

FINAL ENVIRONMENTAL IMPACT STATEMENT

Finance Docket No. 34079

San Jacinto Rail Limited and The Burlington Northern and Santa Fe Railway Company Construction and Operation of a Rail Line from the Bayport Loop in Harris County, Texas

Lead Agency: Surface Transportation Board; **Cooperating Agencies:** U.S. Coast Guard (USCG), Federal Aviation Administration (FAA), and National Aeronautics and Space Administration (NASA).

Proposed Action: Construction and operation of a new rail line from the Bayport Loop in Harris County, Texas.

Location: The proposed rail line would be located near Houston, in southeast Harris County, Texas. The proposed rail line would be constructed between the Bayport Loop and the former Galveston, Houston, and Henderson Railroad (GH&H) rail line, now owned by Union Pacific Railroad Company, near Ellington Field.

Abstract: On August 30, 2001, San Jacinto Rail Limited (SJRL) and The Burlington Northern and Santa Fe Railway (BNSF) (collectively the Applicants) filed a petition with the Surface Transportation Board (Board) pursuant to 49 United States Code (U.S.C.) 10502 for authority for construction by SJRL and operation by BNSF of a new rail line near Houston, Harris County, Texas. In the petition, the Applicants proposed the construction of approximately 12.8 miles of new rail line to serve the petrochemical industries in the Bayport Loop. The Board's Section of Environmental Analysis (SEA) and the cooperating agencies prepared a Draft Environmental Impact Statement (EIS) and this Final EIS to evaluate the potential environmental impacts of the Proposed Action and Alternatives, including the No-Action Alternative. Except as otherwise noted, this Final EIS incorporates by reference the Draft EIS. The Draft EIS concluded that the Proposed Action and Alternatives would not have a significant impact on the human environment. Following a careful review of comments on the Draft EIS, SEA has made some corrections, principally to the environmental justice analysis, and some minor changes to information presented in the Draft EIS. However, SEA has not altered the conclusions of the Draft EIS. The Build Alternatives, which involve construction, would have moderate wetland, surface water, and biological impacts. The Proposed Action and Alternatives would have negligible impacts on all other environmental resource categories. SEA recommends that the Board impose the Applicants' extensive proposed voluntary mitigation measures as a condition of petition approval and the four additional mitigation measures developed by SEA. The mitigation measures collectively address the moderate impacts as well as a range of issues of interest to the community.

The cooperating agencies' Federal actions include: USCG's decision to issue a bridge permit under the General Bridge Act of 1946 (applicable to all of the Build Alternatives); FAA's decision to grant a change in the Airport Layout Plan for Ellington Field and release airport property, if requested, for the Proposed Action pursuant to 49 U.S.C. 47151-47153, 49 U.S.C. 47107(c)(2)(B), and 49 U.S.C. 47107(a)(16); and NASA's decision to grant an easement across an access road for the Proposed Action or Alternative 1C.

Given the similarity of most of the impacts associated with the Build Alternatives and the moderate to negligible nature of potential impacts, no single alternative has emerged as markedly preferable. SEA, if it were acting on its own, would designate the Applicants' Proposed Action as the preferred alternative. While agreeing with SEA that there are no potentially significant environmental impacts, FAA indicated that, for the reasons discussed more fully in the Final EIS, FAA would prefer that SEA not designate the Applicants' Proposed Action as the preferred alternative. In light of FAA's concerns, and as discussed in detail in the Final EIS, SEA is designating Alternative 1C as the preferred alternative. However, as all of the various Build Alternatives would result in generally similar impacts, none of which would be significant, SEA recommends that the Board find that all the Build Alternatives are fully acceptable from an environmental standpoint and should be approved.

SEA anticipates that the U.S. Environmental Protection Agency will publish a notice of the availability of the Final EIS in the *Federal Register* on May 9, 2003. The Board's vote on whether to give final approval to his proposal will be made no earlier than on the same day (i.e., May 9, 2003). The deadline for filing administrative appeals will be 30 days from the publication of the notice of the Final EIS, to and including June 9, 2003. This schedule will afford the public adequate time to pursue administrative review of all aspects of the Board's final decision and is consistent with the regulations of the President's Council on Environmental Quality at 40 Code of Federal Regulations 1506.10(b). The Board will consider any administrative appeals in a subsequent decision.

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