaughn (Advisory Council on Historic Preservation)
Katy Harris (Advisory Council on Historic Preservation)
Jaya Zymon-Ponebshek (URS Corporation - third party consultant to Surface
Transportation Board’s Section of Environmental Analysis or “STB/SEA”)

Tom Ranadei (Southwest Gulf Railroad or “SGR”)
Clay Upchurch (Vulcan Construction Materials, LP)
David Coburn (Steptoe & Johnson, LLP representing SGR)
Sergio A. Irurgas, R.P.A. (GTI Environmental, Inc.)

Lawerence (Larry) Oaks (Texas Historical Commission)
Robert N. Hancock (Chairman of the Medina County Historical Commission)
Joyce M. Landrum (Quihi/New Fountain Historical Society, Vice President)
Joe Manak (Quihi Landowner, Director, Quihi/New Fountain Historical Society;
Member, MCEAA; Member, Verdena Historical Society)

Jesus J. Reyes (Tap Pilam Coahuiltec Nation Member)
Raymond Hernandez (Tap Pilam Coahuiltec Nation (Member)
Bruce DeLa Cruz (Tap Pilam Coahuiltec Nation (Member)
John Boyd (Tap Pilam Coahuiltec Nation (Member)

Bob Fitzgerald, MD (Medina County Environmental Action Association or
"MCEAA")
Alyne Fitzgerald (Quihi and New Fountain Historical Society)
Mary Walpole (MCEAA Treasurer)
Archie Geiden (MCEAA)
Lester R. Landrum (MCEAA)
Tom Walpole (MCEAA)
David Barion (The Gardner Law Firm)
Brian Pietruszowski (The Gardner Law Firm)

Meeting notes: 3-26-07
Harold Weihlen (Weihlen Brothers Farm)
Fred Weihlen (Weihlen Bros. Farms)
Glenn Weihlen (Weihlen Bros. Farms)
Jordan Tannenbaum, Esq. (Landowner)
Tomas Larralde (Landowner)

Joined via phone
Victoria Rutson – STB/SEA
Diana Wood – STB/SEA
Cathy Olidden – STB/SEA
Evelyn Kity – STB Office of General Counsel
Danielle Gosselin – STB/SEA
Julianne Fletcher – Preservation Texas

Introduction
The meeting convened at 1:30 CT and 2:30 EST. Following a brief welcome and introductions, Victoria Rutson provided an overview of the agenda which included:

- Purpose of Meeting and Ground Rules
- Synopsis of Proposed Voluntary Historic Resources Mitigation
- Discussion of Proposed Historic Resources Mitigation - Section 106 Consulting Parties
- Summary of Discussions
- Next Steps

Purpose of Meeting and Historical Project Overview by Victoria Rutson and Katy Harris

Victoria Rutson provided background information on the proposed railroad construction and operation proceeding. She noted the purpose of the meeting was to give the Section 106 consulting parties an opportunity to provide comments on SGR’s voluntary mitigation plan for the Proposed Route. Ms. Rutson detailed the past events of the project, from SGR’s initial 2003 filing for construction authority before the Surface Transportation Board (STB) to the issuance of the Supplemental Draft Environmental Impact Statement (SDEIS) in December 2006. In the SDEIS, she explained, the STB’s Section of Environmental Analysis (SEA) had identified both the MCEAA and Eastern Bypass Routes as the environmentally preferred routes. Ms. Rutson also provided background information on the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) and asked that comments stay focused on NHPA issues.

Ms. Rutson summarized the Section 106 process of the NHPA, noting that it is completed in three steps involving the identification of resources, determination of adverse effects, and resolution of adverse effects. She stated that the STB/SEA has completed the first two steps of the process and that the next step would entail resolving adverse effects by first avoiding, then minimizing and finally mitigating impacts, where feasible. Ms. Rutson noted that SGR believes that its mitigation plan would adequately minimize adverse impacts to the Quihi Rural Historic Landscape, thus allowing SEA to find that the Proposed Route is also environmentally preferable. She also noted that Lawrence Sands, Director of the Texas Historical Commission, had sent a letter to SEA stating that the two eastern routes identified by SEA as environmentally preferable would minimize impacts on the historic sites to a greater extent than the Proposed Route as mitigated under SGR’s proposed plan.

Katy Harris provided an overview of the Advisory Council on Historic Preservation’s role in the NHPA process. She stated that the purpose of the agency is to seek to accommodate historic preservation concerns with other Federal actions through consultation, to seek views of other participants, and, if feasible, to reach an agreement. She explained that the Section 106 process is not well suited for the selection of alternatives, but rather provides the tools to identify the impacts. The main goal is to consider options that first avoid, then minimize, and finally, mitigate adverse effects. The Federal agency charged with approving the undertaking is the final decision-maker. In this case, the STB must consider balancing the project’s needs with preservation. ACHP does not predetermine an outcome, but rather ensures that Federal agencies integrate preservation and project needs into the process. The State Historic Preservation Office (SHPO) serves as the official preservation advocate for the state in question.

Ground Rules by Ms. Katy Harris (ACHP)

Katy Harris provided an overview of the ground rules, stating that meeting participants should limit comments to SGR’s proposed mitigation measures and whether they thought the measures would resolve adverse impacts to cultural resources. She stated that environmental issues, such as groundwater and air quality were not the focus of today’s discussion, and noted that there would be no time limit for speakers.

Synopsis of Southwest Gulf Railroad’s Proposed Voluntary Historic Resources Mitigation – presented by Clay Upchurch, Vulcan Construction Materials, LP (VCM)

Clay Upchurch presented two maps of the routes and provided an overview of the following key points of SGR’s proposed mitigation measures to avoid adverse effects along the Proposed Route:

1. SGR shall establish a Conservation Easement along the area that crosses the Quihi Rural Historic Landscape within the property that Vulcan owns.
2. SGR shall adjust the Route to avoid direct impacts to cultural resources (such as the historic wall) by moving the line to the east paralleling an existing pipeline easement and also paralleling it a bit more with CR 353 to run along property...
boundaries. These realignments have not been discussed with property owners yet.
3. SGR shall donate $500,000 to the Texas Historical Commission (THC).
4. SGR shall support THC and Medina County in National Register of Historic Places (NRHP) listings and overall preservation of the rural and historic character of the area.

Mr. Upchurch emphasized that these voluntary mitigation measures do not replace any of the mitigation measures that the Board might impose and/or any other voluntary mitigation measures that SGR has offered or that might be included in any Section 106 agreement document that may be negotiated.

Mr. Upchurch also said that the eastern routes cannot be modified to parallel property lines and that SGR and VCM would need to expend an additional 3 million dollars to build any of the eastern routes, versus constructing SGR's Proposed Route.

Discussion of Proposed Historic Resources Mitigation - Section 106 Consulting Parties by Meeting Participants

Katry Harris stated that AHCP, STB, and THC would sign either a Memorandum of Agreement or a Programmatic Agreement. Most likely SGR will also sign it and other 106 parties may sign it if in agreement. She said that in almost all cases, an agreement is signed, but even for those few that do not end in an agreement; this can’t prevent STB from issuing a final decision on the case.

Ms. Rutson stated that SEA would make final recommendations to the Board through the issuance of a FEIS. Normally the applicant offers mitigation on the most environmentally preferable route, but in this case, SGR offered mitigation on the Proposed Route.

Mr. Oaks said that it is important to listen to cultural and agricultural resources comments before issuing a decision. The selected alternative should also have the least adverse impacts to agricultural communities.

Dr. Fitzgerald highlighted the importance of the Quihi cultural landscape and raised concerns over silica dust, flooding, and aesthetic impacts on the rural historic landscape. He stated that he favors the NCEAA Medina Dam Alternative over the Proposed Route because it avoids most of the Quihi Rural Historic Landscape. He stated that the proposed navigation does not address the aesthetic, air, and noise impacts to the rural historic district, because the very presence of the rail line causes these impacts.

Mr. David Coburn stated that no final designs on the bridges have been developed yet but that SGR believes they will be concrete structures. He clarified, per an earlier comment, that no transmission lines would be built as part of the proposed action.

Ms. Katry Harris stated that it is normal practice to base NEPA environmental reviews on preliminary engineering and that subsequent meetings to discuss these impacts when the design reaches 60-90% can also be done at a later time. Once there is a finding of adverse effect, the next step is to reach an agreement. A design review provision could be added to discuss the bridges design at that time.

Mr. Oaks stated that it would be helpful to have a sketch of the design of the bridge crossing Quihi Creek, or an elevation profile for greater insight. He also said that archeological models could be used to predict site locations within the proposed Route, where there is greater chance of uncovering archeological resources.

Ms. Rutson stated that the visual impacts of the rail line were discussed in the DEIS and the SDEIS.

Mr. Raymond Hernandez raised issues pertaining to environmental protection in Texas. He discussed the potential for sinkholes and their cultural significance, and requested that cultural sites be identified, recorded, and preserved. He also raised concerns related to the investigation efforts from the Texas Archeological Society. He believes that the construction and operation of this rail line may affect their investigations. He also stated that SGR should avoid the need to relocate burial sites at all cost, so avoidance is critical.

Ms. Katry Harris said that STB is required to consider traditional cultural properties (TCPs), sites of religious significance, and archeological resources. Ms. Glidden noted that Federally recognized Tribes, as well as the Tap Pilam Coahuiltecan Nation had been consulted and had expressed concerns regarding burials but had not identified TCPs in the project area. She mentioned that the Native American Graves Protection and Repatriation Act (NAGPRA) is not applicable to this case (no Federal land or Federal funding involved). Ms. Glidden noted that though there is no Federal land within the project area, the STB could still follow NAGPRA protocols, if the Tribes agree. She also said that the final agreement would include identification of these sites, performing detailed archeological surveys, and methodology to handle these sites if found during construction. It was agreed that the area of the Proposed Route has a higher potential for finding archeological resources than either of the two environmentally preferred eastern routes.

Mr. Haold Weiblen stated that the Weiblen family prefers the Proposed Route over any of the eastern routes. However, if one of the eastern routes is chosen, he requested that the “Weiblen Modification” be considered to minimize impact to their irrigation system. He met with the THC on March 14, 2007 to explain the impact of the eastern routes on his property.

Ms. Charlene Dwin Vaught pointed out that even if the Eastern Bypass was chosen, it would also require mitigation to avoid impacts to the Weiblen ranch.

Mr. Coburn stated that there is already a mitigation measure that requires SGR to negotiate with landowners in locations where the proposed rail line would impact agricultural land, and adjust where feasible.

Mr. Tom Walpole is concerned about the very fragile historic resources and does not endorse any of the rail line alternatives. He questioned why the proposed route was being discussed when better routes exist.
Ms. Cathy Glidden stated that SEA would involve the tribes in the mitigation process and in the archaeological survey. She also said that SEA welcomes the participation of aboriginal Texas Indians even if they may not be officially recognized.

Mr. Oaks stated that most rehabilitation would need to be funded from a combination of sources, mostly private, to complement SGR’s monetary offer. However, there is concern that donors will be less likely to invest in rehabilitation of cultural structures if a rail line is built due to the possibility of depreciation of land.

Ms. Rutson stated that if the STB were to approve SGR’s petition to construct and operate the rail line, the railroad will then have common carrier status and must offer rail service at a reasonable rate to any potential shipper who wants to locate along the rail line. Therefore, a conservation easement along both sides of the entire right-of-way would likely not be possible because it could conflict with the common carrier status.

Brian Pietruszowski expressed concern about not having more detailed information on bridge design. He believes that the lack of detail makes it difficult for the public to determine an appropriate route. He also said that economic feasibility should not be part of the evaluation/selection.

Ms. Dwin Vaughn said that the discussion has indicated that concerns exist about the height and profile of the bridge. The Proposed Route would likely create visual impacts to the Quhi Rural Historic Landscape.

Mr. Coburn stated that SGR will not prepare final design documents until a final route is selected. Final engineering is cost prohibitive on multiple rail routing alternatives.

Mr. Oaks indicated that SGR could possibly prepare sketches and profiles of the Quhi bridge.

Ms. Rutson said that we need an agreement document as soon as possible with reasonable consensus. We have three possible routes: the MCEAA Medina Dam Alternative, The Eastern Bypass Route, and the Proposed Route with additional mitigation.

Mr. Oaks stated that THC favors avoidance rather than mitigation. Therefore, THC favors the eastern routes with the Weiblen farm modification. We noted that most people appeared to favor the eastern routes over SGR’s proposed mitigation for the Proposed Route. Mr. Oaks made it clear that THC will not take the position of preventing this project from moving forward, but would like impacts to be avoided or minimized to the greatest extent possible.

Ms. Dwin Vaughn agreed with Mr. Oaks, citing that it’s not the ACHP’s intent to stop the project.

**Summary of Discussions - Charlene Dwin Vaughn and Victoria Rutson**

SGR will modify its proposal to address the issues raised brought forth and submit a revised proposal to STB within 10 days. STB would then send the revision to all Section 106 consulting parties for review. A subsequent consultation conference call will be scheduled to allow for consultation on the revised proposal.

