

APPENDIX N
CORRESPONDENCE BETWEEN SEA AND THE APPLICANTS

This appendix contains copies of correspondence between SEA and the Applicants, namely SEA's requests for information and the Applicants' responses. The material in this appendix does not include reports or oversized documents (e.g., maps) submitted by the Applicants. However, any transmittal letters listing these types of attached items are included here for reference.

All of the material in this appendix is available at the Board's public docket. The Board's public docket maintains the material initially in hard copy and subsequently on microfiche. Reports or oversized documents submitted by the Applicants are available for review or copying at SEA's office upon request.

MAYER, BROWN & PLATT

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Kathryn A. Kusske

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October 9, 2001

Ms. Victoria J. Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW, Room 504
Washington, DC 20423

Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct – And The Burlington Northern And Santa Fe Railway Company – Authority To Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Ms. Rutson:

As part of the pre-filing feasibility research on the referenced project and related permitting matters, Petitioners San Jacinto Rail Limited and The Burlington Northern and Santa Fe Railway Company have accumulated data which may be of use to the Section of Environmental Analysis (“SEA”). Attached hereto is a table which summarizes available data gathered to date, much of which was compiled from information that is in the public domain.

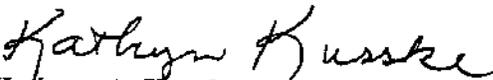
Consistent with 40 C.F.R. § 1506.5(a) and the STB’s March 2001 Policy Statement On Use of Third-Party Contracting In Preparation of Environmental Documentation, Petitioners are providing this table to you in order that you may determine if you would like to request any of these data from the Petitioners for possible use by the agency in preparing the environmental documentation for the project. Transfer of some or all of these materials may facilitate unnecessary duplication of effort and expense in undertaking SEA’s environmental analysis.

While we recognize that SEA will conduct its independent environmental review of the project, Petitioners have been advised by the U.S. Army Corps of Engineers (“Corps”) that Petitioners should perform a wetlands delineation and an impact analysis in connection with permitting requirements of the Corps. As noted in the attached table, that process is substantially underway. We believe that SEA may find such information to be of benefit in its environmental review of the project. Finally, if SEA is interested in supplemental materials in that particular area of study or any other matters, we stand ready to assist in the process as may be requested.

Victoria J. Rutson
October 9, 2001
Page 2

Please let me know if you have any questions.

Sincerely,


Kathryn A. Kusske

Attachment

cc: Dana G. White
Alan Summerville

Summary of Petitioners' Data Collection for Bayport Build-In Project

Data Field	Data Description and Sources
Wetlands	National Wetland Inventory (NWI) maps. USFWS. Shape files downloaded from www.gladatopol.com . (variances identified between field data and NWI maps during site visits)
Streams and Waterways	Wetlands Delineation data (Field effort and data sheets 95% complete for alignments 1 & 2, mapping 50% complete, anticipated substantial data to the USACE - Nov. 15, 2001). 1986 Digital Orthophotography Quarter-Quadrangles, 1-meter resolution, Friendswood, LaPorte, Pasadena, League City files Storm Water Quality Management Guidance Manual (City of Houston, Harris Co., HCFCD, October 2000). Downloaded from: http://www.cleanwater-clearchoice.org/professionals/index.html
Floodplains	Improving Water Quality in Armand Bayou: Two TMDLs for Dissolved Oxygen (TNRCC, January 2001). Data collected during well and delineation field effort by HDR, Inc. personnel, includes channel measurements, photographs, and photo log USGS 1:24,000 Topographic Quadrangle Maps. Friendswood, LaPorte, Pasadena, and League City quads. FEMA Flood Insurance Rate Maps (FIRMS): 48201C0930-J, 48201C0935-J, 48201C0940-J, 48201C0945-J, 48201C0949-J, 48201C0950-J, 48201C0955-K, 48201C1060-K, April 20, 2000. FEMA Letters of Map Revision (LOMRs): Cases #96081827P (PANELS 48201C0920-J & 48201C0940-J), January 22, 1998; Case #0006088P. Flood Insurance Study for Harris County, Texas. (FEMA, April 20, 2000) (Predicted flood elevation levels for riverine & coastal areas). Tides and Tidal Datums In the United States: Special Report No. 7. (D.L. Harris of USACE, February 1981).
Groundwater	Aquifers of Texas. (Ashworth, John B. and Jenie Hopkins. November 1995. TX Water Development Board. Report 345.) Hydrogeology of Gulf Coast Aquifers, Houston-Galveston Area, Texas. (Kreidler, C.W., E. Guevara, G. Granata, and D. McKelips. 1977. University of TX at Austin Bureau of Economic Geology. Geologic Circular 77-4.)
Soils	Soil Survey of Harris County, TX. (United States Department of Agriculture Soil Conservation Service. August 1976.)
Geologic Issues	Houston Area Environmental Geology: Surface Faulting, Ground Subsidence, Hazard Liability. (Eiter, Evelyn M. ed., 1981) Depositional Systems in the Woodbine Formation (Upper Cretaceous), Northeast Tx. (Oliver, William B., 1971. University of TX at Austin Bureau of Economic Geology. Report of Investigations No. 73.) Effect of Water-Level Recoveries on Fault Creep, Houston, Texas. (Holzer, T. L. and R. K. Gabrysch. 1987. Groundwater Volume 25, No. 1.) Map Showing Surface Faults in the Southeastern Houston Metropolitan Area, Texas. USGS Open-File Report 78-797. E.R. Verbeek and U.S. Clanton. (Includes recent hand-drawn reproductions of original maps on USGS quadrangle topo maps). Environmental Geologic Atlas of the Texas Coastal Zone. (Fisher, W.L., J.H. McGowen, L.F. Brown, Jr., and C.G. Groat. 1972. University of Texas at Austin Bureau of Economic Geology.) Evaluating the Environmental Geology Map, Environmental Geologic Atlas of the Texas Coastal Zone. (Finley, Robert J., 1978. University of Texas at Austin Bureau of Economic Geology. Research Note 11.) Evaluation of Sanitary Landfill Sites, Texas Coastal Zone—Geologic and Engineering Criteria. (Brown, L.F., Jr., W.L. Fisher, and J.F. Melina, Jr. 1972. University of Texas at Austin Bureau of Economic Geology. Geologic Circular 72-3.) Fault Control of Subsidence Houston-Galveston Area, TX. (Kreidler, Charles. 1976. University of TX at Austin, Bureau of Economic Geology. Research Note 5.)
Land Use Plans	Faulting and Land Subsidence from Groundwater and Hydrocarbon Production, Houston-Galveston, TX. (Kreidler, Charles W. 1977. University of TX at Austin, Bureau of Economic Geology. Research Note 6.) Geologic Atlas of Texas, Beaumont Sheet. (University of Texas at Austin. 1968. Revised 1992.) Geologic Atlas of Texas, Houston Sheet. (University of Texas at Austin. 1982.) Geological Considerations in Disposal of Solid Municipal Wastes in Texas. (Flawn, Peter T., L.J. Turk, and Carolyn H. Leach. March 1970. University of Texas at Austin, Bureau of Economic Geology. Geologic Circular 70-2.) Houston Area Environmental Geology: Surface Faulting, Ground Subsidence, Hazard Liability. (Eiter, Evelyn M. ed., 1981.) Identification of Surface Faults by Horizontal Resistivity Profiles. (Kreidler, Charles W. and Dawn G. McKelips. 1978. University of TX at Austin, Bureau of Economic Geology. Geologic Circular 76-6.) Lineations and Faults in the Texas Coastal Zone. (Kreidler, Charles W. 1976. University of TX at Austin, Bureau of Economic Geology. Report of Investigations No. 85.)
Coastal Zones	Microrelief (Migral) Structures on Expansive Clays of the Texas Coastal Plain - Their Recognition and Significance in Engineering Construction. (Thomas Gustavson. 1976. University of Texas at Austin Bureau of Economic Geology. Geologic Circular 75-7.) Photos and photo logs of project area (HDR, Inc. personnel) Harris County Master Plan for Parks, Recreation, and Open Space. (prepared by Bricker & Cannady Architects for Harris Co., May 2001.) Boundary file of Sylvan Rodriguez Park for Parks, Recreation, and Open Space. (Bricker & Cannady Architects for Harris Co., May 2001.) Texas Coastal Management Program. 2001. Texas General Land Office webpage: www.tgl.o.state.tx.us/coastal/cmp.html Correspondence with the Harris County Flood Control District (HDR, Inc. personnel)

Summary of Petitioners' Data Collection for Bayport Build-In Project (Continued)

Data Field	Data Description and Sources
Endangered Species	Annotated State and Federal Threatened and Endangered Species List for Harris County, Texas. Texas Parks and Wildlife. (last revision, 8/28/1999.)
Vegetation	Endangered and Threatened Animals of Texas. Linda Campbell. 1995. Texas Parks and Wildlife Department. Federal Threatened and Endangered Species List. 2001. USFWS Southwest Region Ecological Services Webpage: http://www.southwest.fws.gov/ Armand Bayou Preserve Plant Species List. 2001. Mark Kraimer, Stewardship Coordinator, Armand Bayou Nature Center. Data collected during wetland delineation field effort by HDR, Inc. personnel.
Wildlife	Texas Parks and Wildlife webpage: www.pwd.state.tx.us Field Guide to Texas Reptiles and Amphibians. R.D. Bartlett and P.P. Bartlett. 1999. Gulf Publishing.
Essential Fish Habitat	Essential Fish Habitat: New Marine Fish Habitat Conservation Mandate for Federal Agencies. 1999. National Marine Fisheries Service, Habitat Conservation Division.
Demographics	MMFS Essential Fish Habitat webpage: www.nmfs.noaa.gov/ess_fish_habitat.htm 1990 and 2000 Census Data: www.census.gov
Environmental Justice	GIS data layers for Harris County. Harris-Galveston Area Council of Governments (HGAC). See GIS Table.
Regional Economy	2000 Census Data: www.census.gov Clear Lake Area Industry and Projections 2001. (Hodglin, D.A., Robert F. May 2001. Center for Economic and Development Research School of Business and Public Administration University of Houston-Clear Lake.)
Waste Sites	TNRCC Closed Landfill Inventory Data. EDR Corridor Study Report. (Environmental Data Resources, Inc. August 24, 2001. Includes western portion of alignment 2.) EDR Corridor Study Report. (Environmental Data Resources, Inc. September 8, 2000. Includes majority of preferred alignment.)
Hazardous Materials Transportation	USDOT, Bureau of Transportation Statistics, Transportation Safety Statistics: www.bts.gov Assoc. of American Railroads, Rail Facts and Safety Statistics: www.aar.org/comm/stadstat.html USDOT, Federal Railroad Administration. Transportation safety statistics: www.fra.dot.gov/dot/safety USDOT, 2000 Emergency Response Guidebook: http://hazmat.dot.gov/guidebook.htm USDOT, Federal Railroad Administration. Transportation Safety Statistics: http://safetydata.fra.dot.gov/prslrm/2000/ BNSF Safety Statistics and Summary of Hazardous Material Releases (made available during public meetings)
Hazardous Materials Safety	BNSF System Emergency Response Plan Book. List of materials proposed to be transported. Source: BNSF and S.I.R.L. Partners. Bureau of Explosives, Hazardous Materials Regulations of the Department of Transportation: includes data of reportable quantities (RQs), hazardous material classes, and shipping documents for applicable chemicals.
Railroad Equipment Safety	Data on Improvement in rail equipment technology and safety: www.enr.com/staffact.html
Average Daily Traffic	2002/2022 Traffic Data for Deer Park/La Porte Areas. (Sam Umukoro, Houston-Galveston Area Council, 713-983-2499.)
Emergency Access	Harris County Hurricane Evacuation Map: May 1997. (link on Texas Emergency Management home page to the NOAA site.) http://www.srh.noaa.gov/FPROO/HGX/HTML/Topical/evac_map/gfsharris.gif Houston Area Local Emergency Planning Website: http://greaterhoustonlsep.org
Regional and National Roadway System	See GIS Table
Local Roadway System	See GIS Table
Conservation/Recreational Property	Armand Bayou Nature Center. Taylor Bayou property tract map.
Air Quality	Emission factors for locomotives: www.epa.gov/otaq/reg/naroad/locmot/vlm/42097051.htm
Pipeline/Utilities	Pipeline/Utility Table. Developed by Transystems, Inc. using USGS Topographic Maps, Refined Products Atlas of United States and Canada (5th Edition), and Field Surveys.
Bayport Container Facility	US Corps of Engineers / Port of Houston Authority. Bayport Container/Cruise Facility Website: http://www.svg.usace.army.mil/epha/pria.htm

