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Office of Proceedings
May 19, 2016
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Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36025

TEXAS CENTRAL RAILROAD AND INFRASTRUCTURE, INC. &
TEXAS CENTRAL RAILROAD, LLC
-AUTHORITY TO CONSTRUCT AND OPERATE-
PASSENGER RAIL LINE BETWEEN DALLAS, TX AND HOUSTON, TX

MADISON COUNTY, TEXAS'
REPLY IN OPPOSITION TO PETITION FOR CLARIFICATION

My name is Carl Cannon. I serve as a County Commissioner for Madison County, Texas. By written Resolution dated, May 5, 2016, the Madison County Commissioners Court has authorized me to reply this Petition for Clarification. I have reviewed the Petition for Clarification filed by Texas Central Railroad and Infrastructure, Inc. and Texas Central Railroad, LLC. ("TCR"). I have attended several meeting/s/ held in Madison County on the issue of the construction of this rail line. I have also reviewed the Scoping Report filed by the Federal Railroad Administration and various other materials that pertain to the proposed construction of the 240-mile-long high speed rail between Houston and Dallas, Texas (the "Project"). I am a duly authorized representative of Madison County and wish to file this Reply on its behalf.

I. JURISDICTION

Madison County is aware that Texans Against High Speed Rail, Inc. ("TAHSR") is filing a jurisdictional challenge to the Petition for Clarification filed by TCR in Finance Docket No. 36025. Rather than restate all those jurisdictional arguments herein, Madison County joins in the jurisdictional challenge set forth by TAHSR. Subject to the jurisdictional challenge, Madison County submits the following comments in Opposition to TCR's Petition for Clarification.

II. TEXAS COUNTIES ARE OPPOSED TO FAST TRACK – NEED A “HARD LOOK”

The Board should give no preference to TCR’s request for a fast-track decision based on its self-imposed deadlines that appear to impose an artificial starting date for construction at some point in 2017. This tactic appears intended to pressure the Board to rubberstamp TCR’s authority to construct, even though TCR has provided the Board with absolutely no objective, verifiable data supporting the feasibility of the Project. TCR also hopes the Board will overlook the adverse impacts resulting from construction, which cannot be fully assessed until the environmental review is complete. In no event should the Board allow its decisions to be dictated by artificial deadlines imposed by TCR, its Japanese investors, and its Irish investment advisor.

I am also concerned about the feasibility of the Project, and believe the Board should take a “hard look” to ensure it is consistent with the overall public convenience and necessity before approving construction. TCR has repeatedly refused to disclose basic information. For instance, I have never seen a business plan, backup data for TCR’s ridership projections, a firm estimate of construction costs (the estimates I have seen are constantly changing), backup data for construction costs, a construction schedule, proof of private financing, the amount of available financing, fare estimates, planned security measures, a total of how much land will be taken through eminent domain, estimated operating and maintenance costs, expected revenue, in addition to other critical information regarding the Project. This is important to Madison County because the Project will in no way serve Madison County or its citizens. And, perhaps more importantly, once the route is established and the Project constructed, it will remain as a scar on Madison County—even if the HSR fails to generate sufficient revenues to pay its obligations. In essence, Madison County will be stuck with the Project, once built, regardless of whether it is

feasible in the first instance. We prefer that the Board be convinced of the Project's long term viability BEFORE allowing it to be built.

III. TCR ATTEMPTS TO CIRCUMVENT LAW DRAWS LAWSUITS

TCR appears to place very little faith in our Texas state courts when it says that the courts “will not be familiar with the Board’s decisions, and would benefit from a clear statement interpreting ‘the scope’ of construction under sections 10901.”¹ We have fine judges and skilled lawyers perfectly capable of determining the definition of “construction” in the relevant context. TCR is obviously afraid of a correct interpretation by Texas state courts of well-settled law, and that is why TCR is asking the Board, not a tribunal, to modify the law. TCR apparently fears that Texas courts will do their job, and prohibit TCR from prematurely beginning condemnation proceedings. In fact, several citizens of Madison County, including two Cemetery Associations and a Cemetery have filed a lawsuit² challenging TCR’s alleged eminent domain rights and seeking millions in damages caused by TCR. Finally, TCR knows that Texas courts respect the private property rights of Texans. Texas Courts have consistently interpreted Article 1, Section 17 of the Texas Constitution to protect private property rights and that section was recently amended (2009) by the citizens of this state to further strengthen those rights. TCR is obviously trying to find any way around having to adjudicate these important issues in the proper forum, which is Texas state courts.

IV. LACK OF FINAL APPROVED ROUTE

My preliminary concern about the construction of the Project is based, in part, on the lack of specific details regarding the precise location of the tracks. It is my understanding that the

¹ Petition for Clarification at 10.

² See Plaintiffs’ Original Petition in Richter, *et al* v. Texas Central Railroad & Infrastructure, *et al*, Cause no. 16-14387-278-10, filed in the 278th Judicial District Court in Madison County Texas, and attached hereto as Exhibit A.

potential alternative routes have been narrowed to two. However, no final route has been chosen, and no regulatory body has ruled on the actual alignment the Project will take. I reserve the right to provide the Board with additional comments regarding anticipated adverse impacts once the final route has been identified. Until then, the County's concerns must be expressed in broad terms.