SGR will do the following: modify its mitigation proposal and integrate some of the issues raised during today’s consultation into the mitigation proposal. SGR will then submit the modified proposal to SEA, who will distribute it to the meeting attendees and official Section 106 consulting parties. SEA will set up a day and time for a conference call for the consulting parties to discuss SGR’s modified proposed mitigation plan.
Section 106 Consulting Party Meeting on Proposed Voluntary Mitigation
Surface Transportation Board FD 34284
Southwest Gulf Railroad Company
March 26, 2007
San Antonio, Texas

Chair Persons: Victoria Rutson, Chief, Section Environmental Analysis, STB
Charlotte Dvin Vaughn, Assistant Director, Federal Permitting, Licensing and Assistance Section, Advisory Council on Historic Preservation

Attendees: Charlene Dvin Vaughn (Advisory Council on Historic Preservation)
Katry Harris (Advisory Council on Historic Preservation)

Jaya Zyman-Ponebesh (URS Corporation - third party consultant to Surface Transportation Board's Section of Environmental Analysis or "STB/SEA")

Tom Ranadell (Southwest Gulf Railroad or "SGR")
Clay Upluchito (Vulcan Construction Materials, LP)
David Cohurn (Stephie & Johnson, LLP representing SGR)
Sergio A. Iuegas, R.P.A. (GTI Environmental, Inc.)

Lawrence (Larry) Oaks (Texas Historic Commission)

Robert N. Hancock (Chairman of the Medina County Historical Commission)
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Ms. Rutson summarized the Section 106 of the NHPA, noting that it is a three-step process involving the identification of resources, determination of adverse effects, and resolution of adverse effects. She stated that the STB/SEA has completed the first two steps of the process and that the next step would entail resolving adverse effects by first avoiding, then minimizing and finally mitigating impacts, where feasible. Ms. Rutson noted that SGR believes that its mitigation plan would adequately minimize adverse impacts to the Quiqua landscape, thus allowing SEA to find that the Proposed Route is environmentally preferable. She also noted that Lawrence Oaks, Director of the Texas Historical Commission, had sent a letter to SEA stating that the two eastern routes identified by SEA as environmentally preferable would minimize impacts on the historic sites to a greater extent than the Proposed Route as mitigated under SGR’s mitigation plan.

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3. SGR shall donate $500,000 to the Texas Historical Commission.

Mr. Upchurch emphasized that these voluntary mitigation measures do not replace any of the mitigation measures that the Board might impose and/or any other voluntary mitigation measures that SGR has offered or that might be included in any Programmatic or Memorandum of Agreement document that may be negotiated.

Mr. Upchurch also said that the eastern routes cannot be modified to parallel property lines and that SGR and VCM would need to expend an additional 3 million dollars to build any of the eastern routes, versus constructing SGR’s Proposed Route.

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Mr. Oaks said that it is important to listen to cultural and agricultural resources comments before issuing a decision. The selected alternative should also have the least adverse impacts to agricultural communities.

Dr. Fitzgerald highlighted the importance of the cultural landscape and raised concerns over silica dust, flooding, and aesthetic impacts on the rural historic landscape. He stated that he favors the MCEAA Medina Dam Alternative over the Proposed Route because it avoids most of the rural historic district. He stated that the proposed mitigation does not address the aesthetic, air, and noise impacts to the rural historic district, because the very presence of the rail line causes these impacts.

Mr. David Coburn stated that no final designs on the bridges have been developed yet but that SGR believes they will be concrete structures. He clarified, per an earlier comment, that no transmission lines would be built as part of the proposed action.

Ms. Rutson stated that if it is normal practice to base NEPA environmental reviews on preliminary engineering and that subsequent meetings to discuss these impacts when the design reaches 60-90% can also be done at a later time. Once there is a finding of an adverse effect, the next step is to reach an agreement. A design review provision could be added to discuss the bridges design at that time.
Mr. Oaks stated that it would be helpful to have a sketch of the design of the bridge crossing Quihi Creek, or an elevation profile for greater insight. He also said that archeological models could be used to predict site locations within the proposed Route, where there is greater chance of uncovering archeological resources.

Ms. Rutson stated that the visual impacts of the rail line were discussed in the DEIS and the SDEIS.

Mr. Raymond Hernandez raised issues pertaining to environmental protection in Texas. He discussed the potential for sinkholes and their cultural significance, and requested that cultural sites be identified, recorded, and preserved. He also raised concerns related to the investigation efforts from the Texas Archeological Professors. He believes that the construction and operation of this rail line may affect their investigations. He also stated that SGR should avoid the need to relocate burial sites at all cost, so avoidance is critical.

Ms. Katry Harris said that STB is required to consider traditional cultural practices, sites of religious significance, and archeological resources. Tribes have been contacted to provide input on this, but no information was received from the tribes. She mentioned that the Native American Graves Protection and Repatriation Act (NAGPRA) is not applicable to this case (no federal land or federal funding involved). She suggested having an informal consultation with the tribes and negotiating rather than following NAGPRA protocols. She also said that the final agreement would include identification of these sites, performing detailed archeological surveys, and methodology to handle these sites if found during construction. It was agreed that the area of the Proposed Route has a higher potential for finding archeological resources than either of the two environmentally preferred eastern routes.

Mr. Harold Weiblen stated that the Weiblen family prefers the Proposed Route over any of the eastern routes. However, if one of the eastern routes is chosen, he requested that the “Weiblen Modification” be considered to minimize impact to their irrigation system. He met with THC on March 14, 2007 to explain the impact of the eastern routes on his property.

Ms. Charlene Dwin Vaughn pointed out that even if the Eastern Bypass was chosen, it would also require mitigation to avoid impacts to the Weiblen ranch.

Mr. Coburn stated that there is already a mitigation measure that requires SGR to negotiate with landowners in locations where the proposed rail line would impact agricultural land, and adjust where feasible.

Mr. Tom Walpole is concerned about the very fragile historic resources and does not endorse any of the rail line alternatives. He questioned why the proposed route was being discussed when better routes exist.

Ms. Cathy Gillett stated that SEA would involve the tribes in the mitigation process and in the archeological survey. She also said that SEA welcomes the participation of aboriginal Texas Indians even if they may not be officially recognized.

Mr. Oaks stated that most rehabilitation would need to be funded from a combination of sources, mostly private, to complement SGR’s monetary offer. However, there is concern that donors will be less likely to invest in rehabilitation of cultural structures if a rail line is built due to the possibility of depreciation of land.

Ms. Rutson stated that if the STB were to approve SGR’s petition to construct and operate the rail line, the railroad will then have common carrier status and must offer rail service at a reasonable rate to any potential shipper who wants to locate along the rail line. Therefore, a conservation easement along both sides of the entire right-of-way would likely not be possible because it could conflict with the common carrier status.

Brian Pietruszowski expressed concern about not having more detailed information on bridge design. He believes that the lack of detail makes it difficult for the public to determine an appropriate route. He also said that economic feasibility should not be part of the evaluation/selection.

Ms. Dwin Vaughn said that the discussion has indicated that concerns exist about the height and profile of the bridge. The Proposed Route would likely create visual impacts to the rural historic landscape.

Mr. Coburn stated that SGR will not prepare final design documents until a final route is selected. Final engineering is cost prohibitive on multiple rail route alternatives.

Mr. Oaks indicated that SGR could possibly prepare sketches and profiles of the Quihi bridge.

Ms. Rutson said that we need an agreement document as soon as possible with reasonable consensus. We have three possible routes: the MCEAA Medina Dam Alternative, the Eastern Bypass Route, and the Proposed Route with additional mitigation.

Mr. Oaks stated that THC favors avoidance rather than mitigation. Therefore, THC favors the eastern routes with the Weiblen farm modification. He noted that most people appeared to favor the eastern routes over SGR’s proposed mitigation for the Proposed Route. Mr. Oaks made it clear that THC will not take the position of preventing this project from moving forward, but would like impacts to be avoided or minimized to the greatest extent possible.

Ms. Dwin Vaughn agreed with Mr. Oaks, citing that it’s not the ACHP’s intent to stop the project.

Summary of Discussions - Charlene Dwin Vaughn and Victoria Rutson

SGR will modify its proposal to address the issues raised during the consultation into the mitigation proposal. SGR will then submit the modified proposal to SEA, which will distribute it to the meeting attendees and official Section
106 consulting parties. SEA will set up a day and time for a conference call for the consulting parties to discuss SGR’s modified proposed mitigation plan.

Office of Economics, Environmental Analysis and Administration

April 9, 2007

Re: STB Finance Docket No. 34284 – Southwest Gulf Railroad Company – Construction and Operation Exemption – Medina County, TX

Dear Section 106 Consulting Party:

At our meeting in San Antonio, Texas, on March 26, 2007, representatives of Southwest Gulf Railroad (SGR) and Vulcan Construction Materials, Inc. presented a voluntary mitigation plan intended to minimize impacts on rural historic landscapes caused by construction and operation of SGR’s proposed rail route through Quihi, Texas. At the conclusion of that meeting, Ms. Charlene Dwyn Vaughn of the Advisory Council on Historic Preservation suggested that SGR be given an opportunity to integrate its voluntary mitigation plan some of the new information heard during the meeting.

SGR has revised its voluntary mitigation plan, which I have enclosed for your review. Also enclosed is a schematic of the bridge that will be used to cross Quihi Creek, which has been prepared by SGR.

To provide you and all the consulting parties with the opportunity to share your views on the enclosed materials, I have scheduled a teleconference call on Friday April 20, 2007, from 10:00am – 12:00pm CT/11:00am – 1:00pm EST. The call in number is 1-866-603-2146 and the access code is 368166. In the event you are unable to take part in the meeting, I ask that you try to find a substitute who can participate and represent your views. SEA will take notes and will post the notes on the Board’s website as soon as we can following the teleconference.

We appreciate your continued participation in the Section 106 consulting party process and look forward to reaching an understanding of the issues. If you have questions, please feel

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1 The minutes from the March 26, 2007 meeting are available for viewing on the Board’s website at www.stb.dot.gov by going to “E-Library,” selecting “Correspondence,” then “Environmental”, then selecting “Outgoing by Docket Number”, then conducting a search for FD 34284, and finally selecting “#EO-463.”
free to contact Diana F. Wood, Project Manager, by telephone at 202-245-0302 or by email at wooodd@stb.dot.gov.

Sincerely,

Victoria Rutson  
Chief, Section of  
Environmental Analysis

Enclosure
Specifically, SGR proposes the following revised voluntary mitigation for the Proposed Route to address the concerns that have been raised about the impacts of that route on the Quihi Rural Historic District and to minimize those impacts:

1. SGR will fund the preparation by a competent historic resources consultant of an Historic Preservation Plan ("HPP") for the Quihi Rural Historic District ("QRHD"). The purpose of the HPP will be to establish a plan for the current and long-range preservation, maintenance and use of the QRHD. The HPP will be developed in consultation with the Medina County Historical Commission and subject to review by the Texas Historical Commission ("THC") and the Advisory Council. The HPP would be designed to meet all appropriate State and Federal standards and guidelines for preservation planning. The consultant retained to prepare the HPP will meet, at a minimum, the "Professional Qualification Standards" detailed in the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9). The HPP will include the identification and evaluation materials that were utilized to determine that the QRHD met the criteria for inclusion in the National Register of Historic Places. It would also include a discussion of the available resources -- both existing and proposed -- that might be used to help achieve the recommendations of the HPP. In the event the HPP recommends the adoption of a local historic district ordinance to preserve the historic integrity of the QRHD and completion of a National Register nomination for the QRHD, SGR further agrees to support such an ordinance and nomination.

SGR is offering the above mitigation in recognition of the fact, made clear at the meeting, that there is at present no mechanism for protecting the QRHD from development. In other words, there is no means of preventing the suburban sprawl evident in eastern portions of Medina County since this project was first proposed, from spreading into the Quihi area. Absent means of controlling growth in the area, talk about the historic resources will not protect them. SGR is prepared to work with the local community to change this situation. The development of an Historic Preservation Plan is an essential step in the process. SGR will support and fund this effort.1

2. SGR agrees to implement a conservation easement program in consultation with the Medina County Historical Commission and the THC on those properties that it or its affiliates own in the QRHD. Those properties constitute about one half of the length of the Proposed Route in the QRHD. The purpose of this program would be to control development within the QRHD. The easement would work in hand in hand with the preservation plans put forward in the HPP. Further, SGR will use its best efforts to encourage other landowners within the boundaries of the QRHD from which it would need to acquire its right of way to establish a similar conservation easement. If those landowners concur, the entire length of the line within the QRHD would be protected by an easement. As a result, no rail-served businesses could locate along the SGR line within the QRHD.

3. Should the Proposed Route be constructed, SGR would take steps (through rate incentives and other means) to incentivize any businesses desiring to locate on its line to do so outside of the QRHD and, instead, in the area near the southern terminus of its line, well outside the QRHD and near the UP line and U.S. 90. As stated previously, SGR believes that this is the area in which businesses are most likely to locate due to its proximity to the highway and the existing rail line. However, to the extent that any business did choose to locate in the QRHD along a portion of the line, if any, that might be not be protected through an easement, SGR would contribute a fixed sum to either the Medina County Historical Commission or the THC to fund historic preservation within the QRHD. The size of the contribution would be commensurate with size of the area consumed by the rail-served businesses that locate in the QRHD under a formula that SGR would discuss with the relevant preservation agencies, but would not be less than $15,000. Of course, to the extent that the entire line within the QRHD were to be protected by an easement, or to the extent that Medina County were to enact a preservation ordinance protecting the QRHD from development, this measure would be unneeded.

4. SGR will ensure that the Proposed Route avoids the historic stone wall as well as any other structures that are contributing elements to the QRHD. This re-routing is reflected on the attached map of the Proposed Route. In addition, natural vegetation in the area of the Proposed route will be maintained to screen the rail line as much as possible.

5. SGR will avoid bisecting the Gerdes farm, designated as a heritage property, by re-routing the Proposed Route along the edge of that property, adjacent to County Road 353 currently marks the edge of the property. This re-routing is also reflected on the attached map of the Proposed Route. The Proposed Route otherwise runs as close as possible to property boundaries and traverses fewer properties than any other route.