Bayport Build-In Project GIS Layers Collected

Name of File	Original Sources	Description of File	Download Site for Data (If Applicable)
1996 Digital Ortho Photography*	Texas Natural Resource Information Service	1-meter resolution ortho-photos (CIR)	Not Applicable.
2001 Digital Ortho Photography* (on order, expected by 10/19/01)	Visual Intelligence Inc.	1/4-meter ortho-photos (true color)	Not Applicable.
2000 Census Tract Data	United States Census	Census Tracts and Block Groups	http://www.census.gov
Address Map*	Harris-Galveston Area Council of Governments (HGAC)	Point Coverage of Addresses	Not Applicable.
Airports	Harris County (HC) Geographic Information Systems	US Airports	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Blocks	HC Geographic Information Systems	Census Blocks Harris County	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Blocks2	HC Geographic Information System	Census Blocks Harris County	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Buildings	HC Geographic Information System	US Buildings	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Cemetery	HC Geographic Information System	US Cemetery	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Census Tract1	HC Geographic Information System	Census Tract Demographics (1990) Harris County from Esri-Arcdata	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Channels	Harris County Flood District	Channels, Streams and Creeks	http://www.co.harris.tx.us/hcedweb/gis.htm
Church	HC Geographic Information Systems	US Churches	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
City Boundaries in Harris County	HC Geographic Info Systems	City Boundaries for Harris County	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
City Limits	City of Houston	City Limits for all incorporated areas in Harris County	http://www.co.harris.tx.us/hcedweb/gis.htm
Congressional	Harris County Flood Control District	Congressional Districts	http://www.co.harris.tx.us/hcedweb/gis.htm
County Boundaries	City of Houston	Counties Adjacent to Harris County	http://www.co.harris.tx.us/hcedweb/gis.htm
County Line	HGAC	Harris County Boundary Line	http://www.co.harris.tx.us/hcedweb/gis.htm
County Soils	TNRIS	Harris County Soils Map	http://www.co.harris.tx.us/hcedweb/gis.htm
Day Care Centers	HC Geographic Information Systems	Day Care Centers	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
FEMA Flood Info	Harris County Flood Control District	1996 FIRMs	http://www.co.harris.tx.us/hcedweb/gis.htm
FEMA Panel	Harris County Flood Control District	Panel for 1996 FIRMs	http://www.co.harris.tx.us/hcedweb/gis.htm
Golf Courses	HC Geographic Information Systems	US Golf	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Highways	HC Geographic Information System	US Highways	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Hospitals	HC Geographic Information Systems	US Hospital	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Institutions	HC Geographic Information Systems	US Institutions	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Metro Service Area	METRO	Metro Service Area	http://www.co.harris.tx.us/hcedweb/gis.htm
Minor Civil Divisions	HC Geographic Information Systems	Minor Civil Divisions	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
MSA	HC Geographic Information Systems	US Metropolitan Statistical Areas	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Municipal Utilities	City of Houston	Harris County Municipal Utility Districts	http://www.co.harris.tx.us/hcedweb/gis.htm
Parks1	HC Geographic Information Systems	Parks Harris County	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Parks2	HC Geographic Information Systems	Parks Harris County (1892 TIGER files)	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Parks3	HC Geographic Information Systems	US Parks	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Private Houston City School	HC Geographic Information Systems	Contains Private City of Houston Schools	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Quad Index	Harris County Flood Control District	USGS Quad Map	http://www.co.harris.tx.us/hcedweb/gis.htm
Railroad	City of Houston	Harris County Railline Network	http://www.co.harris.tx.us/hcedweb/gis.htm
Railroads2	HC Geographic Information Systems	Harris County Railline Network	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Recreation Areas	Harris County Flood Control District	US Recreation Areas	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Retail Centers	HC Geographic Information Systems	US Retail Centers	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
School Districts	City of Houston	Independent School Districts	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Schools	HC Geographic Information Systems	School Data Harris County	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Schools TEA	HC Geographic Information System	Schools Harris County	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Schools USGS	HC Geographic Information System	Schools Harris County USGS	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
STAR Road Map*	HGAC	Road Coverage for Harris County	Not Applicable.
Traffic Signals	TXDOT	All traffic signals in Harris County	http://www.co.harris.tx.us/hcedweb/gis.htm
Utilities	HC Geographic Information System	Utility Lines Harris County	http://www.co.harris.tx.us/jims/gis/gis_ftp.htm
Waterbody	Harris County Flood Control District	Bodies of water in Harris County	http://www.co.harris.tx.us/hcedweb/gis.htm
Zip Codes	HC Geographic Information System	Regional Zip Code Map	http://www.co.harris.tx.us/hcedweb/gis.htm

Notes:

* Files purchased by Petitioners from indicated original source.

1. Metadata was collected wherever possible for these layers. The level of accuracy and most recent update for each data set varies.

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

October 16, 2001

Kathryn A. Kusske, Esq.
Mayer, Brown & Platt
1909 K Street, NW
Washington, D.C. 20006

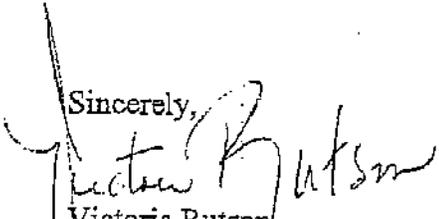
RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern And
Santa Fe Railway Company - Operation Exemption - Build-Out to
the Bayport Loop Near Houston, Harris County, Texas

Dear Ms. Kusske:

Thank you for your letter to me dated October 9, 2001, in which you conveyed a table listing environmental data accumulated by Petitioners San Jacinto Rail Limited and The Burlington Northern and Santa Fe Railway Company which may be of use to the environmental review being conducted by the Section of Environmental Analysis (SEA) in connection with the above-referenced proceeding.

Consistent with 40 CFR 1506.5(a), we have reviewed the table and would like to request all the data listed, except for data which is readily accessible via the Internet. Please send the material to SEA's independent third party contractor who is assisting SEA in the preparation of the environmental impact statement for this case: Alan Summerville, ICF Consulting, 9300 Lee Highway, Fairfax, VA 22031-1207. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,



Victoria Rutson

Chief

Section of Environmental Analysis

FD #34079

MAYER, BROWN & PLATT
1909 K Street, N.W.
Washington, D.C. 20006
Phone: (202) 263-3223
Fax: (202) 263-5223

Date: 10/22/01

TO: ICF Consulting, Inc.
9300 Lee Highway
Washington, D.C. 22031

ATTENTION: Alan Summerville
Project Manager

Enclosed please find the following:

#Copies	Description
2 items	1 binder entitled EDR Database Search - Sept., 8, 2000 and Aug. 24, 2001 and 1 map.

REMARKS: _____

Signed: Kathryn A. Kuskke
Kathryn A. Kuskke

MAYER, BROWN & PLATT
1909 K Street, N.W.
Washington, D.C. 20006
Phone: (202) 263-3223
Fax: (202) 263-5223

Date: October 25, 2001

TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

ATTENTION: ALAN SUMMERVILLE
Project Manager

Enclosed please find the following re:

#Copies	Description
1	See attached list of provided data (excluding data available from web sites) dated 10/24/01.
1	BNSF Safety Statistics and Summary of Hazardous Material Releases (made available during public meetings).
1	BNSF System Emergency Response Plan Book.

REMARKS: [Re: Bayport Loop, #01888791]

Signed:


Kathryn A. Kusske

List of Provided Data (Excluding Data Available from Web Sites)

Data Field		Data Description and Sources
Water Resources	Wetlands	
	Streams and Waterways	Storm Water Quality Management Guidance Manual (City of Houston, Harris Co., HCFCD, October 2000). Downloaded from: http://www.ccleanwaterir-clearcholes.org/professional/index.htm Improving Water Quality in Armand Bayou: Two TMDLs for Dissolved Oxygen (TRICC, January 2001)
Soils and Geology	Floodplains	FEMA Flood Insurance Rate Maps (FIRMS): 48201C0930-J, 48201C0935-J, 48201C0915-J, 48201C0920-J, 48201C0940-J, 48201C0945-J, 48201C1080-I, 48201C1080-J, November 6, 1989; 48201C1055-K, 48201C1060-K, April 20, 2000. FEMA Letters of Map Revision (LOMRs): Case #98061B27P (Panels 48201C0920-J & 48201C0940-J), January 22, 1998, Case #00060688P. Flood Insurance Study for Harris County, Texas. (FEIMA, April 20, 2000) [Predicted flood elevation levels for riverine & coastal areas]. Tides and Tidal Datums in the United States: Special Report No. 7. (D.L. Harris of USACE, February 1981) Aquifers of Texas. (Ashworth, John B. and Jamie Hopkins. November 1995. TX Water Development Board. Report 345.) Hydrogeology of Gulf Coast Aquifers, Houston-Galveston Area, Texas. (Kreidler, C.W., E. Guevara, G. Granata, and D. McKalips. 1977. University of Groundwater Management Plan. (Harris-Galveston Coastal Subsidence District, July 1998.) Soil Survey of Harris County, TX. (United States Department of Agriculture Soil Conservation Service. August 1976.) (Note: Location of Source Provided in Publication: Harris Soil and Water Conservation District, 10500 Northwest Freeway, Suite 179, Houston, TX 77092, (713) 681-0707.)
	Groundwater	Depositional Systems in the Woodbine Formation (Upper Cretaceous), Northeast Tx. (Oliver, William B., 1971. University of TX at Austin Bureau of Economic Geology. Report of Investigations No. 73.) * Effect of Water-Level Recoveries on Fault Creep, Houston, Texas. (Holzer, T. L. and R. K. Gabrysch. 1987. Groundwater Volume 25, No. 1.) Map Showing Surface Faults in the Southeastern Houston Metropolitan Area, Texas. USGS Open-File Report 78-797. E.R. Verbeek and U.S. Clanton. (Includes recent hand-drawn reproductions of original maps on USGS quadrangle topo maps). Environmental Geologic Atlas of the Texas Coastal Zone. (Fisher, W.L., J.H. McGowen, L.F. Brown, Jr., and C.G. Groat. 1972. University of Texas at Austin Bureau of Economic Geology.) * Evaluating the Environmental Geology Map: Environmental Geologic Atlas of the Texas Coastal Zone. (Finley, Robert J. 1978. University of Texas at Austin Bureau of Economic Geology. Research Note 11.) * Evaluation of Sanitary Landfill Sites, Texas Coastal Zone--Geologic and Engineering Criteria. (Brown, L.F., Jr., W.L. Fisher, and J.F. Malina, Jr. 1972. University of Texas at Austin Bureau of Economic Geology. Geologic Circular 72-3.) * Fault Control of Subsidence Houston-Galveston Area, TX. (Kreidler, Charles. 1976. University of TX at Austin, Bureau of Economic Geology. Research Note 5.) * Fauling and Land Subsidence from Groundwater and Hydrocarbon Production, Houston-Galveston, TX. (Kreidler, Charles W. 1977. University of TX at Austin, Bureau of Economic Geology. Research Note 8.) * Geologic Atlas of Texas, Beaumont Sheet. (University of Texas at Austin. 1988. Revised 1992.) * Geologic Atlas of Texas, Houston Sheet. (University of Texas at Austin. 1982.) * Texas at Austin Bureau of Economic Geology. Geologic Circular 70-2.) * Ground-water withdrawals and Land-Surface Subsidence in the Houston-Galveston Region, Texas. 1906-80. (Gabrysch, R.K. 1982. U.S. Geological Survey, Open-File Report 82-571) Houston Area Environmental Geology: Surface Faulting, Ground Subsidence, Hazard Liability. (Eiter, Evelyn M. ed., 1981.) Available from the Houston Geological Society, 6916 Ashcroft, Houston, TX 77081 per publication. Identification of Surface Faults by Horizontal Resistivity Profiles. (Kreidler, Charles W. and Dawn G. McKalips. 1978. University of TX at Austin, Bureau of Economic Geology. Geologic Circular 78-6.) Land-Surface Subsidence & Its Control in the Houston-Galveston Region, TX 1906-1995. (Gabrysch, R.K. Sept. 2000. Sixth International Symposium on Land Subsidence, Ravenna, Italy.) Lineations and Faults in the Texas Coastal Zone. (Kreidler, Charles W. 1976. University of TX at Austin, Bureau of Economic Geology. Report of Investigations No. 85.) * Microrelief (Gligati) Structures on Expansive Clays of the Texas Coastal Plain - Their Recognition and Significance in Engineering Construction. Thomas Gustavson. 1975. University of Texas at Austin Bureau of Economic Geology. Geologic Circular 75-7. Subsidence Data. (Unknown Date, Harris-Galveston Coastal Subsidence District.) * Harris County Master Plan for Parks, Recreation, and Open Space. (prepared by Bricker & Cannady Architects for Harris Co., May 2001.) Boundary file of Sylvan Rodriguez Park for Parks, Recreation, and Open Space. (Bricker & Cannady Architects for Harris Co., May 2001.) (will be submitted shortly)
	Land Use Plans	Texas Coastal Management Program. 2001. Texas General Land Office webpage. www.red.glo.state.tx.us/coastal/cmp.html
	Coastal Zones	