V. DISRUPTION TO COUNTY ROADS NETWORK

As a County Commissioner, I am well-acquainted with the system of federal, state and county roads that have been built at taxpayer expense throughout my county and the affected region. No matter the route chosen, the Project will cut through a significant portion of Madison County. The Scoping Report makes it clear that the proposed "HSR system requires a completely grade-separated and dedicated right-of-way that is approximately 80 to 100 feet wide. It requires a 'closed' system, meaning that the train will run on dedicated HSR tracks for passenger rail service only and cannot travel on other rail lines." The construction of the "closed system" will serve as a barricade that will significantly impede east-west vehicular traffic along its entire 240-mile length, substantially affecting existing county roads and other infrastructure, and change the lives of thousands of citizens. And, many of the county roads have been in existence for 100 years. Madison County has spent a great deal of time and money over the years repairing and maintaining those roads. Many Madison County citizens depend heavily on the viability of those roads to get to and from their homes, and to use their properties for productive agricultural uses.

In addition, the Project could permanently prevent farmers from moving specialized oversized farming equipment. While TCR has suggested that it will provide adequate means of passage, I am not aware of any written agreement or even a memorandum of understanding that

provides details regarding the size, number or location of the grade separations that will be required. And there is no information about how many farmers will be affected.

Furthermore, while TCR has also claimed that it will bear the full cost of grade separations that would be required in order for it to operate safely, it has provided no verifiable information regarding who will determine whether a particular grade separation would or would not be required. And, with all due respect, Madison County is not willing to simply delegate these important decisions to TCR. Doubtless, TCR will try to close county roads to lessen its costs. Such a determination cannot be left to TCR. Instead, if the Board were to somehow find that the Project is needed and approve the construction of this “closed system,” the Board should require, as part of TCR’s full application, for TCR to show binding contracts with each County in the affected corridor that would:

- (1) require TCR to bear the cost of construction of every grade separation;
- (2) require TCR to consult with appropriate county officials regarding the placement of grade separations; and
- (3) require TCR to pay for any future crossings as the county road system expands.

The first condition simply requires TCR to pay for the benefits that it alone will realize if the Project is approved. The second condition is of particular importance to ensure that TCR’s Project does not shred county roads, forcing people who use the existing roadways to go to hospitals, work, schools, and grocery stores to drive several additional miles to reach their destination. The Project will also force landowners to drive trucks, livestock, and tractors north or south to access the limited pass-throughs installed by TCR. We don’t know how any of this will play out because TCR will not tell us, and we don’t even know the final route. The third condition ensures that TCR’s “Great Wall” will not strangle future growth in our county.

This is not something that can or should be done after approval is granted. Instead, these important details should be worked out in advance, while the Board still has the necessary leverage to protect Madison County citizens from arbitrary TCR decisions.

VI. EMINENT DOMAIN ABUSE

In its Petition for Clarification, TCR admits that it seeks to invoke condemnation proceedings and “accept” the risk that it “may acquire property rights in locations not ultimately identified as the final alignment.”³ The Board should reject TCR’s cavalier and arrogant approach to condemnation and make it clear that the Board will not condone a premature resort to the strict condemnation procedures set forth under Texas law, especially considering the approach is based on apparent financing difficulties. In addition, such an attempt to condemn property that won’t be needed opens TCR up to constitutional challenges that may be brought by Texas landowners whose property is being unnecessarily taken. Texas law requires that property must be taken only for a public use, and that the property in question also be NECESSARY to satisfy that public use. Taking property that won’t be necessary for a public use will be unconstitutional. And, while individual landowners may have the ability to raise these issues, the cost of doing so, against a well-staffed group of TCR attorneys, shifts the entire burden to the individual landowners, who in many cases won’t be able to fund such intensive and serious litigation.

The premature institution of condemnation proceedings would require the thousands of families whose property may not ultimately fall within the approved right-of-way to bear the financial burden of hiring an attorney and an appraiser in order to preserve their rights under

³ Petition for Clarification at 4, n. 13.

Texas law. The Texas Property Code contains a maze of requirements with respect to condemnation proceedings. Landowners affected by the Project will have no choice but to hire an attorney to guide them through the process. And while TCR may have unlimited funds from its Japanese partners to spend on an array of eminent domain attorneys, that is not the case for the citizens in my county. They should not be required to spend their limited time and resources on an attorney and experts when major uncertainty exists as to whether TCR will need the property it is trying to condemn. Despite TCR's public claim to being a good neighbor, this approach typifies TCR's utter disregard for private property rights.