6. SGR will consult with the Tap-Pilam Tribal Council to develop a plan to ensure that any Tap-Pilam human remains and grave associated artifacts encountered during the construction phase of the project are reburied within 30 days in a location where their subsequent disturbance is unlikely and in a manner consistent with Tap-Pilam Tribal custom and tradition. In addition, the SGR and the Texas SHPO will consult with the Tap-Pilam Tribal Council prior to completion of the SGR undertaking and afford them the opportunity to conduct a ceremony of their own design recognizing the significance of the project area to the Tribe.

7. To the extent that the STB approves the Proposed Route, SGR will submit final engineering plans and specifications for that Route to the Medina County Historical Commission and the THC for advance review and comment. SGR stands prepared to satisfy reasonable concerns based on historic preservation that are raised about the location of its line and the design of bridges.

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1 It should be noted that SGR's original offer of a $500,000 contribution to a state historic preservation fund did not appear to be embraced by the THC (or other consulting parties). SGR has thus restructured that contribution as set forth in this letter, but is prepared to restore a contribution to the fund if that is preferred by the THC.
8. SGR will take steps to use natural vegetation and other available means to make the rail line, including stream crossings, as unobtrusive as possible.

9. SGR commits to adhering to the terms of the Programmatic Agreement as a means of addressing any archeological resources that may be located along the Proposed Route.

SGR has attached to this letter a not-to-scale artist rendering of the crossing of Quinhi Creek as requested at the meeting. The rendering reflects neither final engineering work, which has not yet been undertaken, nor the hydrological modeling that SGR has committed to employ in connection with all stream crossings as part of its voluntary mitigation. The sketch shows one scenario for crossing the Creek and CR 353. Under this scenario, the visual impacts of the stream crossing have been minimized by moving the road away from the Creek, to the west side of the Schweens House. SGR has advised the County Commissioner for the area of the possibility that it could seek permission to move CR 353. Other scenarios are also possible, including crossing the Creek at a point north of the current crossing point, where there is more land between the Creek and the road.

SGR looks forward to discussing these revised mitigation proposals and the attachments with you. To the extent that a determination is made to consult further with the non-government agency consulting parties, SGR wishes to note for the record that two of the consulting parties, the Schweens Foundation and the Weihlen family, favor the Proposed Route, as mitigated in the manner initially proposed by SGR. MCEAA, it bears noting, has expressly stated that it does not want any rail route in the area. Thus, the views of Dr. Fitzgerald on behalf of MCEAA should be understood in that context — there is nothing that SGR could offer in terms of proposed mitigation for the Proposed Route to satisfy that party. SGR assumes that the same is true for the organization headed by Dr. Fitzgerald’s wife, the Quinhi and New Fountain Historical Society, an organization whose membership appears to overlap significantly, if not entirely, with MCEAA’s. As to Section 106 consultant Mr. Archie Gerd, SGR believes that it has fully satisfied his concerns with the suggested re-routing of the Proposed Route to the edge of his property. It also bears note that Mr. Gerd was advised of this proposed re-routing at the meeting and he has advised SGR that he is comfortable with the re-routing.

SGR of course appreciates that the Eastern Routes, two of which have been tentatively determined to be environmentally preferable, bypass the QRHD. While SGR recognizes that the “path of least resistance” here relative to the concerns expressed about historic resources in the Quinhi area would be to build along one of those routes, it should be recognized that doing so is not without its own costs. As SGR has stated, the cost of such construction is considerably higher, as would be the operational and maintenance costs. In addition, SGR has previously identified other issues with the Eastern Routes that, in its view, render the Proposed Route preferable, including intrusion onto the properties of fewer private landowners and less impacts to irrigated fields. Moreover, a review of the comments filed in this proceeding reveals, predictably, that numerous landowners (not only the Weihlens, but several others) who live in the area impacted directly by the Eastern Routes oppose the line running through their property for one reason or another. SGR notes this fact not because it

believes that any of the commenters have raised disqualifying issues or issues that cannot be addressed, but merely to note that satisfying one group of landowners in the Quinhi area, such as Dr. Fitzgerald and his wife, by routing the line away from their properties will inevitably lead to the dissatisfaction of others landowners. Thus, no option is available that does not create some issues for some persons, as is typical in any rail construction proceeding.

As noted, the cost to SGR of constructing and operating the longer Eastern Routes is much higher than the Proposed Route. Nothing in the Section 106 process, or the NEPA process, suggests that this fact should be ignored in assessing alternatives or that avoidance is necessarily mandated when mitigation can address the issues at hand.

Finally, SGR urges the parties to consider that its offer constitutes the best opportunity to protect the Quinhi area against future intrusions and suburban growth, which is otherwise inevitable and not subject to any controls. The funding of the historic preservation plan, coupled with the easement, the incentives for businesses to locate away from the QRHD, the re-routing and other mitigation measures offered above, will go far toward preserving the area and thus fulfilling the letter and spirit of the National Historic Preservation Act.

We look forward to your views and to reaching a memorandum of understanding on the above points.

Sincerely,

David H. Coburn
Attorney for Southwest Gulf Railroad

cc: Ms. Diana Wood, SEA
Ms. Jaya Zyman Ponevich, URS
Dear Cathy:

I hereby request status as a Section 106 consulting party in the continuing review of FD 34284.

Thank you very much.

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

----- Original Message -----

From: Catherine.Glidden@stb.dot.gov
To: secocreek@swtexas.net
Cc: Leake@thc.state.tx.us ; Bryd.patterson@thc.state.tx.us ; Diana.Wood@stb.dot.gov
Sent: Tuesday, April 24, 2007 9:31 AM
Subject: Section 106 consulting party status for Dr. Hester

Dear Dr. Hester:

Thank you very much for your help.

From: Catherine.Glidden@stb.dot.gov
To: secocreek@swtexas.net
Cc: Leake@thc.state.tx.us ; Bryd.patterson@thc.state.tx.us ; Diana.Wood@stb.dot.gov
Sent: Tuesday, April 24, 2007 9:31 AM
Subject: Section 106 consulting party status for Dr. Hester

Dear Dr. Hester,

Thank you very much for your help. We will add you to our official list of Section 106 consulting parties for the Southwest Gulf Railroad Company Construction and Operation Exemption in Medina County, Texas: Finance Docket Number 34284.

Best Regards,

Catherine Glidden
Environmental Protection Specialist
Surface Transportation Board
Section of Environmental Analysis
Washington, DC 20423-0001
Phone: (202) 245-0293
Fax: (202) 245-0454

----- Original Message -----

From: Catherine.Glidden@stb.dot.gov
To: secocreek@swtexas.net
Cc: Leake@thc.state.tx.us ; Bryd.patterson@thc.state.tx.us ; Diana.Wood@stb.dot.gov
Sent: Tuesday, April 24, 2007 9:31 AM
Subject: Section 106 consulting party status for Dr. Hester

Dear Dr. Hester,

Diana forwarded me your email to her regarding the Section 106 consulting party issue. I personally believe (as does the Chief of our Department, Vicki Rutenbar), that you should be a Section 106 consulting party for this project. Your involvement will be most critical when we are at the point of circulating a PA or MCA for review and are in the process of developing a treatment plan to address the archaeology and any unanticipated finds. You have been involved in providing me and others on this project with guidance and information regarding the location of archaeological sites and important data sources since day 1 (certainly since my involvement in this project).

If you are interested in being a consulting party, could you simply send me an e-mail requesting such status? The regulations require that we consider any such requests that we get in writing, which would include an e-mail message. Once you submit your request, I will send a response granting you Section 106 consulting party status. At that point, you will be given the opportunity to weigh in on the Section 106 process for this project to a much larger degree than as a member of the public.

Thanks again for your continued assistance and input regarding the potential cultural resources impacts of this project.

-Cathy

Catherine Glidden
Environmental Protection Specialist
Surface Transportation Board
Section of Environmental Analysis
Washington, DC 20423-0001
Phone: (202) 245-0293
Section 106 Consulting Party Teleconference on Proposed Voluntary Mitigation
Surface Transportation Board FD 34284
Southwest Gulf Railroad Company
April 23, 2007

Chair Person: Victoria Rutson, Chief, Section Environmental Analysis, STB

Attendees: Charlene Dwin Vaughn (Advisory Council on Historic Preservation)
Katry Harris (Advisory Council on Historic Preservation)
Jaya Zyman-Pomehshet (URS Corporation - third party consultant to Surface Transportation Board's Section of Environmental Analysis or "STB/SEA")
Tom Ransdell (Southwest Gulf Railroad or "SGR")
Clay Upchurch (Vulcan Construction Materials, LP)
David Coburn (Shepley & Johnson, LLP representing SGR)
Jordan Tannenbaum, Esq. (Section 106 Consultant)
Lawrence (Larry) Oakland (Texas Historical Commission)
Terry Colley (Texas Historical Commission)
Bradford Patterson (Texas Historical Commission)
Richard Garay (Tap Pilam Coahuiltecan Nation Member)
Raymond Hernandez (Tap Pilam Coahuiltecan Nation Member)
Bob Fitzgerald, MD (Medina County Environmental Action Association or "MCEAA")
Mary Walpole (MCEAA Treasurer)
Archie Greer (MCEAA)
Lester R. Landrum (MCEAA)
Tom Walpole (MCEAA)
David Barton (The Gardner Law Firm)
Brian Pietruszowski (The Gardner Law Firm)
Ray Schoch (Schweers Historical Foundation)
Alyne Fitzgerald (Quihi and New Fountain Historical Society)
Cynthia Lindsey (Quihi & New Fountain Historical Society)
Andy Weiblen (Weiblen Bros. Farms)
Michael Weiblen (Weiblen Bros. Farms)
Victoria Rutson (STB/SEA)
Diana Wood (STB/SEA)

Meeting notes: 4-20-07
Cathy Glidde (STB/SEA)
Evelyn Kitay (STB Office of General Counsel)
Danielle Gosselin (STB/SEA)

Other Interested Parties (Not Official Section 106 Consulting Parties):
Ronda McNee (Martin Family - Landowner)
Alvin Saathoff (Saathoff Family - Landowner)
Lynette Stewart (Landowner)
Juliette Fletcher (Preservation Texas)
Thom Hester (Archaeologist)
Courtney Eisenhower (Landowner)

Introduction
The meeting convened at 10:00 CT and 11:00 EST. Following a brief welcome and
introductions, Victoria Rutson provided an overview of the agenda which included:

Purpose of Meeting, Brief Chronology and Ground Rules
Synopsis of Proposed Voluntary Historic Mitigation Measures as Outlined in Southwest
Gulf Railroad’s (SGR’s) April 5th Letter

Initial Remarks Focusing on Four Questions Below - Section 106 Consulting Parties:
1) What is your overall reaction to SGR’s modified proposal?
2) Does the modified proposal address the issues that you raised during the meeting
held Monday, March 26, 2007?
3) If not, why not? Where specifically does the mitigation fall short?
4) What would be needed for you to find the Proposed Route acceptable?

Additional Remarks/Open Discussion

Next Steps

Purpose of Meeting, Brief Chronology and Ground Rules - by Victoria Rutson

Victoria Rutson provided background information on the proposed railroad construction
and operation proceeding. She noted the purpose of the meeting was to give the Section 106
consulting parties an opportunity to provide comments on SGR’s voluntary mitigation plan for
the Proposed Route. Ms. Rutson detailed the past events of the project, from SGR’s initial 2003
filing for construction authority before the Surface Transportation Board (STB) to the issuance
of the Supplemental Draft Environmental Impact Statement (SDEIS) in December 2006. In the
SDEIS, she explained, the STB’s Section of Environmental Analysis (SEA) had identified both
the MCEAA and Eastern Bypass Routes as the environmentally preferred routes because these
routes would avoid the Quihi Rural Historic District (QRHD).

Ms. Ruston also provided an overview of the ground rules, stating that initial comments
should be based on the four questions listed in an e-mail sent to the meeting participants before
the meeting. She stated that each party would have two minutes to speak in the initial round of
comments and would later have the opportunity to expand on their comments during the open
discussion. Ms. Rutson also noted that only official Section 106 Consulting Parties would be
given the opportunity to speak during the initial round.

Synopsis of SGR’s Proposed Voluntary Historic Mitigation Measures as Outlined
in their April 5th Letter – presented by Clay Upchurch, Vulcan Construction
Materials, LP (VCM)

Clay Upchurch provided an overview of the following key points of SGR’s proposed
mitigation measures as outlined in SGR’s April 5th letter:

1. SGR will fund the preparation by a competent historic resources consultant of an
   Historic Preservation Plan (HPP) for the QRHD. The purpose of the HPP will be
to establish a plan for the current and long-range preservation, maintenance and
use of the QRHD.

2. SGR agrees to implement a preservation easement program in consultation with
   the Medina County Historical Commission and the Texas Historical Commission
   (THC) on those properties that it or its affiliates own in the QRHD. The purpose
   of this program would be to control development within the QRHD.

3. Should the Proposed Route be constructed, SGR will take steps (through rate
   incentives and other means) to incentivize any businesses desiring to locate on its
   line to do so outside of the QRHD, an instead, in the area near the southern
   terminus of its line, well outside the QRHD and near the UP line and U.S. 90. If
   any business locates along a portion of the line that is not protected through an
   easement, SGR would contribute a fixed sum to either the Medina County
   Historical Commission or the THC to fund historic preservation within the
   QRHD. The size of the contribution would be commensurate with the size of the
   area covered by the rail-served business that locates in the QRHD under a
   formula that SGR would discuss with the relevant preservation agencies, but
   would not be less than $75,000.