* Referenced in Bureau of Economic Geology List of Publications

List of Provided Data (Excluding Data Available from Web Sites) (Continued)

Data Field		Data Description and Sources
Biological Resources	Endangered Species	Annotated State and Federal Threatened and Endangered Species List for Harris County, Texas. Texas Parks and Wildlife. (last revision, 8/26/1999.) Endangered and Threatened Animals of Texas. Linda Campbell. 1995. Texas Parks and Wildlife Department. ISBN: 1-895696-04-3 Federal Threatened and Endangered Species List. 2001. USFWS Southwest Region Ecological Services Webpage: http://www.southwest.fws.gov/ Armand Bayou Preserve Plant Species List. 2001. Mark Kramer, Stewardship Coordinator, Armand Bayou Nature Center. Texas Parks and Wildlife webpage: www.tpwd.state.tx.us Field Guide to Texas Reptiles and Amphibians. R.D. Bartlett and P.P. Bartlett. 1999. Gulf Publishing. (ISBN: 0887719-337-1) Essential Fish Habitat: New Marine Fish Habitat Conservation Mandata for Federal Agencies. 1999. National Marine Fisheries Service, Habitat Conservation Division. NMFS Essential Fish Habitat webpage: www.nmfs.noaa.gov/ess_fish_habitat.htm 1990 and 2000 Census Data: www.census.gov 2000 Census Data: www.census.gov
	Essential Fish Habitat	Clear Lake Area Industry and Projections 2001. (Hodglin, D.A., Robert F. May 2001. Center for Economic and Development Research School of Business and Public Administration University of Houston-Clear Lake.)
Socioeconomic and Environmental Justice	Demographics	
	Environmental Justice	
Waste Sites	Regional Economy	
Hazardous Materials	Hazardous Materials Transportation	TNRCC Closed Landfill Inventory Data. (As of 10/24/01) EDR Corridor Study Report. (Environmental Data Resources, Inc. August 24, 2001. Includes western portion of alignment 2.) (Submitted previously) EDR Corridor Study Report. (Environmental Data Resources, Inc. September 8, 2000. Includes majority of preferred alignment.) (Submitted previously)
	Hazardous Materials Safety	USDOT, Bureau of Transportation Statistics, Transportation Safety Statistics: www.bts.gov Assoc. of American Railroads, Rail Facts and Safety Statistics: www.aar.org/comm/statfact.nsf USDOT, Federal Railroad Administration. Transportation safety statistics: www.fra.dot.gov/dca/safety USDOT. 2000 Emergency Response Guidebook: http://hazmat.dot.gov/gvdebook.htm USDOT, Federal Railroad Administration. Transportation Safety Statistics: http://safetydata.fra.dot.gov/brs/im/2000/ BNSF System Emergency Response Plan Book. (To be submitted separately) List of materials proposed to be transported. Source: BNSF and SJRL Partners. (To be submitted separately) Bureau of Explosives, Hazardous Materials Regulations of the Department of Transportation: Includes data of reportable quantities (RQs), hazardous material classes, and shipping documents for applicable chemicals. (Available from Federal Government) Data on improvement in rail equipment technology and safety: www.aar.org/comm/statfact.nsf 2002/2022 Traffic Data for Deer Park/La Porte Areas. (Sam Umukoro, Houston-Galveston Area Council, 713-993-2496.)
Transportation	Average Daily Traffic	Turning Movement Counts and Tube Counts performed for selected locations in study area. Data collection performed by Gram Traffic Counting, Inc. on October 3, 2001. Harris County Hurricane Evacuation Map: May 1997. (link on Texas Emergency Management home page to the NOAA site.) http://www.srh.noaa.gov/FTPCDD/HGX/HTML/tropical/evac_map/gis/harris.gif Houston Area Local Emergency Planning Website: http://greaterhoustonlepc.org/
	Emergency Access	
Other	Conservation/Recreational Property	Armand Bayou Nature Center. Taylor Bayou property tract map. Emission factors for locomotives: www.epa.gov/olag/regs/romroad/lococomtr/mr/42097051.htm Pipeline/Utility Table. Developed by Transystems, Inc. using USGS Topographic Maps, Refined Products Atlas of United States and Canada (5th Edition), and Field Surveys.
	Bayport Container Facility Historic Properties	US Corps of Engineers / Port of Houston Authority. Bayport Container/Cruise Facility Website: http://www.svg.usace.army.mil/reg/pha/pha.htm Armand Bayou NRHP District Map. Moore Archeological Construction. August 2001

MAYER, BROWN & PLATT
1909 K Street, N.W.
Washington, D.C. 20006
Phone: (202) 263-3223
Fax: (202) 263-5223

Date: October 26, 2001

TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
1	Hazardous Materials Safety: List of Materials Proposed to be Transported.

REMARKS: _____

Signed: _____

Kathryn A. Kusske

Hazardous Materials Safety: List of materials proposed to be transported¹

Alcohols
Dipropylene glycol
Ethylene glycol
Ethylene oxide
Glycol ethers
Glycols
Isobutylene
Monoethanolamine
Organic acids
Propylene glycol
Propylene oxide

Source: BNSF and SJRL Partners, 10/9/01

¹ As indicated in the Environmental Background for Bayport Industrial Loop Build-In, preliminary forecasts indicate the rail line will initially carry between 1,500 hazardous material tank cars annually and potentially increase to 7,000 in the foreseeable future, which is less than a "key route" (10,000 cars).

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

November 7, 2001

Kathryn A. Kusske, Esq.
Mayer, Brown & Platt
1909 K Street, NW
Washington, D.C. 20006

RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

Dear Ms. Kusske:

Pursuant to Dana White's recent site inspection with Alan Summerville and other members of the ICF Consulting Team for the above referenced case, thank you for helping arrange the trip. The time in the field and the meetings with the concerned Federal, state and local agencies, and with representatives from BNSF, were informative and productive. To follow-up on the site inspection, we would like to request information associated with the issues described below.

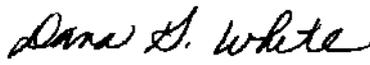
1. Several of the agencies that Dana and Alan met with raised questions about Applicants' possible access to the Bayport Loop through the use of the Union Pacific's (UP) Strang mainline (formerly Southern Pacific (SP)) and the Port Terminal Railway Association's (PTRA) mainline along part of that UP mainline. Dana and Alan explained that the Board conditioned the UP/SP merger by requiring build-in/build-out options to replicate the competitive options provided by the independent operations of UP and SP prior to the merger (in the case of the Bayport Loop, the condition applies to the pre-merger UP line). They also explained that there are legal impediments to using the PTRA mainline. In addition, the purpose and need for the proposed action as stated in the Applicants' Petition for an Exemption from 49 U.S.C. Section 10901, dated August 30, 2001, is to utilize the build-in/build-out condition imposed by the Board on the UP/SP merger. Aside from the fact that the UP/SP merger condition does not apply to the UP Strang mainline, please provide any information that the Applicants might have to further explain the difficulty that the Applicant's would face if they tried to obtain trackage rights to the UP Strang mainline to access a build-in/build-out and the legal impediments to using the PTRA mainline to access a build-in/build-out.

In addition, if trackage rights were possible on the UP Strang line, would the Applicants face operational constraints? Any information that the Applicants could provide on the PTRAs charter and operations would be helpful.

2. Confirm the feasibility or infeasibility of Alternative 2 as soon as possible. If it does appear feasible, please explain, to the extent that you can at this preliminary stage, how the Genoa Red Bluff Road corridor would accommodate Alternative 2 between the Beltway and Space Center Boulevard in light of the roadway expansion.
3. Confirm the feasibility or infeasibility of Alternatives 1A and 1B and the relocation of the runaround track near Taylor Bayou. Alternative 1A would be a variation of Alternative 1 and would arc to the north before the Exxon and Tejas gas plants and connect with the original Alternative 1 before the interchange yard. Alternative 1B would follow Port Road on the north side to cross Taylor Bayou rather than swinging to the east before running south to cross Taylor Bayou. Confirm whether the runaround track to the south of the Taylor Bayou crossing could be relocated to the north of the crossing. During the site inspection, an Alternative 2A was discussed, which would arc to the north in a manner similar to Alternative 1A. Given that Alternative 2 crosses Armand Bayou further north of Alternative 1, thereby avoiding the area of habitat that Texas Parks and Wildlife is concerned about, an Alternative 2A may not be necessary. If these alternatives are feasible, please provide a map of the alignments when one is available.
4. Provide conceptual designs for all bridge crossings as soon as they are available, i.e., a full span without piers or one with piers and in the case of Taylor Bayou, a full span versus a causeway/bridge combination.
5. Provide a typical cross section for the desired right-of-way (100 feet) and typical cross sections for areas where environmental or other limitations would restrict the width of the right-of-way.
6. Provide any additional information to confirm that the proposed build-out and the Port Authority's proposed container port facility are not connected actions.
7. Do the Applicants have a plan to replace the acreage that they would acquire from Harris County's wetland mitigation set-aside area? Would there be any difficulties associated with the Army Corps of Engineers requirement that the County establish a permanent conservation easement? Have the Applicants discussed the easement with the Army Corps of Engineers?

I request that you send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor, at 9300 Lee Highway, Fairfax, Virginia, 22031. Please feel free to contact Dana White at (202) 565-1552, or Alan Summerville at (703) 934-3616 if you have any questions.

Sincerely,


Victoria Rutson

Chief

Section of Environmental Analysis

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

November 9, 2001

Kathryn A. Kusske, Esq.
Mayer, Brown & Platt
1909 K Street, NW
Washington, D.C. 20006

RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

Dear Ms. Kusske:

Consistent with 40 C.F.R. § 1506.5(a), we would like to request additional information needed for the purposes of the Section of Environmental Analysis' environmental review in connection with the above-referenced proceeding. During field work for Hazardous Materials/Waste Sites, ICF Consulting, our independent third-party contractor, learned that the Applicants have aerial photographs (including historical) of the proposed alignment. We are requesting copies or prints of the photos to facilitate the investigation of hazardous materials/waste sites on or within 500 feet of the proposed alignment. We are also requesting a copy of BNSF's Best Management Plan which addresses procedure to follow should hazardous materials be discovered unexpectedly during the construction process.

I request that you send this material to Mr. Alan Summerville of ICF Consulting at 9300 Lee Highway, Fairfax, Virginia, 22031. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,

Dana S. White

Victoria Rutson
Chief
Section of Environmental Analysis

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

November 13, 2001

Kathryn A. Kusske, Esq.
Mayer, Brown & Platt
1909 K Street, NW
Washington, D.C. 20006

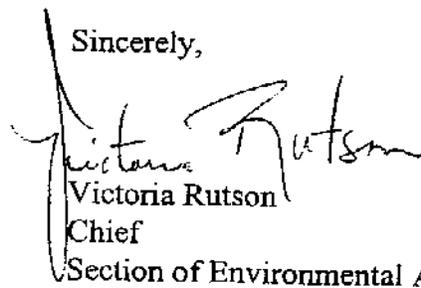
RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

Dear Ms. Kusske:

Consistent with 40 C.F.R. § 1506.5(a), we would like to request additional information needed for the purposes of the Section of Environmental Analysis' environmental review in connection with the above-referenced proceeding. The list of information is attached and relates to the transportation of hazardous materials.