I also take issue with TCR's statement that it "is preparing to use its eminent domain powers to establish the value—but not take physical possession—of the property rights it seeks to acquire."⁴ Even if this were true, it is still an abuse of process to bring condemnation proceedings against landowners before a final determination is reached as to whether the Project will be approved by the Board, and before a final route is chosen. It is my understanding that the Board's prior approval for the construction of a line of railroad has been a requirement since 1920. TCR should have been aware of this requirement when it created its undisclosed business plan and "key milestones," and the Board should hold TCR to it.

VII. UNNECESSARY EMINENT DOMAIN CASES CLOG COURT SYSTEM

In addition to causing citizens unnecessary expense and burden, these premature condemnation proceedings will clog the courts in Madison County and require the needless expenditure of limited judicial resources. I do not understand why the courts and citizens of my

⁴ Petition for Clarification at 5.

county have to bear this burden just so TCR can reach its undisclosed “key milestones within defined timeframes.”⁵ This is not, and cannot be, how the system is supposed to work.

Texas law requires that these cases be litigated on an expedited basis. That will simply not be possible here, especially for cases that will not pertain to property that is actually necessary to serve a public use.

VIII. ANY ALLEGED ECONOMIC BENEFITS DO NOT OUTWEIGH THE SUBSTANTIAL HARM TO THE COUNTY AND ITS PROPERTY TAX BASE

TCR has bandied about certain figures on the alleged economic benefits to the affected corridor and Texas as a whole, but I am hard-pressed to understand where they will come from. And those economic benefits, if any, do not inure to Madison County. I am certain any alleged benefits will not outweigh the adverse impacts resulting from the Project. It may be true that a few construction jobs here and there may become available to some residents of Madison County during the time it will take to construct the Project through the county. However, construction of the Project will have substantial detrimental environmental impacts that cannot even be measured at this time, because no environmental review has been completed. Then there is the impact felt by families who will be forced to sell a part of their property, and be burdened by 68 trains whizzing by their front porch at 200 miles per hour every day. There is no question the Project will fracture our rural lifestyle without direct economic or transportation benefits to our communities, families, and businesses.

And while it may be true that some tax revenue will be generated through construction and operation of the Project, that tax revenue is not significant given the negative impacts of the Project. A few jobs and some added tax revenue will not make up for the thousands of acres of property in my county that will be devalued up to 75%? County costs are not going to decrease,

⁵ Petition for Clarification at 4.

so the landowners whose property is unaffected will be forced to pay increased property taxes to make up for the decrease in land value to affected property. In other words, all landowners in my county will be paying for this Project in some form or fashion.

In addition, lower property values mean lower property taxes for the county and its schools. Not to mention that school boundaries and student allocation, and future expansion plans, will all be affected. We will not be able to build schools, churches, hospitals, residences, libraries, museums, courts, parks, or outdoor pavilions anywhere near the rail line. I hope the Board takes into account all of these adverse impacts, while keeping in mind that the rail line will not even stop in Madison County. We are going to be burdened with the negatives, and enjoy none of the alleged benefits.

IX. FINANCIAL INSTABILITY OF TCR

The fact that TCR chose to design a timetable for its private financing based on meeting “key milestones within defined timetables” should have no impact on the Board’s review. TCR has not even disclosed its business plan, so there is no way for the Board to verify these “key milestones,” even if they were dispositive. Many concerned citizens and organizations in Madison County have specifically asked TCR for information regarding its alleged private financing and business model. But TCR has refused to disclose the information, leading me to believe all of TCR’s claims regarding its financing are unsupported. It appears TCR is just saying what it believes people want to hear, in general terms, so the public will get behind the Project. Madison County will not get behind the Project, especially when it is being deprived of the necessary information to understand how the Project will ultimately impact life here in Madison County for years to come.

Due process to a county and its citizens is much more important than these undisclosed, self-imposed deadlines. The Board should not allow TCR’s self-important interests to override the public interest. If the Project is as financially strong as TCR claims, the rewards will be there whether construction starts in 2017 or 2020.

CONCLUSION

The Petition for Clarification is an ill-disguised attempt to circumvent the Board’s policy of refusing to adjudicate the merits of a rail construction project prior to completion of the environmental review process. There is nothing about this Project that would justify the Board deviating from this policy. The Board should not retreat from precedents holding that construction includes condemning land by eminent domain. After all is said and done, no pressing need has been demonstrated for the immediate institution of high-speed rail service

between Houston and Dallas. We already have a good highway system for travel and multiple airplanes leave both airports in both cities, bound for the other, every hour. The Board should take whatever time is necessary to weigh the competing interests and reject TCR's request.

For the reasons above, I do not think the Board has sufficient information to make an informed decision at this time. This Project is too costly and complicated, and will affect too many citizens and communities, to fast-track TCR's request before requiring TCR to make full disclosures and then taking a "hard look" at all aspects of the Project. If the Board determines it has jurisdiction, I urge the Board to deny TCR's Petition for Clarification, require TCR to file a full application, and create a procedural and evidentiary schedule following the completion of the environmental review that would allow counties and individuals who will be adversely impacted to file additional comments and seek additional mitigation from TCR.