4. SGR will ensure that the Proposed Route avoids the historic stone wall as well as
   any other structures that are contributing elements to the QRHD.

5. SGR will avoid bisecting the Gerdes farm, designated as a heritage property, by
   re-routing the Proposed Route along the edge of that property, adjacent to County
   Road 353 currently marking the edge of the property.

6. SGR will consult with the Tap-Pilam Tribal Council to develop a plan to ensure
   that any Tap-Pilam human remains and grave associated artifacts encountered
during the construction phase of the project are reburied within 30 days and in a
7. To the extent that the STB approves the proposed route, SGR will submit final engineering plans and specifications for that Route to the Medina County Historical Commission and the THC for advance review and comment.

8. SGR will take steps to use natural vegetation and other available means to make the rail line, including stream crossings, as unobtrusive as possible.

9. SGR commends adhering to the terms of the Programmatic Agreement as a means of addressing any archeological resources that may be located along the Proposed Route.

Mr. Upchurch also noted that SGR would be willing to revisit the proposed mitigation measures discussed at the March 26th meeting.

Initial Remarks Focusing on Four Questions — By Section 106 Consulting Parties

Mr. Jordan Tannenbaum stated that, when Congress enacted the National Historic Preservation Act, it intended a balancing between preservation and development. He also stated that he believes that SGR has come up with a formidable array of mitigation incentives to ensure that businesses will locate outside of the QRHD. He said that these incentives are innovative and will ensure preservation. Finally, he stated that everyone should consider the mitigation measures.

Ms. Cynthia Lindsey made the following initial comments:

I would like to comment, in writing, to your letter of April 9, 2007, and the attached letter from Steptoe & Johnson, dated April 5, 2007, regarding the mitigation proposals made by the representatives of Southwest Gulf Railroad (SGR) at the meeting on March 26, 2007. It is my understanding that Vulcan Construction Materials and their subsidiary SGR are continuing to pursue the original proposed route through the Quihi Rural Historic District (QRHD). And, in spite of the conclusions and recommendations made by the Surface Transportation Board (STB) and the Board’s Section of Environmental Analysis (SEA) in their Supplemental Draft Environmental Impact Statement (SDEIS) issued in December 8, 2006, Vulcan and the SGR continue to insist that the original Proposed Route should be approved, apparently only because of the additional cost. From my reading it appears the SEA has concluded in its report “that the Eastern Alternatives are environmentally preferable to the Proposed Route or any of the alternatives.” Therefore, I cannot understand why these meeting and any negotiations or mitigations are necessary; the original Proposed Route is definitely unacceptable.

The representatives of the SGR make several offers of mitigation in their letter and I have to question several of their offers. They offer to procure the services of consultants to assist in the preservation of the QRHD, but it must be understood that these services would not be necessary if there were no railroad in the QRHD. The SGR also emphasizes the importance of cost in the construction of one route versus another, but they do not stress the “cost” of the permanent loss or destruction of a historic heritage and culture which cannot be replaced, and the “cost” to hundreds of families whose lives will be adversely impacted by their project. No amount of money or mitigation can recoup that “cost.”

Then SGR offers to establish a conservation easement along the portion of property that it or its affiliates own and encourage the other landowners to do the same, thereby preventing any further development along the rail route. This presents a major quandary, the SGR has applied for a permit from the government to operate a “public railroad” for the “public benefit,” and they have indicated that they will use the power of land condemnation provided to public railroads to acquire land for the “public benefit.” But, then they propose to establish a conservation easement along the route, which, according to their letter would result in “no rail-served business could locate along the SGR line within the QRHD.” This is NOT a “public railroad” and it definitely will not service the “public benefit.” They should NOT be allowed to acquire private land using eminent domain when there is NO “public benefit.” Vulcan never intended to have a “public railroad,” it is for their own private use and will profit only them. They are therefore making a mockery of our laws and the regulatory process of the STB and the SEA.

They also state that they will avoid the historic stone wall as well as any other elements contributing to the QRHD. Well it is apparent that SGR and Vulcan were oblivious to the majority of the historic sites in Quihi when they produced the original Draft Environmental Impact Statement (DEIS) in November, 2004, and that was one of the reasons that the additional SDEIS was necessary. Why should we believe that the SGR and Vulcan have identified all historic sites at this point? Quihi is peppered with historic and multiple pre-historic sites which are still being identified. In my opinion, avoiding specific sites is not enough, they should avoid the entire area, and they need to stay far away from Quihi and from the QRHD.

The SGR also offers to move the Proposed Route and not bisect the Gerdes farm, a heritage property. They state the rail line will now be routed along the nearest fence line, this should really improve the quality of life for a farm family that has held the same property in the same family for over one hundred years. Having a garish train run along the edge instead of mining system will NOT make the Gerdes family more comfortable, it is still intrusive and degrades the quality of their lives and their farm. SGR then offers to screen the rail line with natural vegetation and make it, the rail line, as unobtrusive as possible. It appears that they have now admitted that the railroad is invasive, obtrusive, and unsightly and requires screening to make it more palatable to the community. There is natural vegetation there now and a railroad will be obtrusive no matter what they used to try to hide it.

Finally, on a personal note, the letter writer states that “… the Proposed Route is preferable, including intrusions onto the properties of fewer private landowners and less impact to irrigated fields.” Well, they apparently don’t have any problems impacting my irrigated

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1 SDEIS, Dec. 8, 2006, Page ES-12.

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fields. I have an Edwards Well and an extensive irrigation system and I irrigate my hay fields and pecan orchards. My hay fields are cut and baled sometimes as many as three times per year. The hay fields are the sole support of my farming operation; I use the hay to feed my cattle. I find it hard to understand why someone’s irrigated fields are more important than mine, and why the SGR uses the avoidance of one irrigated field as justification for their Proposed Route, but considers it okay to destroy my irrigation system and fields.

In summary, I object strongly to the Proposed Route or any other route that bisects the QRHD because it will have a definite negative impact on the Quihi Rural Historic District. The SGR should NOT designate the Proposed Route as a preferable alternative, and if a rail line is to be constructed anywhere near Quihi it should be as far away from any historic sites as possible. I cannot in good faith endorse or support any of the Eastern Alternatives, as I am personally against any commercial development within, over, or through the Edwards Aquifer Recharge Zone. In addition, I restate my opposition to Vulcan’s proposed route which is within, over, and through this very special, historic, and unique rural community of Quihi. The mission statement or motto adopted by the Quihi and New Fountain Historical Association is “We have no future without a past.” Please help us preserve our past for the sake of all those who will come after us and need it for their future. Thank you for giving me the opportunity to express my concerns and submit my comments.

Mr. David Barton made the following initial comments:

1. What is your overall reaction to SGR’s modified proposal?

The modified proposal fails for the same reasons as the original proposal. Items 1, 2, and 3 of the April 5th letter address only future development. Items 6, 7, 8, and 9 are the same unenforceable promises pertaining to final design and engineering that we heard previously. Items 4 and 5 reflect a negligible minimization but still do not resolve the unavoidable, unmitigable aesthetic and environmental impacts from the location of the Proposed Route in the Quihi historic area.

2. Does the modified proposal address the issues that you raised during the meeting held Monday, March 26, 2007?

No.

3. If not, why not? Where specifically does the mitigation fall short?

Mitigation that addresses only the impacts of future development is irrelevant and is not mitigation of the adverse effects identified in the SDEIS.

The focus must be on the impact of this proposal, which is not complete. The shell game with the power line to the quarry is larcenous. They have been undertaking planning for the connected action all along and it is obvious that the most convenient location for the power line, from their perspective, will be the rail easement. But now they are claiming the right to solely determine when their plans ripen into proposals. That is not for them to decide. At the very least, the power line is a reasonably foreseeable future action whose adverse effects have not been accounted for. Texas law regarding proprietary service areas of electric co-ops requires the Medina Electric Co-Op (MECO) to be the service provider for the Vulcan quarry. The shaming that negotiations between Vulcan/SGR and MECO are somehow “preliminary” is insufficient to overcome the requirement to designate the power line as a reasonably foreseeable future action, particularly given that the quarry has completed the state permitting process.

Further, Vulcan/SGR’s fallback position, even if they have to account for the power line, is the same final design and final engineering privilege they have cited previously for the bridges and other components that will have unmitigable impacts. They’ve already gotten the benefit of deferring final engineering, and they can’t now double their benefit by using that as mitigation in lieu of analysis or use it to overcome the benefits of avoidance. That will be a significant legal issue which MCEAA will assert if the Proposed Route is deemed eligible for licensing.

4. What would be needed for you to find the Proposed Route acceptable?

MCEAA will not accept the Proposed Route under any circumstances, due to its unmitigable impacts. This process should be over, and it can be over very easily given the existence of the environmentally preferred Eastern Alternatives. We do not appreciate the attempts of the applicant and anyone else who would enable them to push the impacts of this rail line from the quarry lesser in the case over to the residents of Quihi in the west. The idea that somehow the property interests along the various alternatives are equally situated and that, oh, it’s too bad that someone will get gored no matter what is nonsense when there is resistance to otherwise viable eastern alternatives by those with a financial interest in the connected action, i.e., the quarry. It is significant that, as Cynthia Lindsey noted in her letter, the supposedly equivalent burdens supposedly borne by landowners along the eastern routes have not been addressed for the Proposed Route, which only adds to the hypocrisy of casting the property interests here as equal. The quarry lesser have some latecomers to this process who are fronting for them, but the issues facing the eastern irrigators have been resolved and there is no reason to continue consultation on the Proposed Route. We have asked the STB to terminate consultation on the Proposed Route and after hearing everyone’s views in the opening statements we urge it to do so, so there can be a reasonable outcome to this process that is more likely to avoid litigation.

Ms. Alyn Fitzgerald stated that there were no solutions presented in SGR’s April 5th letter. She believes that SGR did not acknowledge the real effect of the Proposed Route on the cultural landscape of the QRHD. She stated that she does not think that the modified proposal addresses the issues raised during the March 26th meeting. She thinks that the modified proposal only brought up more unanswered questions. She stated that mitigation is not possible because of the effect that moving earth would have on the Quihi landscape. She stated that there are a number of impacts that will adversely affect the landscape including right-of-way for non-historic purposes, new buildings etc. She stated that these changes would leave the QRHD ineligible for the National Register of Historic Places. She stated that nothing can be done to make the Proposed Route acceptable.
Mr. Tom Walpole stated that Vulcan's resistance to build is ludicrous when they have a viable option. He said that he can't believe that cost is the only reason for not considering the eastern routes. He stated that he does not believe that the modified proposal addresses the issues that were raised at the March 26th meeting. He believes that the artist's rendition of the bridge attached to SGR's April 5th letter is a joke. He stated that he would not accept the Proposed Route under any circumstances.

Dr. Bob Fitzgerald stated that he relinquished his two minutes to Mr. Barton.

Mr. Ray Schoch stated that he attended the March 26th meeting, but his name wasn't on the list of attendees in the meeting minutes. He stated that he supports the Proposed Route. He believes that it is the shortest route and that it affects the fewest people. He stated that it is not possible to stop industry for any reason. He emphasized that SGR's mitigation proposal is reasonable. He said that the picture of the bridge looks reasonable. He also indicated that he spoke with engineers who told him that noise and vibration wouldn't be a problem for the four houses located on the Proposed Route. He said that he doesn't have a problem with the Proposed Route as long as the train doesn't come within 200 ft. of any of the houses or disrupt the oak trees. He also stated that any artifacts in the area would have been found. Mr. Schoch noted that the size of the contribution to fund historic preservation had changed in the modified proposal. He stated that there was a lack of funding which prevented preservation.

Mr. Andy Weiblen made the following initial comments:

The Weiblen Family wants to reiterate that they are against the eastern routes since the divide more than double the number of farms and ranches when compared to the Original Proposed Route.

If there are no other choices but the eastern routes, then the Weiblen Family wants the Weiblen Modification identified as a requirement to avoid the destruction of our farm.

Mr. Richard Garay made his initial comments. See attached.

Mr. Larry Oaks stated that they will look at the minutes from these meetings and work to preserve cultural and historic resources and to allow development to go forward. He said that the purpose is not to find a middle ground but to find a way to avoid or lessen any potential impacts. He stated that they need to find a solution that will do the least amount of damage to the division of properties and to irrigation systems.

Mr. Brad Patterson indicated that avoidance of cultural resources remains viable. He stated that a preservation plan can be a useful tool. However, he also believes that easements may not be successful on land that the railroad does not own. He stated that it might be difficult to get other property owners to comply. He also noted that the artist's rendition of the bridge is not to scale.

Ms. Kayte Harris reminded everyone that the Eastern Bypass Route and the McFAR Route both pass through an identified cultural historic district. She mentioned that the build alternative might also have adverse effects on historic properties because of trucks running through the district and road improvements.

Additional Remarks/Open Discussion - by Meeting Participants

Mr. Tom Hester stated that he provided his comments in a letter to Mr. Oaks. He indicated that he had one additional comment regarding the proposed preservation plan. Mr. Hester stated that the Medina County Historical Commission has no ability to implement a preservation plan.

Dr. Fitzgerald stated that he does not believe any modification can take the place of avoidance. He believes that the eastern route is preferable. He indicated that the modified proposal does not address the issues raised at the March 26th meeting. He stated that he had expectations of learning more regarding the crossing of the flood plain, the QRMD etc. He believes that the proposal lacks details. Furthermore, he stated that it would be difficult to mitigate dust, noise and the presence of a train. He said that the area needs to be preserved as a rural landscape. Finally, he stated that nothing would make the Proposed Route acceptable.