I request that you send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor at 9300 Lee Highway, Fairfax, Virginia, 22031. Thank you for your continuing assistance. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,


Victoria Rutson
Chief
Section of Environmental Analysis

**Information Request for Transport of Hazardous Material
Finance Docket No. 34079
EIS for Bayport Loop Build-Out**

Rail Line analysis:

1. Number of derailments per train-mile system-wide and if available, at the track class for the build-out and the mainline between the build-out and New South Yard.
2. Number of collisions per train-mile systemwide and if available, by track class for the build-out and the mainline between the build-out and New South Yard.
3. Track class for proposed build-out.
4. Number of hazardous materials cars per BNSF train running between New South Yard and the Bayport Loop.

Yard analysis:

1. Number of derailments per million switching events system-wide or at New South Yard.
2. Annual number of cars switched at New South Yard in traditional manner both before and after construction of the build-out.
3. Annual number of cars block-swapped at New South Yard both before and after construction of the build-out.
4. Fraction of cars that carry hazardous materials in New South Yard.

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

November 14, 2001

Kathryn A. Kusske, Esq.
Mayer, Brown & Platt
1909 K Street, NW
Washington, D.C. 20006

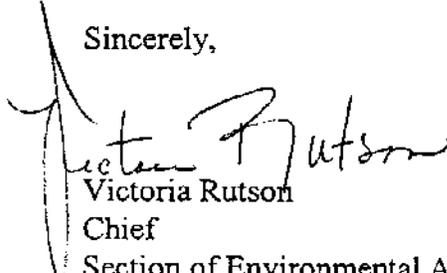
RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern
and Santa Fe Railway Company - Operation Exemption -
Build-Out to the Bayport Loop Near Houston, Harris
County, Texas

Dear Ms. Kusske:

Consistent with 40 C.F.R. § 1506.5(a), we would like to request additional information needed for the purposes of the Section of Environmental Analysis' environmental review in connection with the above-referenced proceeding. The list of information is attached and relates to air quality.

I request that you send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor at 9300 Lee Highway, Fairfax, Virginia, 22031. Thank you for your continuing assistance. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

**Information Request Related to Air Quality
Finance Docket No. 34079
EIS for Bayport Loop Build-Out**

Construction Phase

1. Confirmation of the Applicant's published construction schedule of 15 months to complete construction of the Build-Out.
2. List of all materials (e.g., dirt, gravel, cement, etc.) brought into or removed during the construction phase (e.g., average of two tons of soil will be removed per day).
3. An estimate of the daily average construction activity associated with the construction activity (e.g., 12 hours per day for 3 bulldozers).
4. An estimate of the daily average traffic activity associated with the construction activity (e.g., 12 hours per day for 3 dump trucks with a round trip for removal and return of 12 miles).
5. An estimate of the number of vehicles by size category (heavy heavy-duty, medium heavy-duty, etc.), fuel type, equipment type, number of each vehicle and frequency of use for the following source types:
 - a. Vehicles used exclusively for on-site construction (i.e., off-road vehicles),
 - b. Vehicles used exclusively for hauling material, equipment or people in and out of the construction site (i.e., on-road vehicles).
6. An estimate of other powered equipments by fuel type, equipment type (i.e., portable equipment such as generators, cranes, drillers, cutters, blowers etc.), number and frequency of use.

Operational Phase

1. Number of locomotive engines used per train trip per day and the annual average gallons of fuel consumed round-trip from New South Yard to the Bayport Loop.
2. Locomotive engine specifications such as type (line-haul, yard switching or local), engine horse power rating, and year of manufacture (if BNSF anticipates using newer engines or has relevant information on fleet turn-over).
3. The air quality agreement that BNSF and UP have for operations in the Houston area.

In addition to the above information, any other information or data that the Applicants may deem to be pertinent and useful in this matter of estimating emissions is also welcome.

MAYER, BROWN & PLATT
1909 K Street, N.W.
Washington, D.C. 20006
Phone: (202) 263-3223
Fax: (202) 263-5223

Date: November 14, 2001

TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

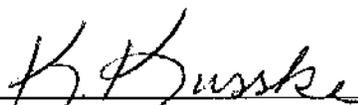
ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
1 copy	2 CD ROMs -GIS Data

REMARKS: _____

Signed: 
Kathryn A. Kusske

MAYER, BROWN & PLATT
1909 K Street, N.W.
Washington, D.C. 20006
Phone: (202) 263-3223
Fax: (202) 263-5223

Date: November 16, 2001

TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

ATTENTION: Alan Summerville
Project Manager

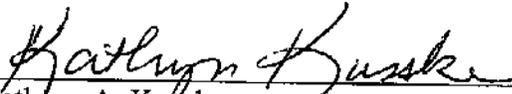
Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
1 copy	Aerial Photographs (Historical): – <i>(In response to SEA Letter dated 11/9/01).</i>
	No. (1953) 2-215 to 219
	(1964) 24-1975 & 28-2189
	(1973) 173-248, 273-32, 273-93, 273-107
	(1979) 8 57, 3 60, 4-31, 3 63
1 copy	BNSF's practices for addressing unexpected discovery of hazardous materials during construction. – <i>(In response to SEA Letter dated 11/9/01).</i>
1 copy	2 CD ROMs – GIS Data.

REMARKS:

Signed:


Kathryn A. Kusske

BNSF



Bayport Industrial Build-In

BNSF's practices for addressing unexpected discovery of hazardous materials during construction

BNSF does not have a specific Best Management Practice that addresses procedures to be followed by the contractor in cases where hazardous materials are unexpectedly discovered during construction activities. Instead BNSF addresses the issue through the following three steps:

- Pre-construction research and investigations, including Phase I and Phase II investigations.
- Pre-construction conference with the contractor, and
- A required Contractor Health and Safety Action Plan.

First, BNSF has an aggressive program of due diligence prior to any construction project. This includes extensive Phase I Environmental Site Assessments (ESAs) followed by Phase II Investigations where necessary. The environmental information collected during these studies is used as the basis to develop project documents for the contractor to understand the recognized environmental conditions.

Second, BNSF recognizes that not every potential environmental concern may have been identified. Therefore, the BNSF procedure for handling the unforeseen conditions for hazardous materials encountered during the construction project includes the following:

1. The contractor will be notified during the pre-construction conference for the project that unforeseen conditions may arise that could include some of the following situations: unusual soil conditions, odors, staining or discoloration, or unexpected debris or other materials. If these situations occur the contractors are required to immediately stop work and contact BNSF's environmental manager.
2. The BNSF environmental manager will assess the situation and evaluate if the unforeseen condition needs further evaluation or health and safety considerations. The BNSF environmental manager will contact the necessary personnel to assist with evaluating the needs for the unforeseen conditions encountered.
3. The decisions for the evaluations and responses, if needed, for the unforeseen condition will be documented for review by BNSF's environmental manager.

Finally, BNSF's standard construction contract requires that the contractor develop and implement a Health and Safety Action Plan prior to the commencement of the work. Among other things, the Health and Safety Action Plan must address potential hazardous materials encountered during excavations.

BNSF



F. RAY HERMAN
Manager, Engineering

**The Burlington Northern
and Santa Fe Railway Company**

5800 North Main Street
Ft. Worth, TX 76179
(817) 352-2900
Fax (817) 352-2912
E-mail Fredrick.Herman@BNSF.com

December 19, 2001

Mr. Alan Summerville
Project Manager
ICF Consulting
9300 Lee Highway
Fairfax, VA 22031-1207

Dear Alan,

Reference Victoria Rutson's letter dated November 7, 2001, requesting various items of information.

In response to Item 4, conceptual designs for the following bridge crossings have been completed and will be forwarded under separate cover by December 21, 2001:

Basell Bridge over Harris County Flood Control District Channel A-104-13-00
Lyondell Bridge over Harris County Flood Control District Channel A-104-13-00
•Bridge 10.2 over Harris County Flood Control District Channel A-104-13-00
Bridge 11.2 over Taylor Lake Bayou

We are still trying to verify what plans Harris County Flood Control District (HCFCD) has for any future expansion of Horsepen Bayou, Spring Gully and Big Island Slough. As soon as we get this information we can complete the conceptual bridge designs at these locations.

The field survey was just completed for Armand Bayou and we are working on the bridge design for this location.

We should be able to complete the bridge crossings by early January 2002.

In response to Item 5, attached hereto are two (2) copies each of the typical cross sections for Alignment 1.

Page 2
December 19, 2001

Also attached are two (2) copies of a map showing Alignments 1, 2, 3, and 4 and the various alterations that have been studied to date.

Please advise if any additional information is needed.

Respectfully,



Ray Herman
Manager Engineering

Cc: Kathryn Kusskee
Sarah Bailiff
John Morton
James Thomas
Larry Naeger
Mike Clift
Dave Seep
Gene Schubel
R. J. Boileau

MAYER, BROWN & PLATT

1909 K STREET, N.W.

WASHINGTON, D.C. 20006-1101

KATHRYN A. KUSSKE
DIRECT DIAL (202) 263-3223
DIRECT FAX (202) 263-5223
kkusske@mayerbrown.com

MAIN TELEPHONE
(202) 263-3000
MAIN FAX
(202) 263-3300

December 21, 2001

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

RECEIVED
SECTION OF ENVIRONMENTAL
ANALYSIS OFFICE
DEC 21 4 55 PM '01

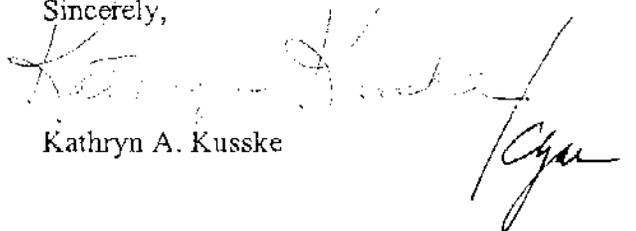
Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct – And The Burlington Northern And Santa Fe Railway Company – Authority To Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Ms. Rutson:

Enclosed please find the Petitioners' responses to the your letter dated November 7, 2001 requesting information.

Please let me know if you have any questions.

Sincerely,



Kathryn A. Kusske

Enclosure (with attachments)

cc: Dana G. White
Alan Summerville

Petitioners' Responses to SEA's November 7, 2001 Information Request

1. **Several of the agencies that Dana and Alan met with raised questions about Applicants' possible access to the Bayport Loop through the use of the Union Pacific's (UP) Strang mainline (formerly Southern Pacific (SP)) and the Port Terminal Railway Association's (PTRA) mainline along part of that UP mainline. Dana and Alan explained that the Board conditioned the UP/SP merger by requiring build-in/build-out options to replicate the competitive options provided by the independent operations of UP and SP prior to the merger (in the case of the Bayport Loop, the condition applies to the pre-merger UP line). They also explained that there are legal impediments to using the PTRA mainline. In addition, the purpose and need for the proposed action as stated in the Applicants' Petition for an Exemption from 49 U.S.C. Section 10901, dated August 30, 2001, is to utilize the build-in/build-out condition imposed by the Board on the UP/SP merger. Aside from the fact that the UP/SP merger condition does not apply to the UP Strang mainline, please provide any information that the Applicants might have to further explain the difficulty that the Applicants would face if they tried to obtain trackage rights to the UP Strang mainline to access a build-in/build-out and the legal impediments to using the PTRA mainline to access a build-in/build-out.**

In addition, if trackage rights were possible on the UP Strang line, would the Applicants face operational constraints? Any information that the Applicants could provide on the PTRA charter and operations would be helpful.