Signed this 19th day of May, 2016

Madison County

By: 
Carl Cannon, County Commissioner

Exhibit A

CAUSE NO. 16-14387-278-10

KENNETH RICHTER, BARBARA
RICHTER, COLVIN WALKER,
SANDRA WALKER, JUSTIN WALKER
REESE, CHARLIE WILCOX,
KENNETH "PARD" PATTERSON,
DONNA PATTERSON, TEN MILE
CEMETERY ASSOCIATION, OXFORD
CEMETERY ASSOCIATION AND
RANDOLPH CEMETERY

Plaintiffs,

vs.

TEXAS CENTRAL RAILROAD &
INFRASTRUCTURE, INC., TEXAS
CENTRAL RAILROAD, LLC, TEXAS
CENTRAL PARTNERS, LLC, TEXAS
CENTRAL RAIL HOLDINGS, LLC AND
TEXAS CENTRAL HIGH-SPEED
RAILWAY, LLC

Defendants.

IN THE DISTRICT COURT

278TH JUDICIAL DISTRICT

FILED
AT 4:45 O'CLOCK P M

MAY 17 2016

Rhonda Savage
Rhonda Savage, District Clerk
12th/278th Judicial District Court,
Madison County, Texas
by M. R. ... Deputy

MADISON COUNTY, TEXAS

**PLAINTIFFS' ORIGINAL PETITION, RULE 193.7 NOTICE,
AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiffs, KENNETH RICHTER, BARBARA RICHTER, COLVIN WALKER, SANDRA WALKER, JUSTIN WALKER REESE, CHARLIE WILCOX, KENNETH "PARD" PATTERSON, DONNA PATTERSON, TEN MILE CEMETERY ASSOCIATION, OXFORD CEMETERY ASSOCIATION and RANDOLPH CEMETERY in the above-entitled and numbered cause of action, files this Plaintiffs' Original Petition, Rule 193.7 Notice, and Request for Disclosure and complains of Defendants, TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC., TEXAS CENTRAL RAILROAD, LLC, TEXAS CENTRAL PARTNERS, LLC, TEXAS CENTRAL RAIL HOLDINGS, LLC and TEXAS CENTRAL

HIGH-SPEED RAILWAY, LLC, and in support thereof would respectfully show the Court as follows:

I. TRCP RULE 47 AND DISCOVERY CONTROL PLAN

1.1 Pursuant to Texas Rule of Civil Procedure 47(c)(5), Plaintiffs seek monetary relief over \$1,000,000. Plaintiffs also seek non-monetary relief in the form of a declaratory judgment together with attorney's fees and costs. Pursuant to Texas Rule of Civil Procedure 190.1, Plaintiffs request the case be designated as a Level 3 in accordance with the Discovery Control Plan tailored to the circumstances of this specific suit.

II. PARTIES

2.1 Plaintiff Kenneth Richter ("Kenneth Richter"), is a Texas resident, residing in Madison County, Texas.

2.2 Plaintiff Barbara Richter ("Barbara Richter"), is a Texas resident, residing in Madison County, Texas.

2.3 Plaintiff Colvin Walker ("Colvin Walker") is Texas resident, residing in Madison County, Texas.

2.4 Plaintiff Sandra Walker ("Sandra Walker"), is a Texas resident, residing in Madison County, Texas.

2.5 Plaintiff Justin Walker Reese ("Justin Reese"), is a Texas resident, residing in Madison County, Texas.

2.6 Plaintiff Charlie Wilcox ("Charlie Wilcox"), is a Texas resident, residing in Madison County, Texas.

2.7 Plaintiff Kenneth "Pard" Patterson ("Pard Patterson"), is a Texas resident, residing in Madison County, Texas.

2.8 Plaintiff Donna Patterson (“Donna Patterson”), is a Texas resident, residing in Madison County, Texas.

2.9 Plaintiff Ten Mile Cemetery Association (“Ten Mile Cemetery”), operates a dedicated cemetery property in Madison County, Texas, which dedicated cemetery property is maintained by Madison County residents.

2.10 Plaintiff Oxford Cemetery Association (“Oxford Cemetery”), operates a dedicated cemetery property in Madison County, Texas, which dedicated cemetery property is maintained by Madison County residents.

2.11 Plaintiff Randolph Cemetery (“Randolph Cemetery”), operates a dedicated cemetery property in Madison County, Texas, which dedicated cemetery property is maintained by Madison County residents.

2.12 Defendant Texas Central Railroad & Infrastructure, Inc. (“TCRI”), is a Texas corporation incorporated in Texas with its principal place of business in Texas that can be served by and through its registered agent Corporation Service Company, d/b/a CSC-Lawyers Incorporating Service Company, 211 E. Seventh Street, Suite 620, Austin Texas 78701. Plaintiffs expressly invoked the right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later time upon motion of any party of the Court. Plaintiffs request that service of process and citation issue at this time.

2.13 Defendant Texas Central Railroad, LLC (“TCR”), is a Delaware Limited Liability Company, with its principal place of business in Texas that can be served by and through its registered agent Corporation Service Company, d/b/a CSC-Lawyers Incorporating Service Company, 211 E. Seventh Street, Suite 620, Austin Texas 78701. Plaintiffs expressly invoked the right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party

substituted at a later time upon motion of any party of the Court. Plaintiffs request that service of process and citation issue at this time.