Ms. Ronda McNew made the following initial comments.

My name is Ronda McNew, a member of the Martin Family comprised of the Nelson Martin Family, the Jerry Martin Family and the Dean McNew Family. On behalf of my family, I want to thank you for allowing me to speak. To ensure that I do not miss any of the points that my family wants emphasized, I am reading my prepared comments.

My family is in total support of the Southwest Gulf Railroad's modified proposal to the Proposed Route. Texas' Governor, the Honorable Rick Perry, Agricultural Commissioner Todd Staples, and the Texas Farm Bureau also support the Proposed Route. We concur that the Proposed Route will affect fewer landowners and less archaeologically sensitive terrain while affording the most protection to the Quihi Rural Historic District. We applaud the mitigation efforts, as they are a wonderful balance benefitting all parties involved.

There were many, many concerns raised during the March 29th, 2007, meeting. It is the feeling of my family, that the modified proposal addressed the possible problematic areas and offered sound viable solutions making the Proposed Route very acceptable.

The Martin Family requests that the Section of Environmental Analysis of the Surface Transportation Board and Texas Historical Commission decide to allow Southwest Gulf Railway to move forward with the construction of the Proposed Route with modified enhancements from
the Vulcan Construction Materials, LP limestone quarry to the Union Pacific Railroad Company rail line near Dunlay. This decision will not be regretted.

Thank you, again, for allowing me to address this group.

Ms. Ronda McNee also made the following additional comments:

My name is Ronda McNee, a member of the Martin Family comprised of the Nelson Martin Family, the Jerry Martin Family, and the Dean McNee family. On behalf of my family, I want to thank you for allowing me to speak. To ensure that I do not miss any of the points that my family wants emphasized, I am reading my prepared comments.

Our family lives on a historical property that is in the path of the proposed eastern routes. This land has been in our family for over 100 years, qualifying it for Texas Department of Agriculture Family Land Heritage Program recognition. We are completing the required documentation for recognition as a historic property in 2008.

We understand and are a part of the multi-faceted tapestry of the community of Quihi. We also own land in the town of Quihi, which has been in our family since 1855. This land was part of an original Texas land grant and received a Texas Department of Agriculture Family Land Heritage award in 1975. We have an ancestral home on the land and appreciate the value of ancestral Quihi homes, especially since we are direct descendants of the Schweres, Freiten, Saathoff, Lindshur, and Balsen families. However, the land grants in Texas were issued to our ancestors for the purpose of farming and ranching. Henri Castro founded Quihi to serve as a farming community for immigrants from Alsace and nearby German states. An ancestral house is important, but the importance pales in light of ancestral land. Our ancestral land is the true heritage of Texas, the true heritage of our community, and the true heritage of our family.

Before we worked and utilized our land over the past century, Native Americans worked and utilized the land. The arrowheads, tomahawk heads, and various scratching and cutting rocks that can be found on the Balsen/Martin Homestead verify this. In addition, there is evidence of a Native American campground on our land, which is substantiated by the piles of flint rock chips, burnt rocks, near a natural alkaline high sodium soil lick.

In summary, my family sees both sides of the rail line location-problem because we are a part of both sides. However, when having to choose between an ancestral house and ancestral land, we choose the land—the real reason our ancestors came to Quihi. Please consider the bigger picture, the greater good, the better value, and the larger significance of heritage family land when making the decision for location of the rail line and elect not to carve the historic partials of land that are along the proposed eastern routes. The Martin Family requests that the Surface Transportation Board and Texas Historical Commission decide to leave this historic land intact by choosing the Original Proposed Route through Quihi, a decision that will not be regretted.

Thank you, again, for allowing me to address this group.

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Nelson and Paulette Martin submitted the following comments after the teleconference:

We listened in part to the conference call on Friday, April 20, 2007 regarding the *STB Finance Docket No. 34284 - Southwest Gulf Railroad Company - Construction and Operation Exemption - Medina County, TX* and would like to clarify statements made by Ronda McNee (sister) regarding the section of our family land, the Martin land which pertains to me, Nelson Martin.

When she stated that we have a historical house, we believe the majority participating in the conversation were not sure of the location of this house. This house is on the land we own in Quihi off of FM 2576 west of the Quihi Lutheran church and not on the family land off of County Road 366.

Secondly the farmland that we inherited is not leased/rented. We share crop the land and are active in the day to day maintenance and expenses of the farm. We in turn then receive a percent of the profit or loss after harvest as does the farming operation that assists us with our farmland.

We do have our permanent residence on the family land off of County Road 366. We do not want to imply anything other than what it is. Please pass this on to all who need this information so there is no confusion or misunderstanding.

Thank you for your time and all your work to assure everyone is heard.

Ms. Katry Harris inquired about the location of the Martin family farm and whether or not it is a historic property.

Mrs. Rutson stated that whenever SEA does an environmental review, SEA looks at the ability to mitigate impacts. She stated that it is important to be able to avoid and minimize impacts because routing isn't final until the Board decides to approve the line. She stated that the Board can either deny, approve or approve with mitigation. She also noted that there are alternatives regarding mitigation and that a concrete line is not drawn. She stated that there is still flexibility to move the line itself.

Mr. David Coburn agreed with Ms. Rutson but stated that feasibility should be kept in mind. He stated that it will be difficult to keep property boundaries along the eastern routes and that the Proposed Route is a straight line.

Mr. Oaks stated that the land is flat. He also stated that it is a matter of doing the least damage to properties and the irrigation systems.

Ms. Diana Wood discussed the parameters that SEA considered when examining the alternatives in the Draft EIS such as grade, type of track etc. She also stated that property severance was addressed in the mitigation measures.

Meeting notes: 4-20-07
Mr. Coburn stated that most of the property not owned by the railroad along the Proposed Route is owned by the Lindsey family. He said that the Lindsey family would have to agree to the proposed easement program.

Ms. Courtney Eisenhower noted that the proposed eastern routes run through a plotted, restricted subdivision.

Mr. Brian Pietruszowski stated that the issue of the restricted subdivision had already been addressed.

Mr. Ray Hernandez stated that he would like more information regarding the archeological findings along the Proposed Route.

Ms. Ruston stated that the information can be found in the Draft EIS.

Next Steps - by Vicki Rutson

Ms. Rutson stated that SEA will type up notes from today’s teleconference. She invited all of the meeting participants to send written comments via e-mail to Diana Wood. She also stated that the notes will be available on the Board’s website.

Ms. Rutson stated that SEA is now in the position to determine the environmentally preferable route from a Section 106 perspective and in accordance with NEPA and NHPA. She said that SGR is free to work with the 106 consulting parties to make an agreement document; either a programmatic agreement or a memorandum of agreement. She noted that the parties are welcome to review and submit comments in order to develop mitigation.

Ms. Rutson stated that after a determination regarding the environmentally preferable route has been made, SEA will issue a Final EIS and invite the public to comment. She said that SEA will also make a final recommendation to the Board. Finally, Ms. Rutson stated that the Board will issue its final decision.

Ms. Dwain Vaughn asked what the next steps are in order to reach a programmatic agreement.

Meeting notes: 4-20-07
Re: STB Finance Docket No. 34284, Southwest Gulf Railroad Company --
Construction and Operation Exemption -- Medina County, Texas: Request for
Keeper’s Determination of Eligibility for the Quihi and Upper Quihi
Rural Historic Districts

June 5, 2007

J. Paul Loether
Keeper, National Register of Historic Places
National Park Service
Department of the Interior
Washington, DC 20240

Dear Mr. Loether:

I am writing to request a Determination of Eligibility for two rural historic districts (the Quihi and Upper Quihi Rural Historic Districts), which were identified by the Surface Transportation Board (STB or Board) during the course of an Environmental Impact Statement (EIS) currently pending before the agency. The STB is conducting this EIS as part of its consideration of a petition filed by Southwest Gulf Railroad Company (SGR), a railroad subsidiary formed by Vulcan Construction Materials, LP (Vulcan). SGR is proposing to construct and operate a new rail line in Medina County, Texas, connecting an existing Union Pacific Railroad (UP) rail line to a new Vulcan limestone quarry approximately seven miles north of the UP rail line.

As part of its EIS review, the Board’s Section of Environmental Analysis (SEA) assessed a number of rail route alignments, and compared the environmental impacts of those alignments to the route developed by SGR. In its Draft EIS (DEIS) and Supplemental DEIS, SEA studied seven rail line alignments (called alternatives) and the No-Action Alternative. At the conclusion of these documents, SEA determined that two of the alternative alignments that had been studied were “environmentally preferable” because they would be located east of, and therefore avoid the more historically significant Quihi Rural Historic District. The alignment developed by SGR, known as the “Proposed Route” would bisect the Quihi Rural Historic District.

Following SEA’s determination, SGR requested further consideration of its Proposed Route by developing a mitigation plan that it believes would adequately minimize impacts of constructing and operating the Proposed Route on the Quihi Rural Historic District. The Texas Historical Commission (THC)(the State Historic Preservation Office for Texas), on the other hand, has stated its support of either of the Eastern Alternatives identified by SEA as
environmentally preferable because those alternatives would completely avoid the Quihi Rural Historic District and have less impact on the Upper Quihi Rural Historic District. In response to these diverse views on what alternative or alternatives should be considered environmentally preferable, the Advisory Council on Historic Preservation (ACHP) wrote to SEA recommending that the agency seek a determination from the Keeper of the National Register to (among other things) provide greater clarity on the significance, defining characteristics, and integrity of the Quihi and Upper Quihi Rural Historic Districts. Such a determination, asserted ACHP, would assist STB and the Section 106 consulting parties in better assessing appropriate measures to avoid adverse effects to significant historic properties.

Consequently, I am making this request under 36 CFR Section 63.2(d) pursuant to 36 CFR Section 800.4(c)(2) of its regulations implementing Section 106 of the National Historic Preservation Act (NHPA). This is an example of a cultural resource study conducted just to address adverse effects. I have also enclosed all the information that I believe you will need to make your determination.

**Description of the Undertaking**

The proposed project consists of a proposed rail line in Medina County, Texas (approximately 45 miles west of San Antonio) that would extend approximately seven miles from a loading track at a proposed Vulcan quarry to the Del Rio Subdivision of the UP Railroad Company (UP). SGR would use the new rail line to transport limestone from the proposed quarry to the UP rail line.

**Agency’s Environmental Review**

SEA initially analyzed four potential construction alternatives (the Proposed Route, Alternative 1, Alternative 2, and Alternative 3) and the No-Action Alternative in its DEIS prepared to comply with the National Environmental Policy Act (NEPA) and NHPA (see Volume III, Appendix I of the DEIS). SEA completed two cultural resource studies to identify any historic properties that may be located within the Area of Potential Effect (APE) of each of the four alternatives analyzed in the DEIS (see Map Sheet 2A and 2B).

**Notes:**

1 In the No-Action Alternative the proposed construction would not take place and SGR has indicated it would then truck the limestone from the quarry to the UP line.

2 The cultural resources studies completed by SEA in the DEIS are the Preliminary Cultural Resources Assessment; and a Technical Memorandum: Supplement to the Preliminary Cultural Resources Assessment (see Volume III, Appendix I of the DEIS).

3 The APE for direct impacts was defined as 1000 feet on either side of each alternative.

During the course of the cultural resource field studies, SEA identified a potential rural historic landscape that encompassed the town of Quihi through which all four alternatives cross. Written and oral comments provided by the THC and other Section 106 consulting parties, both during and following issuance of the DEIS, provided corroborating evidence of the location of significant Texan frontier community composed of multiple 19th century German-Alsatian elements including original buildings, structures, ruins, circulation networks and many other components that make up rural historic landscapes meeting the criteria of the National Register of Historic Places (National Register) defined in National Register Bulletin #30: Guidelines for Evaluating and Documenting Rural Historic Landscapes (National Park Service 1989).

In addition, consultation meetings held between SEA, SGR, THC and the ACHP stressed the need for an additional study that would more conclusively determine if a rural historic landscape is present; and if so, generally establish its boundaries; identify its contributing and non-contributing elements; and determine if any identified rural historic landscape is eligible for listing in the National Register as a District. The ACHP and THC firmly indicated that such a study was needed prior to completion and/or execution of any agreement document to address adverse effects.

As a result of the above series of events, SEA determined a Supplemental Draft Environmental Impact Statement (or SDEIS) was necessary. The SDEIS would assess additional rail alternatives to the east (the Eastern Alternatives) that would largely avoid historic properties near Quihi. The Eastern Alternatives that SEA analyzed in the SDEIS consist of the Eastern Bypass Route, the MCEAA Medina Dam Route and SGR’s Modified Medina Dam Route (see Map Sheet 1). In the SDEIS, SEA determined that the Eastern Bypass Route and the MCEAA Medina Dam routes are environmentally preferable and thus dropped SGR’s Medina Dam Route from further consideration.

The SDEIS included a reconnaissance survey of each of the Eastern Alternatives comparable to the studies completed for the original alternatives. In addition, SEA also completed an extensive landscape study in which it examined, in detail, the entire area encompassed by all seven of the proposed alternatives (see Map Sheet 1).