Response:

As you are aware, Alternatives 3 and 4 rely upon entry in the Bayport Loop via a new north-south line through Pasadena which would extend from an existing right-of-way referred to as the "La Porte line". Prior to the UP/SP merger, the La Porte line was owned by SP, and neither the Port of Houston nor the PTRA had rights of access over the line and/or parallel trackage on the right-of-way. Pursuant to a settlement agreement between UP, SP, and the Port in the UP/SP merger proceeding, UP granted the Port access to a rail corridor running parallel to the La Porte line. The Port then granted PTRA trackage rights to operate over the newly-acquired corridor. UP also agreed that the La Porte corridor could be used to access the Port's newly-planned line running southward to the Bayport Container Terminal. However, UP required that any new construction off of the La Porte corridor or the new north-south extension would be limited to access to the Container Terminal or other authorized facilities, which did not include the Bayport Industrial Complex. A copy of the parties' settlement agreement is attached hereto.

As mentioned, the PTRA operates on the La Porte line by virtue of the restrictive permission/authority granted by UP to the Port and PTRA. UP's consent would be required for any competitive access off of the new PTRA corridor. UP previously opposed requests for alternative competitive service to the Bayport Industrial District during the 1997-98 rail service crisis in Houston.

If San Jacinto and/or BNSF were to obtain consent from UP or otherwise receive authority to operate via trackage rights over the La Porte line and/or the Port's new line, we believe that it would be feasible for BNSF to operate over such lines, but it would require coordination between BNSF, UP and PTRA.

2. **Confirm the feasibility or infeasibility of Alternative 2 as soon as possible. If it does appear feasible, please explain, to the extent that you can at this preliminary stage, how the Genoa-Red Bluff Road corridor would accommodate Alternative 2 between the Beltway and Space Center Boulevard in light of the roadway expansion.**

Response:

Alternative 2 as originally proposed is technically feasible, however, it presents the following issues:

- It runs through property owned by the Deer Park School District which property is reserved for potential school facility development.
- It locates the rail line within 300-400 feet of a major residential neighborhood.
- It cannot accommodate a grade separation at Space Center Boulevard due to the close proximity to the intersection of Space Center Boulevard, Genoa-Red Bluff Road and Jana Lane and the inability to develop an underpass at this sea-level/flood-prone area.

Because of these issues, the Applicants have designed a modified alignment for Alternative 2 which attempts to mitigate many of the foregoing issues. The modified Alternative 2 (hereinafter referred to as "2B") would be the same as Alternative 2 from the beginning point at Belt 8 heading east just before the water treatment plant. From there, Alternative 2B would go south approximately 2,800 feet, then turn back east continuing until it would tie back in to Alternative 2 at approximately station 205 +00. (A map of the Alternative 2 and 2b will be forwarded to you under separate cover.)

Based on our meetings with Harris County and the Houston Water Treatment Department, we believe that the planned roadway expansion can coexist with Alternative 2 as originally proposed and 2B. In sum, while Alternative 2 and 2B are less preferable because of the overall potential environmental impacts they present, the Applicants believe that neither Alternative 2 nor 2B is technically infeasible even though both alternatives involve the use of land in and around the water treatment facility.

3. **Confirm the feasibility or infeasibility of Alternatives 1A and 1B and the relocation of the runaround track near Taylor Bayou. Alternative 1A would be a variation of Alternative 1 and would arc to the north before the Exxon and Tejas gas plants and connect with the original Alternative 1 before the interchange yard. Alternative 1B would follow Port Road on the north side to cross Taylor Bayou rather than swinging to the east before running south to cross Taylor Bayou. Confirm whether the runaround track to the south of the Taylor Bayou crossing could be relocated to the north of the crossing. During the site inspection, an Alternative 2A was discussed, which would arc to the north in a manner similar to Alternative 1A. Given that Alternative 2 crosses Armand Bayou further north of Alternative 1, thereby avoiding the area of habitat that Texas Parks and Wildlife is concerned about, an Alternative 2A may not be necessary. If these alternatives are feasible, please provide a map of the alignments when one is available.**

Response:

The Applicants have determined that Alternative 1A is infeasible because based on information obtained from the City of Pasadena, as well as the results of further study by the Applicants. The City of Pasadena has expressed several concerns about the potential impacts of Alternative 1A on its current plans with regard to: (i) an Industrial Park just west of the intersection of Red Bluff and Genoa-Red Bluff Road; (ii) an expansion of the fairgrounds/community center to include an open air amphitheatre; and (iii) an extension of Center Street south to connect to Genoa-Red Bluff Road. In addition, an at-grade railroad crossing at Genoa-Red Bluff Road in the area of the Industrial Park would adversely affect plans of the City of Pasadena to accommodate growth in traffic by extending Genoa-Red Bluff Road to the north/northeast to connect with Fairmont Road.

Other factors learned during the Applicants' study of Alternative 1A reveal that:

- 1A would be in closer proximity (2400' feet) to an existing school (Fairmont Junior High) as compared to Alternative 1;
- 1A would require an additional grade separation and Genoa-Red Bluff Road west of the Exxon gas plant;
- 1A would require moving the proposed grade separation of Alternative 1 from Red Bluff Road to the intersection of Red Bluff and Genoa-Red Bluff Roads, which is more difficult and costly to construct; and
- 1A is economically infeasible with an estimated addition of \$18-20 million to the total cost of the project.

The Applicants are continuing to study the feasibility of Alternative 1B. That Alternative may result in a reduction of access to certain shippers and, therefore, requires additional study.

In addition, based on our recent consultation with the Federal Aviation Administration ("FAA"), the Applicants are studying a modification to the proposed Alternative 1 (hereinafter "Alternative 1C") that would be outside the Runway Protection Zone ("RPZ") and the fence line of Ellington Field.¹ Alternative 1C would begin south of the proposed turnout on the GH&I line. It would then cross the Exxon Mobil pipeline corridor north of Sylvan Rodriguez Park, just east of the RPZ traveling in a northeasterly direction before rejoining the Alternative 1 near the Boeing/NASA facility. A map depicting Alternative 1 and 1C will be provided under separate cover.

With respect to Alternative 2A, we believe that it is infeasible for the same reasons described in the response above to 1A as well as the bulleted list of issues set forth in response to Question 2.

4. **Provide conceptual designs for all bridge crossings as soon as they are available, i.e., a full span without piers or one with piers and in the case of Taylor Bayou, a full span versus a causeway/bridge combination.**

Response:

The Applicants have completed a portion of the requested conceptual designs and will forward such information under separate cover. With respect to the designs which are not complete, the Applicants are waiting for various state and local authorities to confirm information that could affect the conceptual designs. The Applicants believe that they should be in a position to complete the remaining designs in the near future.

5. **Provide a typical cross section for the desired right-of-way (100 feet) and typical cross sections for areas where environmental or other limitations would restrict the width of the right-of-way.**

Response:

The Applicants have completed a majority of the typical cross sections and will forward such information under separate cover. The Applicants are continuing to develop a typical cross section for three specific areas which should be completed in the near future.

¹ There would appear to be no limitation on the FAA's authority to release airport property in an RPZ for non-aeronautical use. For example, in a recent notice of intent to waive conditions prior to disposal of airport property, the FAA indicated that approximately five acres of land at the Portland, Maine, International Jetport would be transferred to the Maine Turnpike Authority for construction of an interchange. The FAA noted that this parcel was approach land in the Runway 11 RPZ. 66 Fed. Reg. 47258 (Sept. 11, 2001).

6. **Provide any additional information to confirm that the proposed build-out and the Port Authority's proposed container port facility are not connected actions.**

Response:

The Council on Environmental Quality ("CEQ") regulations regarding the scope of an Environmental Impact Statement ("EIS") suggest that connected, or closely related, actions should be discussed in the same EIS. 40 C.F.R. § 1508.25 (a)(1). The regulations identify three factors to be considered in determining if actions are connected. Actions are connected if they:

- (i) Automatically trigger other actions which may require environmental impact statements.
- (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.
- (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

Id. The following facts demonstrate that the proposed build-out and the proposed container port facility are not connected actions:

- the Bayport Loop Build-In was conceived by the San Jacinto partners, made of up BNSF and plastic and chemical industry shippers in the Bayport Loop, specifically to provide much needed rail competition to the shippers which currently are captive to UP;
- the Port of Houston was not involved in, nor was even notified of, the nearly two years of confidential discussions leading to the formation of the San Jacinto and the decision to pursue construction of the Bayport Loop Build-In which was publicly announced on June 29, 2001;
- the Port has made no commitments to fund or support the proposed rail line and the development of the Port project can proceed without having the Bayport Loop Build-In in place;
- the Bayport Loop Build-In will proceed without regard to the fact of the Port project;
- San Jacinto and BNSF have not made any commitments to provide rail service to the Port project and the Bayport Build-In project;
- the proposed Port project already has ready access to rail transportation by the PTRA² were the PTRA to connect to the Port in the future;

² By way of background, PTRA is an association of all the railroads serving Houston. Formed in 1924, its purpose is to furnish neutral switching services for the benefit of its railroad members. PTRA's current members are BNSF, UPRR, and the Texas Mexican Railroad Company ("Tex-Mex"). See www.ptra.com.

- the Bayport Loop Build-In would not alter the potential for BNSF to serve traffic from the Port inasmuch as access to the BNSF system would be provided by the PTRAs were the PTRAs to connect to the Port; and
- the U. S. Army Corps of Engineers' (Corps) Draft Environmental Impact Statement for the Port project included the Bayport Loop Build-In as one of a number of past, present or future actions the Corps is considering in its cumulative impacts analysis. DEIS at 4-9.

We also enclose for your reference an August 29, 2001 letter to Mark King, then-Project Manager of the Port project for the Corps. That letter similarly discusses the §1508.25(a)(1) factors and their application to these two actions.

We believe there are additional facts supporting the conclusion that the Bayport Loop Build-In is independently economically viable:

- the contemplated chemicals and plastics rail traffic independently justifies the investment by the San Jacinto partners;³
- Unlike intermodal traffic, chemicals and plastics traffic is rail dependent;⁴ and
- through the formation of San Jacinto, BNSF's Bayport Loop partner/customers will share in the financial benefits and risks of the proposed rail construction project.

³ Chemical and plastics rail traffic has been statistically shown by the ICC/STB to be profitable. *See, e.g.*, "The Structure and Scope of Railroad Maximum Rate Regulation" (ICC Feb. 1995) (over 50% of chemicals (including plastics) traffic has a Revenue/Variable Cost ratio (R/VC) in excess of 180% (the agency's jurisdictional threshold for rate regulation) for traffic originating and terminating in Texas); "Rail Rates Continue Multi-Year Decline" (STB Feb. 1998) (from 1982 to 1996, the Revenue per Ton-Mile (nominal) for chemicals increased by 1.1%). By way of contrast, intermodal traffic (which is the kind of traffic that will be generated by the Port project) is comparatively less profitable. *See, e.g.*, "The Structure and Scope of Railroad Maximum Rate Regulation" (ICC Feb. 1995) (intermodal traffic (reported as "Flat [car] - TOFC/COFC") generates an average R/VC of less than 75%); "Rail Rates Continue Multi-Year Decline" (STB Feb. 1998) (from 1982 to 1996, the Revenue per Ton-Mile (nominal) for intermodal decreased by 18.3%).

⁴ Chemical and plastics traffic is highly dependent on rail for transportation. For example, plastics resins (particularly polyethylene and polypropylene, as produced in Bayport) are rail dependent, with over 90% of production being shipped by rail. Unlike chemicals and plastics traffic, intermodal traffic, by its very nature, is not rail dependent; it is subject to competition from alternative modes of transportation including choice of ports of call, rail or highway, and motor carrier drayage operations by more than one rail carrier.

The proposed construction of the Bayport Loop Build-In is economically and physically independent from the Port project, serves a different purpose, and does not have its origin in any business decision based upon anticipated traffic from the Port.

Consequently, construction of the Bayport Loop Build-In would proceed in the absence of the Port project. Likewise, although our information on the Port project is limited to what is in the public domain, we are not aware of any facts suggesting that the decision to proceed with the Port project in any way is dependent upon the construction of the Bayport Loop Build-In.