2.14 Defendant Texas Central Partners, LLC (“TCP”), is a Delaware Limited Liability Company, with its principal place of business in Texas that can be served by and through its registered agent Corporation Service Company, d/b/a CSC-Lawyers Incorporating Service Company, 211 E. Seventh Street, Suite 620, Austin Texas 78701. Plaintiffs expressly invoked the right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later time upon motion of any party of the Court. Plaintiffs request that service of process and citation issue at this time.

2.15 Defendant Texas Central Rail Holdings, LLC. (“TCRH”), is a Delaware Limited Liability Company, with its principal place of business in Texas that can be served by and through its registered agent Corporation Service Company, d/b/a CSC-Lawyers Incorporating Service Company, 211 E. Seventh Street, Suite 620, Austin Texas 78701. TCRH does business in Texas as Texas Central High-Speed Rail Holdings, LLC. Plaintiffs expressly invoked the right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later time upon motion of any party of the Court. Plaintiffs request that service of process and citation issue at this time.

2.16 Defendant Texas Central High-Speed Railway, LLC (“TCHSR”), is a Delaware Limited Company, with its principal place of business in Texas that can be served by and through its registered agent Corporation Service Company, d/b/a CSC-Lawyers Incorporating Service Company, 211 E. Seventh Street, Suite 620, Austin Texas 78701. TCHSR is owned by U.S. Japan High-Speed Rail, LLC and ETRES LLC. Plaintiffs expressly invoked the right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later

time upon motion of any party of the Court. Plaintiffs request that service of process and citation issue at this time.

III. JURISDICTION AND VENUE

3.1 This Court has Jurisdiction in this cause since the damages to Plaintiffs are within the jurisdictional limits of this Court. In additionally, this Court has general subject matter jurisdiction over all suits to quiet title. Finally, this Court has jurisdiction over this matter because the declaratory relief sought concerns the rights and obligations of the parties under Texas Deeds and Statutes. Further, this Court has both general and specific personal jurisdiction over the Defendants, as Defendants are either formed or incorporated in the State of Texas, or have their principal place of business in Texas. Defendants business activities were purposely directed to the State of Texas and Plaintiffs' claims arouse from and/or related to those business activities.

3.2 Plaintiffs real property is located in Madison County, Texas. Accordingly actions for recovery of damages to real property or quiet title to real property shall be brought in the county in which all or part of the property is located pursuant to mandatory venue provisions set forth in Section 15.011 of the Texas Civil Practice & Remedies Code. Venue is also proper in Madison County, Texas under Section 15.002(a)(1) of the Texas Civil Practice & Remedies Code as a substantial part of the events giving rise to Plaintiffs' claims occurred in Madison County, Texas.

IV. FACTUAL BACKGROUND

4.1 Plaintiffs Kenneth Richter, Barbara Richter, Colvin Walker, Sandra Walker, Justin Walker Reece, Charlie Wilcox, Kenneth "Pard" Patterson, Donna Patterson own land and certain tracts located in Madison County, Texas as more particular described in Deeds to the Plaintiffs' property recorded in the deed records of Madison County, Texas. ("Plaintiffs' Property"). Plaintiffs and their families have owned

and enjoyed their respective Plaintiffs' property for many years in some cases, many decades.

4.2 Plaintiffs' Ten Mile Cemetery, Oxford Cemetery and Randolph Cemetery are dedicated cemetery properties located in Madison County, Texas and maintained by Madison County residents for many generations.

4.3 On information and belief, Defendants TCRI and TCRR are wholly owned subsidiaries of Defendant TCRH, which, in turn, is a subsidiary of Defendant of TCP and other affiliated companies including Defendant TCHSR, which, in turn, is owned by U.S. - Japan High Speed Rail, LLC and ETRES, LLC.

4.4 On information and belief, Defendants purport to be developing a 240 – mile high-speed passenger rail line between Dallas and Houston allegedly to be constructed by Defendant TCRI, and if and when completed, to be allegedly operated and maintained by Defendants TCRR and TCRI.

4.5 On information and belief, Defendants have never planned, developed, constructed, operated, or maintained a railroad, much less an electric railway. Indeed, Defendants have not received prior approval from the Service Transportation Board ("STB") to proceed with any private high-speed passenger rail line between Dallas and Houston. Moreover, although Defendants have identified two corridors for further study and the required Environmental Impact Statement ("EIS"), a process lead by the Federal Railroad Administration ("FRA"), a final route for the proposed high-speed passenger rail line between Dallas and Houston has not been approved by the FRA or STB. Notwithstanding the lack of the legally required prior approval, Defendants, through its land agents have begun contact with affected land owners up and down the possible multiple alignment alternatives for the proposed rail line, which include two separate alignments that cross Madison County, Texas. See Exhibit A prepared by Defendants and filed with the STB.