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4 SEA completed a reconnaissance survey for the Eastern Alternatives in May of 2006. The survey identified known cultural resources within the APE previously defined for each of the alternatives studied in the DEIS (1000 feet on either side of the rail alignments) and made an evaluation of the potential for the APE to contain unknown cultural resources. In addition, a study of the Eastern Bypass Route conducted by Gonzalez, Tate, & Iruegas, Inc. (GT&I) by Iruegas and Penick (2005) on behalf of SGR, provided information on this route. SEA extracted and reformatted this relevant information from both of these studies into its survey report on the Eastern Alternative (see Volume II, Appendix F-1 of SDEIS).

5 The Rural Historic Landscape Analysis, Quihi Vicinity, Medina County, Texas is included in Volume II, Appendix F-2 of the SDEIS.
The landscape study resulted in the identification of three rural historic landscapes, each of which SEA determined to be eligible for listing in the National Register: the New Fountain Rural Historic District and the Quihi and Upper Quihi Rural Historic Districts (see Map Sheet 1). The landscape study further indicated that both the Quihi and Upper Quihi Rural Historic Districts could be potentially impacted by the proposed construction project. (The New Fountain Rural Historic District was determined to be too far west to be adversely affected by any of the seven alternatives and is therefore not part of this discussion). Moreover, results included in the landscape study suggested that the Quihi area constitutes one of the most unusual and intact frontier settlements in Texas.

Views of SGR, THC and ACHP

Shortly after SEA issued its SDEIS, SGR developed a mitigation plan that it offered to voluntarily implement with the intent of minimizing impacts of constructing and operating the Proposed Route on the Quihi Rural Historic District. While recognizing that the Proposed Route would traverse the District, SGR in a letter dated January 16, 2007, offered four measures designed to reduce impacts on the District. These measures included a “conservation easement” that would permit the THC to control development on what is believed to be the most sensitive section of the District, a requirement that SGR would adjust the Proposed Route to avoid direct impacts on certain contributing elements in the District, a contribution of $500,000 from SGR to THC for THC’s use in fostering preservation and similar goals, and support from SGR and Vulcan for adoption of any local preservation ordinance designed to preserve the historic integrity of the District.

SGR hoped that the mitigation plan would allow SEA to determine that, as mitigated, the Proposed Route was environmentally preferable. SGR asserted that it believes that the Eastern Routes would be too costly to operate and should one of those routes be licensed by the Board, SGR would likely not construct the new rail line but, rather, would rely on trucks to transport products to and from the quarry.

After receiving SGR’s mitigation plan, SEA convened a meeting and then a conference call of the “Section 106 consulting parties,” to discuss SGR’s mitigation proposal and solicit the views of the consulting parties on whether the mitigation adequately reduced impacts on the Quihi Rural Historic District to allow the Proposed Route to be considered as an environmentally preferable route. During these discussions, concerns were raised by various parties about aspects of SGR’s Proposed Route. SGR asked for the opportunity to revise its mitigation plan to respond to the concerns raised, and on April 5, 2007, distributed a revised plan to the consulting parties. Both SGR’s original and revised mitigation plans are enclosed with this letter.

In letters dated January 19, 2007 and March 15, 2007, the THC provided its comments in response to the SDEIS in which it strongly supported the use of SEA’s environmentally preferred eastern routes. In both letters, the THC reiterated that construction of either the Eastern Bypass Route or the MCEAA Medina Dam Alternative would significantly lessen the impact of the project on critical historic resources.

Following receipt of the above correspondence from SGR and THC, and the meeting and conference call with the Section 106 consulting parties, ACHP wrote to SEA stating that greater clarity was needed to assist the consulting parties in assessing what needed to be avoided, preserved, or protected during project planning. Specifically, ACHP stated, that clarity was needed regarding the integrity of the elements identified within the Districts and the boundaries of the Districts. The ACHP also stressed the importance of continuing to work closely with the Tap Pilam-Coahuiltecan Nation which has indicated to SEA, the THC and the ACHP the potential for the project area to contain cenotes (or limestone/karst sinkholes) that could include burials and other properties of religious and cultural significance to the Nation.

Based on the ACHP concerns and recommendations, we are thus seeking a formal determination from the Keeper of the National Register specifically regarding the following:

- A determination as to whether the Quihi and the Upper Quihi Rural Historic Districts are separate and distinct districts or a single district; eligible for listing in the National Register as separate districts or as a single district;
- A determinations of the appropriate boundaries of any eligible district(s);
- A determination of the contributing and non-contributing elements of any eligible historic district(s), considering both significance and integrity, including any rural landscape elements (land uses and activities, patterns of spatial organization, circulation networks, boundary demarcations, etc.); and
- The significance of cenotes within any eligible historic district(s) and the basis of their importance to Indian tribes.

Conclusion

We request your consideration of our findings to clarify the above issues within the 45 day period pursuant to 36 CFR Section 63.2(e) of your regulations. We have attached all of the relevant information for your review. If you require additional information or clarification regarding our request, please feel free to contact me, Diana Wood at (202) 245-0302, or Catherine Glidden at (202) 245-0293. Thank you for your assistance in this matter.

Sincerely,

Victoria Rutson
Chief, Section of Environmental Analysis
STB Federal Preservation Officer

Enclosures:


  - Letter from Charlene Dwin Vaughn, Assistant Director, Federal Permitting, Licensing, and Assistance Section, Office of Federal Agency Programs, the Advisory Council on Historic Preservation, to Ms. Victoria Rutson, Chief, Section of Environmental Analysis, Surface Transportation Board, dated April 27, 2007.

- Surface Transportation Board, Section of Environmental Analysis. 2004. Draft Environmental Impact Statement, Finance Docket No. 34284, Southwest Gulf Railroad Company Construction and Operation Exemption, Medina County Texas. Washington, D.C. (Volumes I, II and III of the DEIS are included in CD format). Included in the DEIS are the following supplemental documents:
  - Preliminary Cultural Resources Assessment; and Technical Memorandum: Supplement to the Preliminary Cultural Resources Assessment (see Appendix I, Volume III).

- Surface Transportation Board, Section of Environmental Analysis. 2006. Supplemental Draft Environmental Impact Statement, Finance Docket No. 34284, Southwest Gulf Railroad Company Construction and Operation Exemption, Medina County Texas. Washington, D.C. (Volumes I and II of the SDEIS are included in CD format). Included in the SDEIS are the following supplemental documents:
  - Technical Memorandum: Cultural Resources Assessment of the Three Eastern Alternatives (see Volume II, Appendix F-1).

- Rural Historic Landscape Analysis, Quihi Vicinity, Medina County, Texas (see Appendix F-2, Volume II).
- Rural Historic Landscape Study: Maps (See Appendix A of Landscape Study in Volume II).
- Rural Historic Landscape Study: Inventory of Sites (See Appendix B of Landscape Study in Volume II).
- Rural Historic Landscape Study: Digital Photos of Sites (See Appendix C of Landscape Study in Volume II).

Cc: (Without Enclosures):
- Honorable Ciro Rodriguez, U.S. House of Representatives
- Ms. Charlene Dwin-Vaughn, ACHP
- Ms. Katry Harris, ACHP
- Mr. F. Lawerence Oaks, THC
- Mr. Brad Patterson, THC
- Mr. David Coburn, SGR
- Ms. Jaya Zyman-Poneshek, URS
- Mr. Raymond Hernandez, Tap Pilam Coahuiltecan Nation
- Mr. Richard C. Garay, Coahuiltecan Research Associates
- Mr. Troy Johannsterns, Wichita & Affiliated Tribe
- Ms. Dorla Goombi, Kiowa Tribe of Oklahoma
- Ms. Lynn Schonchin, Comanche Nation of Oklahoma
- Ms. Holly Houghten, Mescalero Apache Tribe
- Mr. Robert Hancock, Medina County Historical Commission
- Mrs. Cynthia Lindsey, Quihi and New Fountain Historical Society
- Mr. C. Ray Schock, Schweers Historical Foundation
- Mr. Harold Weiblen, Weiblen Farms
- Mr. Archie Gerdes
- Dr. Robert Hester
- Dr. Robert Fitzgerald, MCEAA
- Mr. Brian R. Pietruszowski, Gardner Law Firm
This letter acknowledges that the Board’s Section of Environmental Analysis (SEA) has received your letter of August 1, 2007, indicating that the Southwest Gulf Railroad (SGR) has decided to support the Eastern Bypass alternative for the rail line that it prefers in Medina County, rather than its original Proposed Route to the west. As you are aware, SEA had determined in its Supplemental Draft Environmental Impact Statement (EIS) that one of the eastward routes analyzed, the Eastern Bypass and the MCEAA Alternative, would, in SEA’s view, be environmentally preferable to the Proposed Route. As a result of this, and your letter, the Final EIS, which SEA is currently preparing, will focus on the various Eastern Alternatives.

In addition, SEA agrees with you that the sufficiency of SGR’s voluntary mitigation plan, which applies solely to the Proposed Route, need no longer be considered, given SGR’s decision to support the Eastern Bypass.

With respect to cultural resource issues, SEA will now work to develop an appropriate Programmatic Agreement (PA) with SGR and the necessary consulting parties. The PA will focus on the eastern routes and will address the extent to which additional, route-specific archaeological and historic property analysis would be needed prior to the start of construction on the eastern route (of routes) that ultimately might be selected (assuming that the Board ultimately approves the proposed construction), and the appropriate mitigation measures that would be required should such sites be uncovered and identified once construction has begun. There will be ample opportunity for public review and comment on the PA by all interested parties before its execution.

Thank you for your letter, which SEA has placed on the Board’s website and in the public docket for this proceeding. Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,
Victoria Barton, Chief
Section of Environmental Analysis
letters constitutes a substantial change to the circumstances presented when SEA wrote to the Keeper, and you responded. The group further agreed that SGR's rejection of the Proposed Route through the Quihi/Upper Quihi Rural Historic District in favor of a route to the east of this area renders moot SEA's request to the Keeper for a determination of eligibility regarding the Quihi/Upper Quihi Rural Historic District.

Moreover, and importantly, Mr. Oaks indicated that the State has already begun preparing a formal nomination of the Quihi/Upper Quihi Rural Historic District to the National Register of Historic Places. Any additional information about the District thus will be completed by the State, with appropriate assistance from other interested parties, as part of the formal nomination process.

Accordingly, the group concluded during the August 9th conference call that there is no reason to delay completion of SEA's Section 106 review in this proceeding by performing the additional analysis that you requested. Rather, as part of our process, now that it is clear that SGR supports going forward with one of the eastern routes, we intend to develop a Programmatic Agreement (PA) with SGR and the necessary consulting parties. The PA will focus on the eastern routes and address the extent to which additional, route-specific archaeological and historic property analysis would be needed prior to the start of construction on the eastern route (or routes) that is ultimately selected (assuming that the Board ultimately approves the proposed construction), and the appropriate mitigation measures that must be taken should such sites be uncovered and identified once construction has begun. There will be ample opportunity for public review and comment on the PA by all interested parties before it is executed.

On behalf of SEA, I thank you for your assistance in helping us with the analysis of historic sites and structures regarding SGR's proposed rail line construction. Please do not hesitate to contact me if you have any questions or if I may be of help in the future.

Sincerely,

Victoria Ruston, Chief
Section of Environmental Analysis

cc: Charlene Dwin-Vaughan
Katry Harris
F. Lawrence Oaks
David Coburn

Enclosures

August 5, 2007

Ms. Victoria Ruston
Chief
Section of Environmental Analysis
Surface Transportation Board
395 E St., S.W.
Washington, D.C.: 20423

Re: STB Finance Docket No. 34284, Southwest Gulf Railroad Company - Construction and Operation Exemption - Medina County, TX

Dear Ms. Ruston:

This will confirm my August 1, 2007, conversation with Ms. Diana Ward of your office, during which I advised that SGR has decided to support the Eastern Bypass alternative for the rail line it has proposed in Medina County. In connection with taking this decision, SGR notes continued uncertainty over the status of the Quihi area in terms of whether that area qualifies as an historic district eligible for listing on the National Register. The July 24, 2007, written report of the Keeper of the National Register, responding to the Board's June 8, 2007 request for a determination of eligibility for the claimed historic districts in the Quihi area, has failed to clarify the eligibility issue, expressly leaving a definitive finding of the historic significance of the Quihi area unresolved pending the Keeper's receipt of additional data and analysis.

SGR recognizes that awaiting any future eligibility determination by the Keeper would result in potentially extensive further delay of the STB's environmental review of SGR's rail proposals. SGR has made its decision concerning the Eastern Bypass in anticipation that the consequence of that decision will be that SEA will now move forward toward completing and issuing a Final EIS that focuses on the Eastern Alternative that was identified at the environmentally preferable routes in the Draft Supplemental EIS. SEA also will now need, in a position to begin further analysis of the sufficiency of SGR's proposed voluntary mitigation for the Preferred Route since SGR's prior offer of voluntary mitigation (as set forth in SGR's April 5, 2007 letter to SEA and others) is no longer operative in light of SGR's decision reported here.
Ms. Victoria Rihanoff
August 3, 2007
Page 2

As it has stated in the past, and as the SHPO has favored, SGR is prepared to work with the Wehlan family in address its concerns about the Eastern Bypass route. SGR's preliminary review indicates that there are no serious obstacles to constructing its line along the alternative routing suggested by the Wehlans, although further engineering work would need to be done to confirm this preliminary view. SGR believes that SEA's recommended mitigation measures No. 11 is sufficient to address the concerns raised by the Wehlans and SGR will work in good faith with them in an effort to reach a satisfactory solution to their concerns.

With respect to cultural resources issues, SGR reiterates its support for the Draft Programmatic Agreement, which SEA has identified in the Draft Supplemental EIS to the SHPO and the Advisory Council on promptly finalizing that PA.