7. **Do the Applicants have a plan to replace the acreage that they would acquire from Harris County's wetland mitigation set-aside area? Would there be any difficulties associated with the Army Corps of Engineers requirement that the County establish a permanent conservation easement? Have the Applicants discussed the easement with the Army Corps of Engineers?**

Response:

The Applicants recognize that the project will potentially impact the 52-acre Harris County wetland mitigation set-aside area adjacent to Space Center Boulevard, and that some form of mitigation or compensation for the impact may be required. The Applicants have had discussions with both Harris County and the Corps concerning the mitigation site, and neither party has indicated that crossing the site would be an insurmountable obstacle. However, it is important to note that the discussions have only recently been initiated and no formal request to either agency has been made.

The Corps' regulatory jurisdiction as it relates to the isolated wetlands in the set-aside area itself changed as a result of the decision of the U.S. Supreme Court in Solid Waste Agency of Northern Cook County ("SWANCC"). In light of the SWANCC decision, the Corps has indicated to the Applicants that the isolated wetlands in the mitigation area are no longer considered jurisdictional. In addition, during a meeting held with the Corps on December 13, 2001, Mr. Kerry Stanley, Corps Project Contact, suggested that the Corps may not have regulatory authority over the mitigation area if such area were established to compensate exclusively for impacts to isolated wetlands. However, regardless of the jurisdictional status of the site, the Applicants understand that the mitigation site represents locally important habitat. The Applicants will work with the Corps and Harris County, as well as the other resource agencies, to address the unavoidable impacts to the mitigation set-aside area. The Applicants will evaluate the potential mitigation opportunities for the set-aside area in conjunction with the broader mitigation plan for the project.

PORT OF HOUSTON AUTHORITY

EXECUTIVE OFFICE: 111 East Loop North • P.O. BOX 2863 • HOUSTON, TEXAS 77252-2863
TELEPHONE: (713) 870-3400
FAX: (713) 870-3409



NED E. HOLMES
Chairman

November 10, 1995

James Dolan, Esq.
Vice President - Law
Union Pacific Railroad Company
1416 Dodge Street
Omaha, Nebraska 68179

Mr. John T. Gray
Vice President - Network and
Corporate Development Southern Pacific Lines
1860 Lincoln Street
Denver, CO 80295

Re: Finance Docket No. 32760, Union Pacific Corp., Union Pacific R.R. and Missouri Pacific R.R. — Control and Merger Southern Pacific-Rail Corp., Southern Pacific Transp. Co., St. Louis Southwestern Railway Co., SPCSL Corp. and the Denver and Rio Grande Western Railroad

Dear Messrs. Dolan and Gray:

This is to confirm the terms of an agreement ("the Agreement") reached by the Primary Applicants in the above-captioned proceeding, Union Pacific Corporation, Union Pacific Railroad Missouri Pacific Railroad, (collectively, "UP") and Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway, SPCSL Corporation, and the Denver and Rio Grande Western Railroad (collectively, "SP"), on the one hand, and the Port of Houston Authority ("PHA"), on the other hand, concerning the proposed merger of UP and SP.

Contingent upon consummation of the above-captioned merger, the parties agree to the following terms:

James Dolan, Esq.
Mr. John T. Gray
November 8, 1995
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1. Access to a portion of SP's La Porte Line:
 - A. PHA shall have the right to construct a track on the right-of-way of the current SP La Porte Line from Deer Park Junction to the junction with the Houston Lighting and Power Company ("HL&P") Lead east of SP's Strang Yard in La Porte, Texas, termed "New Track 1" hereinafter. Provisions regarding ownership, construction and use of New Track 1 are set forth in paragraph 3. herein.

2. Access to Planned Bayport Container Terminal.
 - A. PHA shall have the right to construct a track on the right-of-way of the current SP Bayport Line from a junction with the SP La Porte Line west of Strang Yard to the planned PHA terminal at Bayport, termed "New Track 2" hereinafter. Provisions regarding ownership, construction and use of New Track 2 are set forth in paragraph 3 herein.

3. ~~Ownership, Construction and Use of New Tracks 1 and 2.~~
 - A. Primary Applicants shall have reasonable access to the New Tracks 1 and 2 when they are not needed for the operations of PHA (or, if PHA so designates from time to time, Port Terminal Railroad Association ("PTRA")). Primary Applicants shall dispatch the New Tracks 1 and 2 and PHA (or, if PHA so designates from time to time, PTRA) will have priority.

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Page 3

- B. PHA shall have no land ownership rights. Rather, PHA shall own the New Tracks 1 and 2 and PTRR shall have suitable trackage rights from Primary Applicants and PHA to operate over the New Tracks 1 and 2 and right-of-way. These trackage rights shall reserve for Primary Applicants the right to use the New Tracks 1 and 2, subject to PHA's priority. PHA shall have no right to build any additional track springing from or connecting to the New Tracks 1 or 2, except the connections to the expanded intermodal ramp at Barbours Cut, the connections to the planned Bayport Terminal, and other connections as may be subsequently agreed between Primary Applicants and PHA.
- C. Only Primary Applicants, PHA and PTRR (but not its other members) shall have access over the New Tracks 1 and 2.
- D. Primary Applicants shall coordinate with PHA to review final engineering for the New Tracks 1 and 2 and the final plans and engineering detail shall be subject to approval by Primary Applicants prior to construction, such approval not to be unreasonably withheld.
- E. PHA shall construct the new Tracks 1 and 2 and its contractors shall enter into the merged carrier's standard right of entry agreements and carry the merged carrier's normal minimum amounts of insurance.
- F. Primary Applicants and PTRR shall share maintenance expense and all risk of loss associated with the New

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Tracks 1 and 2 in the same manner as set forth in existing agreements between SP and PTRRA.

- G. It is understood the New Tracks 1 and 2 shall be located so as to minimize disruption of Primary Applicants' operations in the area and PHA agrees to construct necessary power crossover switches to accomplish this result and to relocate the existing railroad scale, if necessary. The actual location of New Tracks 1 and 2 and necessary crossover switches and signals and any junction signals or switches shall be determined at the sole discretion of Primary Applicants, but New Tracks 1 and 2 shall be located within the existing right-of-way of Primary Applicants whenever practicable.
- H. The New Track 1 shall be used by PHA and PTRRA only for the purpose of moving freight to and from New Track 2, PHA's Barbours Cut Terminal or its other property which the PTRRA or PHA may have the right to serve under prior trackage rights granted by SP.
- I. The New Track 2 shall be used by PHA and PTRRA only for the purpose of moving freight to and from the planned PHA's Bayport Terminal. Neither PTRRA nor PHA shall have any right to serve existing or future industries on either Primary Applicants' Bayport Loop or adjacent to other right-of-way of Primary Applicants. PHA expressly agrees that the foregoing provision is of paramount importance to this agreement and that any attempt by PHA to establish rail service to others springing from New

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Track 2 shall void all other rights granted herein including the right to operate over the right-of-way of Primary Applicants and any operating rights which may be granted to PTRA or PHA by subsequent agreements whose purpose is to implement this letter agreement.

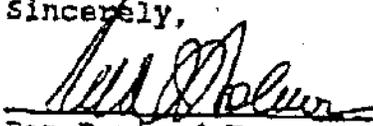
- J. It is understood that PHA shall pay all costs and Primary Applicants shall bear no cost associated with New Tracks 1 and 2, but Primary Applicants shall cooperate with PHA in making available to it all pertinent pipeline right-of-way agreements, utility agreements, roadway agreements, etc.
4. With respect to the trackage rights provided for in this Agreement, the parties shall negotiate in good faith to agree in an expeditious and timely manner on definitive trackage rights agreements which generally conform to industry standards prior to beginning PTRA or Primary Applicants' operations over either New Track 1 or 2.
5. Primary Applicants shall establish and maintain a reciprocal switch charge assessed on cars handled into or out of the facilities of Woodhouse Terminal in Galena Park, Texas, other than Houston Public Grain Elevator No. 2 ("HPGE2"), at a level equal to 123% of the previous 5 calendar year average of the PTRA's average cost per car handled.
7. Primary Applicants agree that if following consummation of the merger, Primary Applicants use the new connection to be constructed by PHA between the HB&T and SP at Tower 86 for the

James Dolan, Esq.
Mr. John T. Gray
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movement of traffic other than grain traffic, Primary Applicants shall reimburse PEA for up to one-half the cost of construction of such connection, based on a car-count proportion of usage by Primary Applicants during the three-year period following the first use of the connection, and Primary Applicants and PEA shall share maintenance expense and all risk of loss associated with such new connection in the same manner as set forth in existing agreements between SP and PTRR.

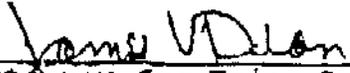
8. PEA agrees that, upon the signing of this Agreement, it shall file a verified statement with the ICC in its Finance Docket No. 32760, signed by Chairman Ned Holmes on behalf of the PEA and the Port of Houston Commission, supporting the application filed by Primary Applicants for control and merger authority.
9. This Agreement is intended to establish a binding contract between the parties. Time is of the essence in this contract.
10. This Agreement shall be interpreted under the laws of the State of Texas.
11. This Agreement may be executed in more than one counterpart, including facsimile transmissions, each of which shall be deemed an original.

Sincerely,


For Port of Houston Authority

James Dolan, Esq.
Mr. John T. Gray
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Page 7

Accepted and agreed upon by: Accepted and agreed upon by:



Attorney for Union Pacific
Corporation, Union Pacific
Railroad Company and
Missouri Pacific Railroad
Company



For Southern Pacific
Rail Corp., Southern Pacific
Transp. Co., St. Louis Southwestern
Railway Co., SPCSL Corp. and the
Denver and Rio Grande Western
Railroad

BNSF



SARAH WHITLEY BAILEFF
Senior General Attorney

The Burlington Northern and
Santa Fe Railway Company

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Fort Worth, Texas 76131-2828
(817) 352-2354 - Telephone
(817) 352-2397 - Fax
Sarah.Baileff@BNSF.com

August 29, 2001

Mark King, Project Manager
Regulatory Branch
U. S. Army Corps of Engineers,
Galveston District, CESWG
Post Office Box 1229
Galveston, Texas 77553

**RE: Port of Houston Authority, Bayport Marine Terminal
San Jacinto Rail Limited Proposed Rail Line to the Bayport Industrial District
STB Finance Docket Number 34079**

Dear Mr. King:

This is a follow-up to our meeting on August 22, 2001, during which we provided you with background information concerning San Jacinto Rail Limited ("SJRL") and the Burlington Northern and Santa Fe Railway Company's ("BNSF") plans to construct a new rail line to serve the existing rail shippers in the Bayport Industrial District (the "Bayport Loop Build-In"). The purpose of the letter is to address concerns that have been expressed by the community that the Bayport Loop Build-In may be a "connected action" to the Port of Houston Authority's proposed Bayport Marine Terminal for purposes of the National Environmental Policy Act, 42 U.S.C. § 4321, *et seq.*, ("NEPA") environmental review process.

We understand that members of the public may have requested that the Corps re-scope the Bayport Marine Terminal Environmental Impact Statement ("EIS") to include the Bayport Loop Build-In. As explained below, SJRL's project is not a "connected action" and the Corps is not obligated under NEPA to conduct the environmental impact analysis of SJRL's project in the EIS for the Bayport Marine Terminal. The Council on Environmental Quality ("CEQ") regulations identify three factors which must be considered to determine if actions are connected. Actions are connected if they:

- (i) Automatically trigger other actions which may require environmental impact statements.
- (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.
- (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

40 C.F.R. § 1508.25 (a)(1).¹ Courts have used an "independent utility" test to determine whether an agency is required to consider multiple actions in a single EIS. They have rejected claims that actions were "connected," pursuant to the CEQ regulation, "when each of the two projects would have taken place with or without the other." *Wetlands Action Network v. COE*, 222 F.3d 1105, 1116 (9th Cir. 2000). Conversely, "[i]f proceeding with one project will, because of functional or economic dependence, foreclose options or irretrievably commit resources to future projects, the environmental consequences of the projects should be evaluated together." *Fritiofson v. Alexander*, 772 F.2d 1225, 1241 n.10 (5th Cir. 1985).²

"Connected actions" are interdependent actions such as the building of a road to facilitate logging and timber sales requiring a permit, where the road would not be built without the timber sale permit approvals and the timber sales could not proceed without the building of the road. *See Thomas v. Peterson*, 753 F.2d 754, 760-61 (9th Cir. 1985). Where actions are designed to address existing problems and would proceed without regard to other actions, they have been found to be independent. *See Morongo Band of Mission Indians v. FAA*, 161 F.3d 569, 579-80 (9th Cir. 1998). Under these authorities, the Marine Terminal and the Bayport Loop Build-In are actions of independent utility and therefore are not "connected actions" for NEPA purposes. We will discuss each of the CEQ's "connected action" factors in turn.