4.6 Plaintiffs, all of whom have property in Madison County adversely affected by Defendants' have received letters and survey permission forms and/or have been approached by Defendants' agents on their property to sign survey permission forms identical or similar to that attached as Exhibit B ("Consent Form").

4.7 Through the Consent Form, Defendants seek right of entry upon Plaintiffs' property to conduct an unlimited series of surveys along with other invasion procedures. Defendants and their agents claim the surveys and procedures are necessary to evaluate potential routes for a proposed high-speed rail

project, however, the consent form does not reference any Texas statute or other authority granting Defendants right of entry, nor does it identify Defendants as a railroad, a corporation chartered to operate an electric railway, or other entity with eminent domain authority. Nonetheless, when other land owners approached by Defendants have refused to sign the consent form, Defendants have filed petitions and applications for injunctive relief claiming the absolute statutory right to examine and survey real property to determine a route for its train, which allegedly will run between Dallas and Houston and that Defendants are not required to provide notice to landowners or to seek permission for surveying in blatant disregard for Plaintiffs' private property rights. Nor have Defendants provided the Landowners' Bill of Rights Statement prescribed by the Texas Legislature in Texas Government Code §402.031 and required by Section 21.0112(a) of the Texas Property Code to landowners, much less Plaintiffs. The fraudulent, bad faith, and arbitrary nature of Defendants' conduct has caused a stigma and the value of Plaintiffs' property to plummet under the specter of eminent domain proceedings that may never proceed to fruition. Indeed, Defendants have admitted before the STB that they are preparing to use alleged eminent domain powers, but "accept the risk" of condemning property that it does not need prior to the STB's approval of a single route through Madison County, unnecessarily causing Plaintiffs' property values to plummet and resulting in damages to Plaintiffs in excess of the minimal jurisdictional limits of this Court. Seeking to acquire rights to Plaintiffs' property in locations not ultimately identified and approved by the FRA and STB as "final alignment" is a complete violation of Texas law, clouds Plaintiffs' title, and constitutes a slander of Plaintiffs' title and rights to enjoy, develop, market, and sell Plaintiffs' private property.

V. DEFENDANTS' SLANDER OF PLAINTIFFS' TITLE

5.1 Defendants' assertion of invalid claims, as set out in the proceeding paragraphs of this petition, amounted to an utterance and publication of false words, disparaging the Plaintiffs' title, use, and enjoyment, and rights to their property in Madison County, Texas. At all material times, Defendants acted with malice, making the false claims deliberately and without reasonable grounds for doing so. As a direct and proximate result of the Defendants' malicious claim and interference

with the Plaintiffs' rightful interest in their property made the subject of the litigation, one or more Plaintiffs will be unable to complete sales of their interests. Moreover, Plaintiffs will be required to disclose Defendants' multiple alternative pending alignments and alleged condemnation authority in all pending sales of their property even though the FRA and STB have not approved any proposed route across Madison County. As such, Defendants have created a cloud on Plaintiffs' title cast by Defendants' wrongful and malicious claims thereby causing Plaintiffs' actual damages in excess of the minimal jurisdictional limits of this Court.

VI. DECLARATORY JUDGMENT AGAINST ALL DEFENDANTS

6.1 An actual and justiciable controversy exist as to whether Defendants have the right to enter, under the auspices of Court authority, Plaintiffs' property to conduct the surveys and procedures set forth in the Consent Form. Further, an actual and justiciable controversy exist as to whether Defendants have the right to place a railroad through, over, or across a part of a dedicated cemetery without the consent of the directors of the cemetery organization that owns or operates the cemetery or at least two-thirds of the owners' have plots in the cemetery as required by Section 711.035(d) of the Texas Health & Safety Code.

6.2 Plaintiffs incorporate by reference each and every allegation set forth in the proceeding paragraphs as though fully alleged herein.

6.3 Pursuant to Tex. Civ. Practice & Rem. Code, Chapter 37, Plaintiffs request that the Court declare rights, status, and other legal relations as between Plaintiffs and Defendants. Specifically, Plaintiffs request a declaration:

(a) that Defendants have no right-of- entry on to Plaintiffs' property without consent;

(b) that Chapter 711 of the Texas Health and Safety Code, specifically section 711.035(d) prevents Defendants from attempting to place a railroad through, over, or across of a part

of a dedicated cemetery without consent.

6.4 Plaintiffs further request a declaration that they are entitled to recover court costs, together with reasonable and necessary attorney's fees as are equitable and just, pursuant to Tex. Civ. Prac. & Rem. Code, Section 37.009, and for such other declaratory judgment or decree as may be necessary and proper.

VII. EXEMPLARY DAMAGES

7.1 As a result of Defendants' conduct described above, Plaintiffs seek recovery for exemplary damages and/or punitive damages. Exemplary damages mean any damages awarded as a penalty or by way of punishment. Exemplary damages include punitive damages. In determining the amount of exemplary damages, the trier of fact should consider the following:

- (a) The nature of the wrong;
- (b) The character of the conduct involved;
- (c) The degree of culpability of the wrongdoer;
- (d) The situation and sensibilities of the parties concerned;
- (e) The extent to which such conduct offends a public sense of justice and propriety; and
- (f) The net worth of the Defendants.