We look forward to a prompt completion of the environmental process and to responding to any questions that SEA may have on the above.

Respectfully,

David D. Colson
Attorney for Southwest Gulf Railroad

cc: Ms. Diana Wood
Ms. Catherine Klutten
Ms. Jaya Zymon-Pompey
Mr. Larry Gols
Ms. Charlene Davis-Plough

SUECE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration
August 16, 2007

David Colson, Esq.
Stephens & Johnson
1330 Connecticut Avenue, NW
Washington, DC 20036-1795

RE: STB Finance Docket No. 34284, Southwest Gulf Railroad Company,
Construction and Operation in Medina County, TX

Dear Mr. Colson:

This letter acknowledges that the Board's Section of Environmental Analysis (SEA) has received your letter of August 3, 2007, indicating that the Southwest Gulf Railroad (SGR) has decided to support the Eastern Bypass alternative for the rail line that it prefers in Medina County, rather than its original Proposed Route to the west. As you are aware, SEA had determined in its Supplemental Draft Environmental Impact Statement (EIS) that two of the eastern routes assessed, the Eastern Bypass and the MCEAA Alternative, would, in SEA's view, be environmental preferable to the Proposed Route. As a result of that, and your letter, the Final EIS, which SEA is currently preparing, will focus on the various Eastern Alternatives.

In addition, SEA agrees with you that the sufficiency of SGR's voluntary mitigation plan, which applies solely to the Proposed Route, must no longer be considered, given SGR's decision to support the Eastern Bypass.

With respect to cultural resource issues, SEA will now work to develop an appropriate Programmatic Agreement (PA) with SGR and the necessary consulting parties. The PA will focus on the eastern routes and will address the extent to which additional, route-specific archaeological and historic property analysis would be needed prior to the start of construction on the eastern route (or routes) that ultimately might be selected (assuming that the Board ultimately approves the proposed construction), and the appropriate mitigation measures that would be required should such sites be discovered and identified once construction has begun. There will be ample opportunity for public review and comment on the PA by all interested parties before it is executed.

Thank you for your letter, which SEA has placed on the Board's website and in the public docket for this proceeding. Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Victoria Button, Chief
Section of Environmental Analysis
Surfaces Transportation Board  
Washington, DC 20423  

Office of Economics, Environmental Analysis, and Administration  

September 7, 2007  

Donate Rios, Jr.  
6009 FM 2676  
Hondo, TX 78861  

Re: STB Finance Docket No. 34284, Southwest Gulf Company - Construction and Operation Exemption - Medina County, TX; Request to be a Consulting Party under Section 106 of the National Historic Preservation Act  

Dear Mr. Rios:  

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is in receipt of your August 31, 2007 written request to act as a consulting party for the above referenced project pursuant to Section 36 CFR 800.2(c)(5) of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA), which states: "Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties interest." As you know, SEA is conducting an environmental review, as required by the National Environmental Policy Act (NEPA) and NHPA, of the Southwest Gulf Railroad Company's proposed rail line construction and operation in Medina County, Texas. Section 106 of NHPA requires that the Board consult with Federal, tribal, state and local agencies, and additional consulting parties with an interest in the project area, to identify, assess and resolve any adverse effects to significant historic properties that may be caused by the proposed undertaking.  

We believe your involvement as a Section 106 consulting party is appropriate given your close connections to the area. We are therefore pleased to include your organization as a Section 106 consulting party for this proceeding and will ensure that you receive all relevant information to assist you in your reviews.  

We appreciate your interests in this project and look forward to working with you as we
September 7, 2007

Lester R. Landrum
776 CR 354
Quihi, TX 78861

Re: STB Finance Docket No. 34284, Southwest Gulf Company - Construction and Operation Exemption - Medina County, TX; Request to be a Consulting Party under Section 106 of the National Historic Preservation Act

Dear Mr. Landrum:

The Surface Transportation Board's Section of Environmental Analysis (SEA) is in receipt of your September 4, 2007 written request to act as a consulting party for the above referenced project pursuant to Section 36 CFR 800.2(c)(5) of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA), which states: "Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties interest." As you know, SEA is conducting an environmental review, as required by the National Environmental Policy Act (NEPA) and NHPA, of the Southwest Gulf Railroad Company's proposed rail line construction and operation in Medina County, Texas. Section 106 of NHPA requires that the Board consult with Federal, tribal, state and local agencies, and additional consulting parties with an interest in the project area, to identify, assess and resolve any adverse effects to significant historic properties that may be caused by the proposed undertaking.

We believe your involvement as a Section 106 consulting party is appropriate given your close connections to the area. We are therefore pleased to include your organization as a Section 106 consulting party for this proceeding and will ensure that you receive all relevant information to assist you in your reviews.

We appreciate your interests in this project and look forward to working with you as we complete the Section 106 and NEPA processes. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.

Sincerely,

Victoria Rutson
Chief
Section of Environmental Analysis

cc: F. Lawerence Oaks, Texas Historical Commission
Brad Patterson, Texas Historical Commission
Dear Ms. Rutoon:

I request to be listed as a Section 106 Consulting Party as my family has deep ties to the Upper Quint area and has interest, history, and knowledge of the rural historic landscape of this area. Our family has owned and operated a family agricultural enterprise for more than a century. In addition, knowledge of other local heritage farms and ranches in the area is available.

The Texas Family Land Heritage program registered our farm as it was founded in 1881 and had been in continuous family ownership and operation for more than a century. In addition, knowledge of other local heritage farms and ranches in the area is available.

I have been closely following the proposed rail line since 2000, and have also attended a informational and a Section 106 meeting held for Section 106 Consulting Parties. I feel that my family knowledge, history, and heritage on this project area will aid in identifying and assessing the effects projected on the immediate area.

Sincerely,

Leater Landrum
776 CR 354
Quihi, TX 78861
(830) 426-8295
complete the Section 106 and NEPA processes. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.

Sincerely,

Victoria Ratson
Chief
Section of Environmental Analysis

cc: F. Lawerence Oaks, Texas Historical Commission
    Brad Patterson, Texas Historical Commission

Dear Mr. Ratson:

Joe and I request to be made consultants to the programmatic agreement for Southwest Gulf Railroad, finance deal #42284. We are descendents of the original settlers of Liveoak. Our farm, built in 1911, is eligible for listing as a historic home. We are listed on the Texas Family Land Heritage Ranch. Our farm has been in our family since 1881.

It is of great concern to us what is being planned for our historical community. We sincerely hope you will grant our request. Our home is located near both the Benzie and Lake Counties.

Respectfully,

Sara A. Bedwin

3850
P.O. Box 554
Honoko, Id. 78861

September 3, 2005

[Handwritten Notes]
September 7, 2007

Richard Fournier
200 PR 3 531
Hondo, TX  78861

Re:  STB Finance Docket No. 34284, Southwest Gulf Company - Construction and Operation Exemption - Medina County, TX; Request to be a Consulting Party under Section 106 of the National Historic Preservation Act

Dear Mr. Fournier:

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is in receipt of your September 4, 2007 written request to act as a consulting party for the above referenced project pursuant to Section 36 CFR 800.2(c)(5) of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA), which states: "Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties interest." As you know, SEA is conducting an environmental review, as required by the National Environmental Policy Act (NEPA) and NHPA, of the Southwest Gulf Railroad Company's proposed rail line construction and operation in Medina County, Texas. Section 106 of NHPA requires that the Board consult with Federal, tribal, state and local agencies, and additional consulting parties with an interest in the project area, to identify, assess and resolve any adverse effects to significant historic properties that may be caused by the proposed undertaking.

We believe your involvement as a Section 106 consulting party is appropriate given your close connections to the area. We are therefore pleased to include your organization as a Section 106 consulting party for this proceeding and will ensure that you receive all relevant information to assist you in your reviews.

We appreciate your interests in this project and look forward to working with you as we

September 14, 2007

Lynette Stewart
3619FM2676
Hondo, TX 78661

Re: STB Finance Docket No. 34284, Southwest Gulf Company - Construction and Operation Exemption - Medina County, TX; Request to be a Consulting Party under Section 106 of the National Historic Preservation Act

Dear Ms. Stewart:

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is in receipt of your September 11, 2007 written request to act as a consulting party for the above referenced project pursuant to Section 36 CFR 800.2(c)(5) of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA), which states: "Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties interest." As you know, SEA is conducting an environmental review, as required by the National Environmental Policy Act (NEPA) and NHPA, of the Southwest Gulf Railroad Company's proposed rail line construction and operation in Medina County, Texas. Section 106 of NHPA requires that the Board consult with Federal, tribal, state and local agencies, and additional consulting parties with an interest in the project area, to identify, assess and resolve any adverse effects to significant historic properties that may be caused by the proposed undertaking.

We believe your involvement as a Section 106 consulting party is appropriate given your close connections to the area. We are therefore pleased to include your organization as a Section 106 consulting party for this proceeding and will ensure that you receive all relevant information to assist you in your reviews.

We appreciate your interests in this project and look forward to working with you as we
complete the Section 106 and NEPA processes. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.

Sincerely,

[Signature]
Victoria Rutson
Chief
Section of Environmental Analysis

cc: F. Lawerence Oaks, Texas Historical Commission
Brad Patterson, Texas Historical Commission
September 21, 2007

Joseph and Vicki Solomon
1040CR353
Hondo, TX 78861

Re: STB Finance Docket No. 34284, Southwest Gulf Company - Construction and Operation Exemption - Medina County, TX; Request to be a Consulting Party under Section 106 of the National Historic Preservation Act

Dear Mr. and Mrs. Solomon:

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is in receipt of your September 19, 2007 written request to act as a consulting party for the above referenced project pursuant to Section 36 CFR 800.2(c)(5) of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA), which states: "Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties interest." As you know, SEA is conducting an environmental review, as required by the National Environmental Policy Act (NEPA) and NHPA, of the Southwest Gulf Railroad Company's proposed rail line construction and operation in Medina County, Texas. Section 106 of NHPA requires that the Board consult with Federal, tribal, state and local agencies, and additional consulting parties with an interest in the project area, to identify, assess and resolve any adverse effects to significant historic properties that may be caused by the proposed undertaking.

We believe your involvement as a Section 106 consulting party is appropriate given your close connections to the area. We are therefore pleased to include your organization as a Section 106 consulting party for this proceeding and will ensure that you receive all relevant information to assist you in your reviews.

We appreciate your interests in this project and look forward to working with you as we complete the Section 106 and NEPA processes. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.

Sincerely,

Victoria Rutson
Chief
Section of Environmental Analysis

cc: F. Lawerence Oaks, Texas Historical Commission
Brad Patterson, Texas Historical Commission
MEMORANDUM FOR: Victoria Rutson  
FROM: Joseph & Vicki Salomon  
SUBJECT: Consulting Party Status

Hello and Good afternoon we would like to request that we be given consulting party status on the final programmatic agreement for the Finance Docket #34284. We are less than 4000 ft from the proposed quarry/railroad site and in the possible path of the eastern route if that is the one that is decided. We live on this property that has a home that was built in the 1940-1950 timeframe. We feel that we will be greatly impacted by this route and would like to take part in the final programmatic agreement. Thanks for your consideration and have a great day.

Joseph & Vicki Salomon  
1040CR353  
Hondo, Texas 78861-6425  
(830) 741-8352

SURFACE TRANSPORTATION BOARD  
Washington, DC 20423  
Office of Economics, Environmental Analysis and Administration

September 25, 2007

Russell Mangold  
807 33rd Street  
Hondo, TX 78861  
Re: STB Finance Docket No. 34284, Southwest Gulf Company - Construction and Operation Exemption - Medina County, TX; Request to be a Consulting Party under Section 106 of the National Historic Preservation Act

Dear Mr. Mangold:

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is in receipt of your September 23, 2007 written request to act as a consulting party for the above referenced project pursuant to Section 36 CFR 800.2(c)(5) of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA), which states: "Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties interest." As you know, SEA is conducting an environmental review, as required by the National Environmental Policy Act (NEPA) and NHPA, of the Southwest Gulf Railroad Company's proposed rail line construction and operation in Medina County, Texas. Section 106 of NHPA requires that the Board consult with Federal, tribal, state and local agencies, and additional consulting parties with an interest in the project area, to identify, assess and resolve any adverse effects to significant historic properties that may be caused by the proposed undertaking.

We believe your involvement as a Section 106 consulting party is appropriate given your close connections to the area. We are therefore pleased to include your organization as a Section 106 consulting party for this proceeding and will ensure that you receive all relevant information to assist you in your reviews.
We appreciate your interest in this project and look forward to working with you as we complete the Section 106 and NEPA processes. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.

Sincerely,

Victoria Rutsc
Chief
Section of Environmental Analysis

cc: F. Lawrence Oaks, Texas Historical Commission
Brad Patterson, Texas Historical Commission

Mr. Victoria Rutsc
Chief
Section of Environmental Analysis
Surface Transportation Branch
915 E Street, S.W.
Washington, D.C. 20590

Dear Mr. Rutsc:

Please consider my request to be made via the Programmatic Agreement for Southwest CUTF Expenditure, Finance Docket 73-601.

We are descendants from the original settlers of the Quinl Area. Our Ranch has been in the family over 180 years.

Also, be advised that for the past 100 years it has been an interest to early anthropological studies by Thomas A. Hester, Ph.D., Professor of Anthropology, SMU, University of Texas at Dallas.

I have taken the liberty to copy a portion of a letter sent to you on Nov 6, 2003 from Prof. Hester. After reviewing, you please note that the referenced S.C.F. Expenditure by-pass will come very close to the State of Texas Right #4 ME132, and that the Governor's Writ will need to go over the right.