The building of the Bayport Marine Terminal does not "automatically trigger" the need for SJRL's rail line.

We are not aware of any facts demonstrating that the Marine Terminal would not be constructed in the absence of access to rail transportation.³ However, to the extent that such an argument can be supported, the proposed Marine Terminal already has ready access to rail transportation. According to the Port of Houston Authority's permit application, rail service will be provided from the existing Union Pacific Railroad ("UPRR") line located adjacent to the proposed Marine Terminal.

¹ In determining the scope of an EIS where a Corps' permit is one component of a larger project, the Corps' NEPA Implementation Procedures, 33 C.F.R. Part 325 Appendix B (7)(b), direct the district engineer to address the impacts of the specific activity requiring a permit "and those portions of the entire project over which the district engineer has sufficient control and responsibility to warrant Federal review." As discussed below, the history and purpose of SJRL's project clearly demonstrate that the Bayport Loop Build-In is not part of the overall Bayport Marine Terminal project. Furthermore, the Surface Transportation Board ("STB") has exclusive jurisdiction over rail line construction and will conduct the necessary NEPA analysis as part of its review of SJRL's petition. *See* 49 U.S.C. Sections 10501 and 10901. Including this action in the Corps' Bayport Marine Terminal EIS would exceed the Corps' jurisdiction and is not necessary to fully and fairly inform the public regarding the environmental impacts of these two separate and distinct projects of independent utility.

² *Fritiofson* was subsequently overruled as to the standard of review it employed. *Sabine River Authority v. DOI*, 951 F.2d 669 (5th Cir. 1992), but its substantive determinations were not affected by *Sabine*.

³ The only information that SJRL and BNSF have concerning the Port of Houston Authority's plans for the Bayport Marine Terminal comes from the publicly available information. Accordingly, we do not have the same level of understanding as the Corps concerning the marine terminal, or the container facility portion of the port.

The construction of the Bayport Build-In is a stand-alone project with independent utility and is not dependent on any potential rail traffic generated by the proposed Marine Terminal for its justification. The driving purpose and need behind the formation of SJRL, and the sole justification for the project, is to provide competitive rail service to the captive plastics and chemicals rail shippers in the Bayport Loop. The plastic and chemical industry is heavily dependent on rail transportation not only to ship their products to market, but also to manage their inventory. A plastics or chemicals facility which has access to only one rail carrier, otherwise known as a "captive shipper," is frequently placed in a competitive disadvantage when negotiating shipping contracts. This is precisely the situation facing the facilities within the Bayport Loop.

SJRL was formed by the BNSF and four of the Bayport Loop shippers with the express justification of providing needed rail competition to the captive shippers in the Bayport Loop. The partners forming SJRL justified the capital investment in the line on the basis of the anticipated traffic from the chemicals and plastics producers in the area, which will be diverted from the existing carrier to the BNSF, and the value of competition (i.e., lower transportation costs and improved service options) to the shipper partners. Bringing competition to Bayport was a critical factor to our chemicals and plastics producing partners, whose third largest production cost (after raw materials and employees) is transportation. In reaching the business decision to construct a new line, potential traffic from the Marine Terminal was not a factor and is not required to make the line economically viable.

The discussions and negotiations that ultimately led to the business decision to provide competitive rail service to the Bayport Loop took place over a two-year period, concluding on June 29, 2001, with formation of SJRL. The discussions among the SJRL partners involved very sensitive business issues and were confidential. The Port of Houston Authority was not a party to those discussions. In fact, notification to the Port of Houston Authority concerning the proposed rail line was made only after the business deal was concluded on June 29, 2001. The Port has made no commitments to fund or support the SJRL line or provide any traffic guarantees. Neither have SJRL nor BNSF made any commitments to provide rail service to the Port. At this time, there are no plans for interconnection of the line with the Port's planned facilities. The decision of the partners to form SJRL and the decision of SJRL to pursue the construction of the line were not based on the potential of providing rail service to the Marine Terminal. Whether or not the Marine Terminal is ultimately constructed is in no way material to the commitment of SJRL and BNSF to pursue the rail line.

Other Considerations

SJRL designed the new line to move covered hopper cars and chemical tank cars. SJRL's new line would not efficiently support double stack container traffic. This is not to imply that BNSF could not safely move double stack container traffic over the line, but that container traffic would not move as efficiently as the chemicals and plastics traffic. This is primarily due to switching operations within the Bayport Loop area which would severely hamper the efficient movement of through freight operations of lengthy doublestack container trains. Conversely, it appears that either the UPRR or PTRR, because they will design the line

for container traffic, may be better suited to move container traffic, and in fact the Port of Houston Authority's permit application shows the traffic moving on those lines.

We do of course recognize that the construction of the Bayport Loop Build-In may require a Corps permit. Both the CEQ regulations and the Corps' NEPA regulations employ the cooperating agency mechanism to fulfill NEPA's goals in such a situation. 40 C.F.R. § 1501.6 and 1508.5; 33 C.F.R. Part 325 App. B(8)(c). SJRL is prepared to work with the Corps to define the permitting requirements, minimize the potential impacts to aquatic resources, and to provide the Corps any available information concerning our project consistent with the STB's decisions in its environmental impact assessment process.

Much of the information set forth in this letter is also provided in the formal petition to be filed with the STB. A copy of the formal filing can be obtained from the SJRL website at www.sanjacinterail.com along with additional informational materials. If I can be of any further assistance please do not hesitate to contact me at (817) 352-2354.

Sincerely,



Sarah W. Bailiff

SWB/trmm

cc: Dana White, Project Manager
Section of Environmental Analysis
Surface Transportation Board

Alan Sommerville, Project Manager
ICF Consulting Group, Inc

MEMO

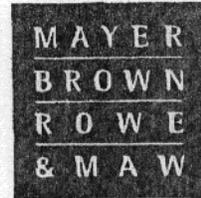
DATE: January 8, 2002

TO: A. Summerville

FROM: B. Lindamood

SUBJECT: Preferred Alignment

Per Mr. Ray Herman's request, please find attached a new print of the proposed preferred alignment.



February 1, 2002

BY HAND

Office of the Secretary
Case Control Unit
STB Finance Docket No. 34079
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

1909 K STREET, N.W.
WASHINGTON, D.C. 20005-1101

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Attn: Ms. Dana G. White, Section of Environmental Analysis,
Environmental Filing

Re: Finance Docket No. 34079, San Jacinto Rail Limited—
Authority to Construct—and The Burlington Northern and Santa
Fe Railway Company—Authority to Operate—Petition for an
Exemption from 49 U.S.C. § 10901—Build-In to the Bayport
Industrial Loop Area Near Houston, Harris County, Texas

Dear Ms. White:

The Burlington Northern and Santa Fe Railway Company (BNSF) and San Jacinto Rail Limited (SJRL) submit these comments on the Surface Transportation Board (STB)'s Draft Scope of Study, 66 Fed. Reg. 59046, for the Environmental Impact Statement (EIS) that is being prepared by the Section of Environmental Analysis (SEA) in the above-captioned proceeding.

First, BNSF and SJRL believe that the scoping meetings were very helpful in providing an opportunity for the public to become directly involved with the agency in the development of the scope of study for the project. Such input by the public is integral to the environmental review process under NEPA. We note, however, that some of the comments provided both informally and formally address issues that are not germane to this proceeding, irrelevant to the scope of study on which SEA sought comments, or otherwise not complete or accurate. Accordingly, we will not undertake at this time to address such comments, but reserve the right to address those matters at an appropriate time during the environmental review process should it become necessary to complete the record.

Second, we believe it appropriate to bring to your attention the following testimony presented by Union Pacific Railroad (UPRR) on January 28, 2002 in the Legislative Forum on Impacts of Future Development of Southeast Harris County:

Some have said the solution to the concerns expressed about the San Jacinto project is to have UP grant BNSF trackage rights over our line to Strang Yard and then along Highway 225. That's the way UP moves its Bayport chemical traffic today. We're not going to do that unless BNSF agrees to compensate us for all of our lost revenues, and it won't. We spent \$5.9 billion for the SP. Being the only railroad serving the chemical complex at Bayport was an attractive element in the purchase, and BNSF is going to take much of that value away from it. BNSF has no legal right to run over the former SP route. If they are to compete with us, they need to make their own investment, or as they have in this case, get the chemical companies to invest in a build out. Forcing them over our SP line would be like making K Mart give half its store to Wal Mart instead of Wal Mart building a new one or making the Houston Chronicle turn some of its presses over to another publisher so that Houston could again have competing daily newspapers.

Testimony of Joe Adams, Chairman's Special Representative, UPRR (Testimony) at 7 (copy enclosed). As the public raised questions during scoping about the feasibility of BNSF and SJRL using UPRR's existing trackage to serve the Bayport shippers, UPRR's statement is clear that it will not permit BNSF and SJRL to do so. Beyond providing needed information to answer concerns of the public, this information is also relevant to the alternatives analysis required under NEPA in consideration of the feasibility of alignments 3 and 4.

Third, during the scoping meetings, some commenters raised concerns about BNSF and SJRL's projection of anticipated rail traffic on the new line. Accordingly, we thought it appropriate to clarify the issue. BNSF and SJRL have projected an average of two linehaul trains per day, one inbound and one outbound. Trains will consist on average of approximately 36 to 66 railcars. This projection accounts for not only traffic anticipated to be carried initially over the new line for the four shippers who are partners in SJRL, but also the traffic of a number of other shippers who could be served by the line if the necessary connections were to be built. See San Jacinto Rail Limited and The Burlington Northern and Santa Fe Railway Company's Reply to Union Pacific Railroad Company's "Comments on Infrastructure and Safety for the Build-Out to the Bayport Loop" at 2-3 (dated Oct. 29, 2001).

After BNSF and SJRL's October 29 filing, UPRR's outside counsel filed a letter with the STB, dated November 15, 2001, correcting its initial assertions about estimated traffic levels available at Bayport and confirming that the Bayport Loop generates an average of 300 cars total per day, loaded and empty, on a typical day. This was again confirmed by UPRR's representative Joe Adams (Testimony at 4-5). Accordingly, BNSF and SJRL's estimate of 33 to 66 cars per day on average in each direction represents between 22 and 44 percent of the available carload traffic, a healthy and not insubstantial amount for a new market entrant with incomplete access to all traffic available to UPRR. Even if, as UPRR postulated in the recent local legislative hearings, BNSF were to capture two-thirds of all the chemical traffic in the Bayport Loop—which is at this point speculative and highly unlikely given that BNSF will not be able to access all 19 other shippers in the Bayport Loop—that would total only 200 cars,

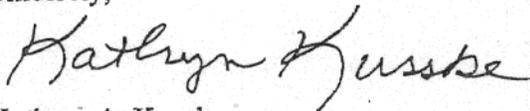
Office of the Secretary
February 1, 2002
Page 3

loaded and empty, on average per day in both directions. One linehaul train can accommodate 100 cars. Thus, even under this highly unlikely scenario, BNSF still would be able to handle such volume of traffic without adding new train service beyond one linehaul train trip per day on average in each direction.

Finally, some comments from the scoping meetings address matters previously discussed in correspondence directed to another federal agency—the U.S. Army Corps of Engineers (the Corps)—which is performing an EIS on an unconnected project involving the Port container facility. Other comments raise matters concerning preexisting conditions, a topic discussed at length in BNSF and SJRL's January 29, 2002 response to the January 9, 2002 letter of the Galveston Bay Conservation and Preservation Association. To the extent that any of the commenters are raising matters again that have been previously addressed, we incorporate by reference the positions of BNSF and SJRL as set forth in those prior submissions to the Board and the Corps.