VIII. RULE 193.7 NOTICE

8.1 Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiffs hereby give actual notice to each Defendant that any and all document produced may be used against the Defendants producing the documents at any pre-trial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

IX. REQUEST FOR DISCLOSURE

9.1 Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiffs request Defendants respond to request for disclosure 194.2(a), (b), (c), (d), (e), (f), (g), (h), (i), and (l).

X. JURY DEMAND

10.1 Plaintiffs hereby demand trial by jury and have paid the jury fee with the filing of this petition.

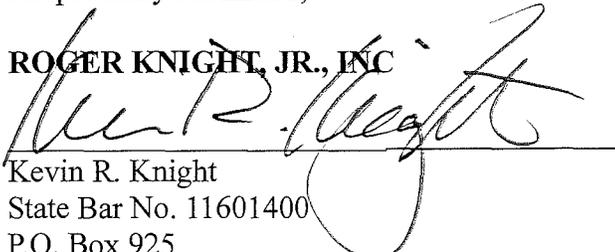
XI. PRAYER FOR RELIEF

11.1 Plaintiffs request that Defendants be cited to appear and answer, that upon trial of this case, Plaintiffs recover judgment for Defendants:

- (a) All actual damages;
- (b) Exemplary or punitive damages;
- (c) Declaratory relief as requested above;
- (d) Reasonable and necessary attorney's fees;
- (e) Prejudgment and post-judgment interest as permitted by law;
- (f) All costs of court; and
- (g) All other relief to which Plaintiffs show themselves justly entitled.

Respectfully submitted,

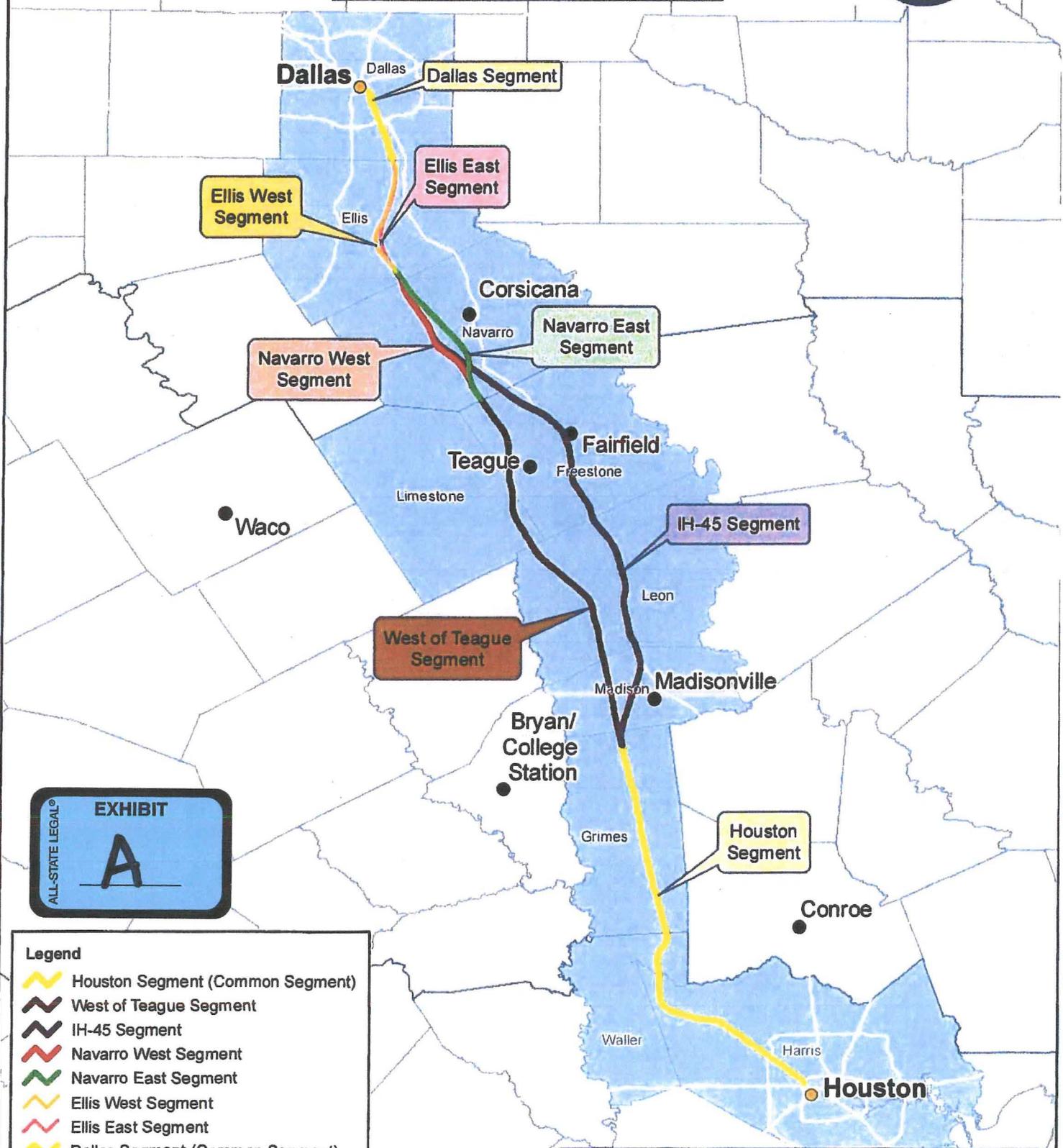
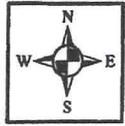
ROGER KNIGHT, JR., INC