Rush DAVID
802-3323 F
Huntsville, Texas 77340

P.S. Please sign and return this letter.

Rush DAVID
802-3323 F
Huntsville, Texas 77340
b) Personal scientific research in the prehistory of the area

Over the past year or so, I have been a personal study of archaeological collections and sites on the Mangold Ranch near Quihi. My interest in these lies in the fact - which further subject project studies must address - that this area is largely unknown in terms of Texas prehistory.

One of the sites, 41ME132 [official State of Texas site number], the Gap Site, is directly beneath or at least closely adjacent to Alternative 3 of the proposed railroad route southeast of Quihi. This site has just been barely studied. However, a test pit dug by the late Buddy Mangold, found a zone of Frio points just below the surface. Further exploration could (1) expand our knowledge of the Late (Transitional) Archaic by better denning this Frio-age campsite or (2) could find earlier, stratified deposit below Frio. This site is on a terrace of Quihi creek, and while no geoarchaeological studies have yet been done at the site, it appears that Quihi creek has shifted its channel repeatedly in this zone (cf. 4IME34). This site alone points out the errors of the statements re: site occurrence found in the subject report.

However, it is site 41 ME 133 (the Buddy Mangold site) that points out the incredible deficiencies in the treatment of prehistory in the subject report. This site was partially excavated by the late Buddy Mangold in the 1990s. Much of the site remains intact. The artifacts from the site are incredibly extensive, as I am sure will be the case at many sites yet to be found in the Quihi area.

Although my analysis of the collection is far from complete, I have already identified a Folsom end-scraper (10,800 years ago), and even more importantly, a substantial number of Wilson points. The stemmed Wilson type is a poorly known, but well-dated, Paleoindian time marker in the 10,500 year old time frame. The key site for this type is Wilson-Leonard near Austin, published by Michael B. Collins in a 5-volume report in 1998. Collins tells me that aside from the Wilson-Leonard site, the Buddy Mangold site contains more of these points than any other site in Texas. There are also Plainview, Golondrina, and Angostura points at the site (10,200-8,800 years ago).

Moreover, the Archaic and Late Prehistoric artifacts are in great abundance, representing the broad time frame from 8,000 years ago up to about the time of Spanish contact. Indeed, there are some points that appear to be off the Guerrero type, associated with Indians of the Spanish Mission period in the 18th century. There is also a piece of obsidian-volcanic glass that does not occur in Texas. I have led the study of Texas obsidians since 1970, working with nuclear chemists at the Lawrence Berkeley National Laboratory in Berkeley, CA. Obsidian is very rare in this part of the state, yet our precise geochemical sourcing places some of it as coming from geologic outcrops as far away as southern Idaho (the Malad source) and from sources in northern New Mexico (several sources in the Jemez mountains). We have not yet had this obsidian fragment sourced, but it is reflective of the widespread trade networks that ran along the margin of the Edwards Plateau, and is part of a pattern that extends westward into Uvalde County.

As best as I can tell with limited data, 41MB 133 lies outside (perhaps 1.5 mi E) of any of the proposed railroad routes. However, its importance goes farther than immediate impact. It is reflective of the long time depth of Native American prehistory to be expected along Quihi creek and any offshoots [now] small drainages. It is reflective of intensive prehistoric populations, of trade contacts, and of continuity into the Spanish Colonial period. These sorts of patterns should be expected at other Quihi/project area sites, as ancient "hunters and gatherers" were highly mobile and didn't just occupy single sites like 41ME133.

2) Implications for Surveys and Excavations Related to the Subject Project
While archaeologists know very little about the archaeology of the project area (that in itself is cause for intensive investigation), what we do know provides hard evidence that it lies in an area of extreme archaeological significance. It is surrounded by important sites, many of which I have listed and some of which are in similar if not identical environmental contexts. We know from 41ME132 and 41ME133, in the midst of the project area, that extensive prehistoric remains are predictable, and will likely extend back almost 11,000 years at some sites. However, the whole chronological range of human prehistory in the area is likely to be found in various forms at any number of sites (e.g., 41ME34, and even closer, 41ME33). Because of the nature of the formation processes in the local geology, any archaeological survey that is worth its salt will have to employ an experienced geoarchaeologist or geomorphologist to identify likely site areas, changes that are more recent in time, etc., and there will be a pressing need for an extensive program of backhoe trenching to reconstruct the Holocene geology and to develop a model of site location. It can be predicted that any number of sites will lie in the path of the subject railroad or its alternatives. In order for NEPA, Sec. 106, or any number of other permitting processes to go forward, hundreds of thousands of dollars will have to be spent on archaeological survey and geomorphology. The mitigation of only two or three sites would likely cost into the millions of dollars based on modern archaeological standards at the Federal and State level.

3) Implications for Historic Archaeology

While STB Finance Docket 34248 report on cultural resources does a more useful job of treating the numerous historic sites in the project area, it falls far short of what is to be expected, the significance of these sites, and the great amount of work (and money) that will go into their investigation. The stone (and other structures) of 1850s Quihi represent one of the most remarkable, surviving constellations of early architecture in southcentral Texas. In my own experience, it is unique. To date, the Quihi and New Fountain Historical Society has already filed with the Texas Historical Commission more than 30 Endangered Historic Property Identification Forms as part of the THC’s new HELP program. These forms contain details on the structures, their ages, and are accompanied by photographs. However, there are at least 60 known structures of this vintage. Many of these are in the path or will be impacted by any of the 3 alternative subject railroad routes. This means that formal site assessments will have to be done - the use of professional preservation architects, measured drawings, high quality photographic documentation, oral histories, and archaeological investigations all being part of such studies.

This is a highly time consuming and very expensive endeavor, but these sites are part of the history of the development of Texas and cannot be given short shrift. Neither can they, or their archaeological deposits, be "preserved" by having them "moved" to a "protected" location! There are stories, not yet confirmed by me, of a special cemetery set aside for Native American remnant populations in the area. This will require extensive Native American consultation, probably with the Mescalero Apache (who represent the Lipan Apache on a Federal level), the Kickapoo, and the Lipan Apache Tribe of Texas, a very active (or activist) group in San Antonio.

It is also apparent that the preliminary cultural resource assessment did not identify a property registered in the Texas Family Land Heritage Program, slated to have the main route or an alternate rail route go right through the middle of it. This program has been around since the 1970s, and is a favorite of the State government, particularly the Secretary of Agriculture. This will be a highly sensitive issue, to say the very least, and should the routes continue to be slated for the property, a great deal of very expensive historical archaeology will have to be carried out.

4) Closing Observations

It is likely that no worse area in southcentral Texas could have been chosen for a quarry and railroad facilities that the Quihi region. This is one of the richest areas for the historical development of Texas, and is incredibly important in terms of the preservation in place of many of the buildings and related aspects of this historical record. In addition, this is an area where no substantial archaeological work had ever been done before, but which even the most minimal research has demonstrated the high probability for the discovery of numerous, and important, archaeological sites. These will have to be fully assessed and perhaps in some cases, fully excavated (mitigated). This issue has already been brought to the attention of the Texas Historical Commission and the Advisory Council on Historic Preservation. The subject applicant should have funded historical and archaeological research well prior to land purchases and planning if the applicant hoped to avoid the destruction of important pieces of Texas history and prehistory - which can now be done only at a very high cost in time and money. This is an issue that we as professional archaeologists, the Texas Historical Commission, and other agencies have been trying to make clear to developers at all levels for decades.

Now, we are left facing a potential disaster in terms of the historical and archaeological record. It is therefore incumbent on the STB to require extensive and well planned historical and archaeological studies in the area prior to permitting any rail construction. If the STB does not follow its mandate, there are other Federal and State regulatory agencies waiting in the wings to make sure that this process is done properly.

Thank you for the opportunity to provide these data and these comments.

Sincerely yours,

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

mailing address:
P.O. Box 625
Utopia, TX 78884

email: secocreek@ricc.net
Barbara H. Jones, Trustee
The Michael Churchill Jones Ranch Trust
209 Newbury Terrace
San Antonio, TX 78209

Re: STB Finance Docket No. 34284, Southwest Gulf Company - Construction and Operation Exemption - Medina County, TX; Request to be a Consulting Party under Section 106 of the National Historic Preservation Act

Dear Ms. Jones:

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is in receipt of your September 27, 2007 written request to act as a consulting party for the above referenced project pursuant to Section 36 CFR 800.2(c)(5) of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA), which states: "Certain Individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties interest." As you know, SEA is conducting an environmental review, as required by the National Environmental Policy Act (NEPA) and NHPA, of the Southwest Gulf Railroad Company's proposed rail line construction and operation in Medina County, Texas. Section 106 of NHPA requires that the Board consult with Federal, tribal, state and local agencies, and additional consulting parties with an interest in the project area, to identify, assess and resolve any adverse effects to significant historic properties that may be caused by the proposed undertaking.

We believe your involvement as a Section 106 consulting party is appropriate given your close connections to the area. We are therefore pleased to include your organization as a Section 106 consulting party for this proceeding and will ensure that you receive all relevant information to assist you in your reviews.

Sincerely,

Victoria Rulison
Chief
Section of Environmental Analysis

cc: F. Lawerence Oaks, Texas Historical Commission
Brad Patterson, Texas Historical Commission

We appreciate your interests in this project and look forward to working with you as we complete the Section 106 and NEPA processes. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.
The Michael Churchill Jones Ranch Trust  
Barbara H. Jones, Trustee  
209 Newbury Terrace  
San Antonio, TX 78209  
September 27, 2007  

Re: Finance Docket 34284  

Victoria Ruston, Chief  
Section of Environmental and Analysis  
Surface Transportation Board  
395 E Street SW Room 1110  
Washington, DC 20423  

Dear Ms. Ruston:  

As the trustee of the Michael Churchill Jones Ranch Trust I am concerned about the proposed placement of an eastern railroad route on this property which is located on CR 4516 in Medina County, Texas.  

I should like submit my request to be a consulting party to the proceedings for the Programatic Agreement.  

Any route built through the eastern section of the property would block the flow of creek water into a retention tank which provides water for both livestock and wildlife. As a result of that, the property would be without any source of drinking water for the animals.  

Also, on the property there is located an old, abandoned mine dug by hand in the late 1800's. That site has historical and archeological significance for current and future generations.  

Please grant my request to be a consulting party to the Programatic Agreement for FD 34284.  

Very truly yours,  

Barbara H. Jones, Trustee  
The Michael Churchill Jones Ranch Trust  
209 Newbury Terrace  
San Antonio, TX 78209  

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Curtis Stathoff  
7506 Pipers Run  
San Antonio, TX 78251  

Re: STB Finance Docket No. 34284, Southwest Gulf Company – Construction and Operation Exemption – Medina County, TX; Request to be a Consulting Party under Section 106 of the National Historic Preservation Act  

October 2, 2007  

Dear Ms. Jones:  

The Surface Transportation Board’s (Board) Section of Environmental Analysis (SEA) is in receipt of your September 5, 2007 written request to act as a consulting party for the above referenced project pursuant to Section 36 CFR 800.2(c)(5) of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA), which states: “Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concerns with the undertaking’s effects on historic properties interest.” As you know, SEA is conducting an environmental review, as required by the National Environmental Policy Act (NEPA) and NHPA, of the Southwest Gulf Railroad Company’s proposed rail line construction and operation in Medina County, Texas. Section 106 of NHPA requires that the Board consult with Federal, tribal, state and local agencies, and additional consulting parties with an interest in the project area, to identify, assess and resolve any adverse effects to significant historic properties that may be caused by the proposed undertaking.  

We believe your involvement as a Section 106 consulting party is appropriate given your close connections to the area. We are therefore pleased to include your organization as a Section 106 consulting party for this proceeding and will ensure that you receive all relevant information to assist you in your reviews.
We appreciate your interests in this project and look forward to working with you as we complete the Section 106 and NEPA processes. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.

Sincerely,

Victoria Rutten
Chief
Section of Environmental Analysis

cc: F. Lawrence Ogles, Texas Historical Commission
    Brad Patterson, Texas Historical Commission

September 5th 2007

Ms. Victoria Rutten
Chief
Section of Environmental Analysis
Surface Transportation Board
395 E. Street, S. W.
Washington, D.C. 20423

FAX # 202-245-0454

RE: Finance Docket 34284
Question on Home and Farm Location
6710 FM 2676, Hondo TX 78861

Dear Madam:

If not already a member, I would like to be made a consulting party to the programmatic agreement which is currently being prepared by the Texas Historical Commission.

My justification for this request stems from the fact I have a Texas Heritage farm and ranch inherited from the original Saathoff settlers in Quihi. On this property my mother currently lives in a home that is eligible for listing as an historic home. The Eastern Medina Dam alternate route would adversely affect our home, ranch and farm. The rail line will cause flooding of our home and farm land. The rail line will also divide our farm and land, leaving approximately 35 acres west of the rail line and approximately 285 acres east of the rail line. The only access to the land is from FM 2676 and if a rail line goes through, it will cause us to lose the value of the land as a farm and cattle operation. I am against any rail line in the area and fail to see how they can be deemed a “public carrier” giving Vulcan the right to condemn our land for their private use. If they were a public carrier why don’t they go straight to Rio Medina (Mumme’s Grain Company) where at least something besides Vulcan’s rocks can be carried.

Sincerely,

Curtis Saathoff
7506 Pipers Run
San Antonio, TX 78251
210-684-4989
210-326-1556
Figure 1: Alternative Rail Routes and Noise Measurement Locations