Kevin R. Knight
State Bar No. 11601400
P.O. Box 925
Madisonville, Texas 77864
(936) 348-3543
(936) 348-5433(Fax)
kknight@knightlawfirm.com

Texas Central Line Alignment Alternatives

(as of March 2016)



ALL-STATE LEGAL®
EXHIBIT
A

- Legend**
- Houston Segment (Common Segment)
 - West of Teague Segment
 - IH-45 Segment
 - Navarro West Segment
 - Navarro East Segment
 - Ellis West Segment
 - Ellis East Segment
 - Dallas Segment (Common Segment)

20 10 0 20 Miles

Alignments are subject to change during the EIS process as environmental impacts are identified and as preliminary engineering is completed.

SURVEY PERMISSION FORM

Please retain this copy of the Survey Permission Form for your records and return the personalized copy in the self-addressed stamped envelope provide.

I/We (Grantor) hereby grant permission to TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC., (Grantee) its successors, assigns, and affiliates, and their respective agents, employees, contractors, third-party contractors, and designees (Grantee Parties) to enter upon my/our land for the purpose of performing surveys that include, but are not limited to, lineal surveys, the characterization of land as to: property ownership, topographic, geologic, and hydrologic features, and biological and cultural resources evaluations, which may involve soil boring and sampling with small equipment (the "Surveys"). Nearly all Survey activities are non-intrusive and may be accomplished with simple surface access. Any disturbance will be minimal, and any area that is disturbed shall be immediately restored to substantially the same conditions in which it existed prior to the disturbance. The Surveys are being conducted to evaluate potential routes of a proposed high-speed rail project and the data obtained may be used to support required governmental reviews.

TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC. agrees that Grantee and Grantee Parties will conduct themselves in a workmanlike manner and agrees to pay for any and all actual physical damages to property, crops and fences that are caused by the Surveys or Grantee's activities on the Property. Gates shall be closed upon entry and exit. Surveys will be confined to a narrow corridor and Grantee and Grantee Parties will not wander to other parts of your property, other than to ascertain boundary corners.

TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC. does hereby agree to indemnify and hold Grantor harmless from any and all losses, damages, claims, demands and suits (and reasonable costs and expenses incidental thereto, including court costs and attorney's fees, but excluding consequential damages) that Grantor may incur (collectively, "Claims") to the Property, and/or any injuries to or death of any person resulting from Grantee's Survey activities on the Property, unless such loss, damages, injury or death results from the negligent or intentional acts or omissions of Grantor or any of Grantor's agents, employees, contractors, representatives or invitees.

Survey Permission Granted

Survey Permission Denied

X _____
Signature of Person Granting Permission to Survey

Printed Name of Person Granting Permission to Survey

Mailing Address: _____

Phone: _____

Cell Phone: _____

Is there a tenant or anyone else we need to contact concerning the property?

Tenant Name: _____ Address: _____ Phone: _____

Tract Features (check all that apply):

- | | | | |
|------------------------------------------------------------------------------|-----------------------------------------------------------------|----------------------------------------------------|---------------------------------------------------|
| <input type="checkbox"/> Water Wells | <input type="checkbox"/> Springs | <input type="checkbox"/> Oil / Gas Wells | <input type="checkbox"/> Livestock on Tract |
| <input type="checkbox"/> Planted Crops | <input type="checkbox"/> Residence(s) on Tract | <input type="checkbox"/> Active Mining on Tract | <input type="checkbox"/> Power Lines / Structures |
| <input type="checkbox"/> Mining Leases or Planned Mining | <input type="checkbox"/> Existing Access Roads from Public Road | <input type="checkbox"/> Saturated Soil Conditions | <input type="checkbox"/> Property Corner Markers |
| <input type="checkbox"/> Biological Features | <input type="checkbox"/> Water Features | | |
| <input type="checkbox"/> Cemetery / Other Cultural Features (Describe) _____ | | | |
| <input type="checkbox"/> Other (Specify) _____ | | | |

Property Information:

The following instructions apply to surveys done on my property:

Agent Comments: _____

Right-of-Way Agent Printed Name: _____ Date: _____



Certificate of Service

I hereby certify that I have served all parties of record in this proceeding with this document by United States mail or by e-mail.

/s/ Carl Cannon

May 19, 2016