It is our understanding that requests have been made to extend the public comment period on the draft scope of study. While we support the public's right to continue its participation in the NEPA process, and note that there are additional opportunities to do so in the future, there has been thorough scoping and substantial public participation already. Because no new issues have surfaced warranting extension of the comment period, issuance of the final scope of study at this time is consistent with NEPA's purposes. We are available to provide information to SEA and the public as may be needed to complete the environmental review for the project.

Sincerely,



Kathryn A. Kusske

Enclosure

cc: Victoria J. Rutson
Alan Summerville
All Parties of Record

Legislative Forum

Impacts of Future Development Southeast Harris County

State Representative John E. Davis

State Representative Rick Noriega

Testimony of

Joe Adams

Chairman's Special Representative

Union Pacific Railroad

January 28, 2002

Let me provide some background about the San Jacinto project from Union Pacific's perspective. To overcome the opposition of the chemical industry to the Union Pacific (UP) Southern Pacific (SP) merger, which itself was a reaction to the earlier merger of the Burlington Northern with the Santa Fe Railway, Union Pacific had to agree to several things. We had to give BNSF extensive trackage rights over our rail lines so that every shipper who had service from both UP and SP (and no other railroad) would have service from UP and BNSF, a much stronger railroad than the financially distressed SP. And, as is the issue here, we had to preserve the possibility of future competition by agreeing to give BNSF future trackage rights so as to allow them to build from a UP line to an industry formerly served only by SP or from a former SP line to a UP-served industry. Accordingly, Union Pacific is not opposed to the San Jacinto proposal. Currently, BNSF also has projects underway for "build outs" at Seadrift, Texas, and to a power plant in Arkansas, and several other "build outs" are planned in other areas.

The Surface Transportation Board in Washington D.C. must approve or grant an exemption to allow construction of new rail lines, and it must consider the environmental effects of the new operations. While we are on record as supporting the "build out" concept, UP has asked the STE in the Bayport proceeding to make sure that BNSF funds necessary improvements to the UP lines

in Southern Harris County over which BNSF will operate its added trains to reach Bayport. The lines in question are shown on the attached map. Our goals are to be sure that GH&H line is safely operated, to reduce the interference of the BNSF trains with our existing train traffic, and to avoid adverse impacts on the neighborhoods through which our lines run. Our concerns are spelled out in our STB filing which I have made available to you with copies of my remarks.

We have asked the BNSF to add capacity to its facilities and our lines to reduce these adverse impacts. We asked BNSF to help:

- a. By agreeing to a traffic control system;
- b. By installing two powered switches at Graham siding where they would come out onto our GH&H line;
- c. By adding a long siding north along the GH&H so that trains can pass along a 13-mile stretch that takes 45 minutes to traverse because of a 20-mph speed limit;
- d. By constructing a siding along our Harrisburg Sub;
- e. By constructing a new turnout so that their trains can go directly into their New South Yard rather than going past it and backing in across a busy rail line as they have to do today.

This backing maneuver at a location known as T&NO Junction (see attached maps) not only blocks the line we use to run 20 or so trains to and from Freeport, Corpus Christi and Brownsville

but also ties up vehicular traffic on Griggs Road and Long Drive. These movements often take 40 minutes or more. And, I know from experience when a train blocks a crossing, all railroads are viewed as culprits.

We need the sidings and the power switches to which I just referred not only to keep our trains moving, but also to avoid crossing blockages along Highway 3 and along Griggs Road. Dispatchers need a place to hold long trains without blocking roadways. To cite an example, a UP train coming north from Galveston would have to stop on the main line somewhere south of Clear Lake City Boulevard if a BNSF train were coming out ahead of it onto the GH&H at Ellington Field. These problems are compounded without power switches since the BNSF crew would have to stop their train and hand throw the switch and then reset it after their train had cleared. Then the crewman would have to walk the length of the train back to the locomotive. Similar problems occur if a UP train was going south north of the airport while the BNSF wanted to come off their San Jacinto Railroad. Without a siding to allow the trains to pass, the BNSF train would have to hold along the edge of the airport for up to 45 minutes or the UP train would have to hold out on the GH&H line north of Griggs Road for up to 45 minutes until the BNSF train cleared onto the Harrisburg Sub.

BNSF has filed an answer with the STB opposing all of our requested improvements. They say that they are only going to run

one daily train each way from Bayport and they shouldn't have to do any of this. In fact, they've filed a general request with the STB asking for a ruling for all "build outs" under which BNSF would have no duty to pay to ameliorate the impacts on Union Pacific even if the interference is "unreasonable" whenever the remedies would affect BNSF's ability to compete.

At the same time, BNSF does not have adequate facilities in Houston to handle its existing traffic. It has made minimal capacity investments. BNSF's New South Yard is the leading cause of rail delays in the Houston Terminal. The yard does not have enough tracks to accommodate BNSF's existing traffic and trains are held out and rail routes blocked. BNSF will say that it is making plans to switch cars at locations outside of Houston and route some trains around the city. But they haven't been able to solve the problems with existing levels of rail traffic. In contrast, since acquiring the SP, which was unable to invest very much into its facilities, UP has spent \$130 million for capacity improvements in Houston and made nearly \$1 billion in capital investments in the Texas Gulf region.

Let me turn to the only one train a day issue, which is the reason BNSF claims no improvements on the UP line are necessary. If it's one train, down the road it's going to be a mighty long one. Today, UP handles 300 or more cars on an average day into and out of Bayport. At busy times, the volume can approach 600 cars. As BNSF over time gets all the business of the three

largest Bayport shippers who are investing millions into the San Jacinto project and as it takes business from 19 other shippers on the Bayport loop, its volumes will grow. One reason for the projected slow BNSF start (33 cars) is that some of the chemical company investors' traffic is under contract with UP for several more years and then it will go to BNSF. And you can rightly expect BNSF to aggressively seek new customers. As an example, they now handle about 2/3 of all the chemical traffic from UP/BNSF competitive points along the Ship Channel. Finally, there is no projection in the BNSF analysis for traffic growth from new or expanded plants - which are likely to come on line.

Let me now address the rate issue because of allegations made about UP's pricing for Bayport customers in news articles and elsewhere.

First, rates are higher where there is only one railroad and a commodity not readily susceptible to truck or barge competition. UP does it; BNSF does it. Chemical companies charge more for patented products. Like the airlines, railroads need to charge different prices to different customers to survive given the huge investment requirements we have for track and locomotives. And unlike trucks and airlines, we don't enjoy government-funded facilities.

Second, shippers who feel their rates are unfairly too high can file a complaint with the ICC which can order their rates to be lowered.

Third, shippers with multiple plants can negotiate package deals involving single served and multi-railroad served locations to exert leverage. In certain circumstances, they can truck products to a competing railroad and load them into rail cars.

Fourth, it would be dumb for a railroad to charge rates that were so high a shipper would be forced to close a plant. The railroad would lose all the traffic. Transportation costs are an economic factor but there are others. Why did Equistar close a plastics plant last March at Williams, Texas that "enjoyed" competitive rail services while keeping single railroad served plants open? And most shippers continue to locate new plants on a single railroad.

Fifth, a Houston Chronicle editorial said "some chemical executives claim it's cheaper for them to ship cargo from Canada to the Gulf Coast than from Bayport to Louisiana". Well, if you cherry pick rail rates you can find an example of anything. In reality, my understanding is that Bayport rail shippers pay anywhere from just over \$500 per car to somewhat over \$2500 to ship commodities to points in Louisiana. So prices are all over the lot depending on contract terms and marketplace issues. Finally, we've told Equistar, Lyondell, Ktofina and Basell that we're always willing to talk about their needs as customers.

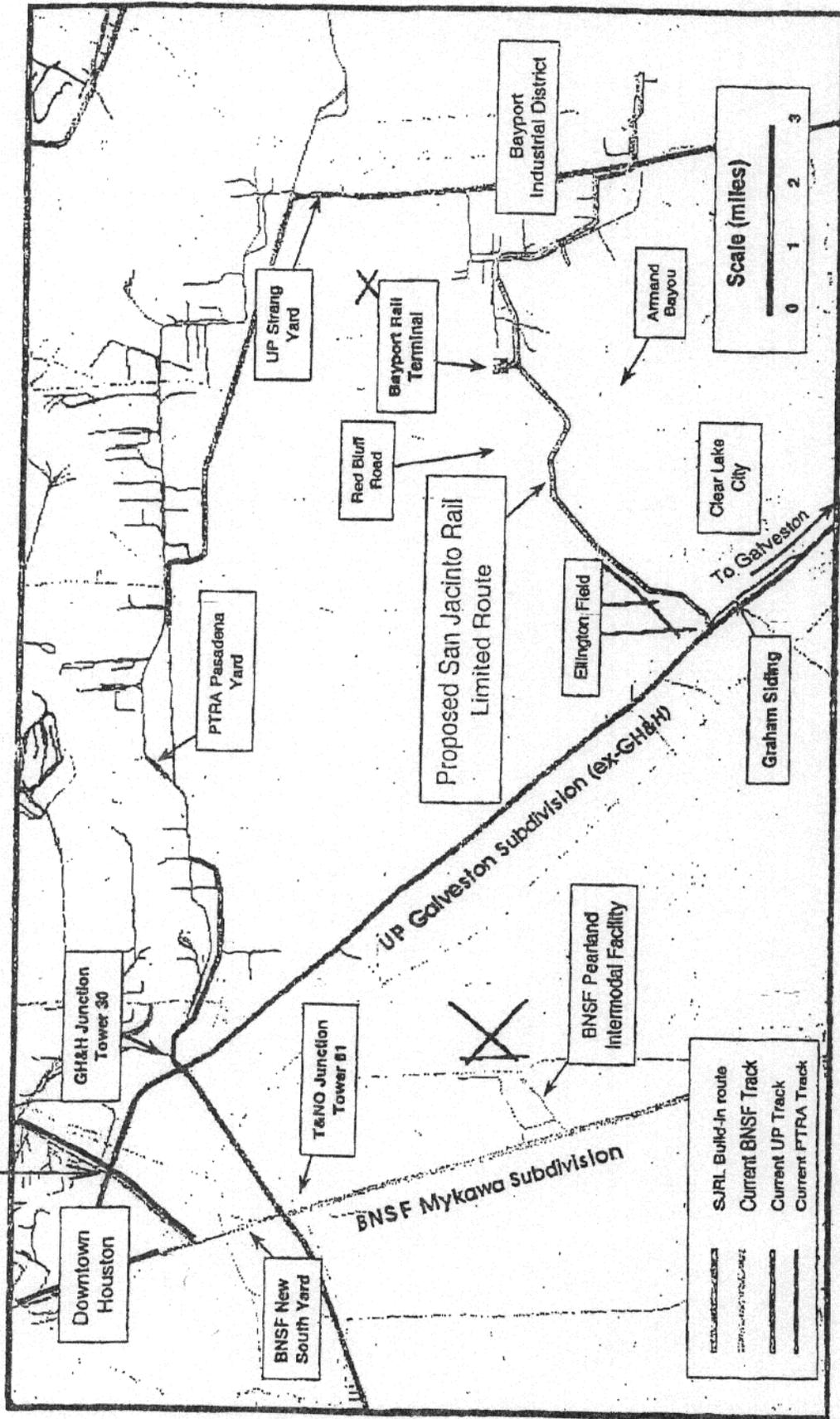
In closing, I need to address still one more issue. Some have said the solution to the concerns expressed about the San

Jacinto project is to have UP grant BNSF trackage rights over our line to Strang Yard and then along Highway 225. That's the way UP moves its Bayport chemical traffic today. We're not going to do that unless BNSF agrees to compensate us for all of our lost revenues, and it won't. We spent \$5.9 billion for the SP. Being the only railroad serving the chemical complex at Bayport was an attractive element in the purchase, and BNSF is going to take much of that value away from it. BNSF has no legal right to run over the former SP route. If they are to compete with us, they need to make their own investment, or as they have in this case, get the chemical companies to invest in a build out. Forcing them over our SP line would be like making K Mart give half its store to Wal Mart instead of Wal Mart building a new one or making the Houston Chronicle turn some of its presses over to another publisher so that Houston could again have competing daily newspapers.

Thanks for the chance to tell you of our concerns. I'd be happy to try to answer your questions.

HOUSTON AREA LINES

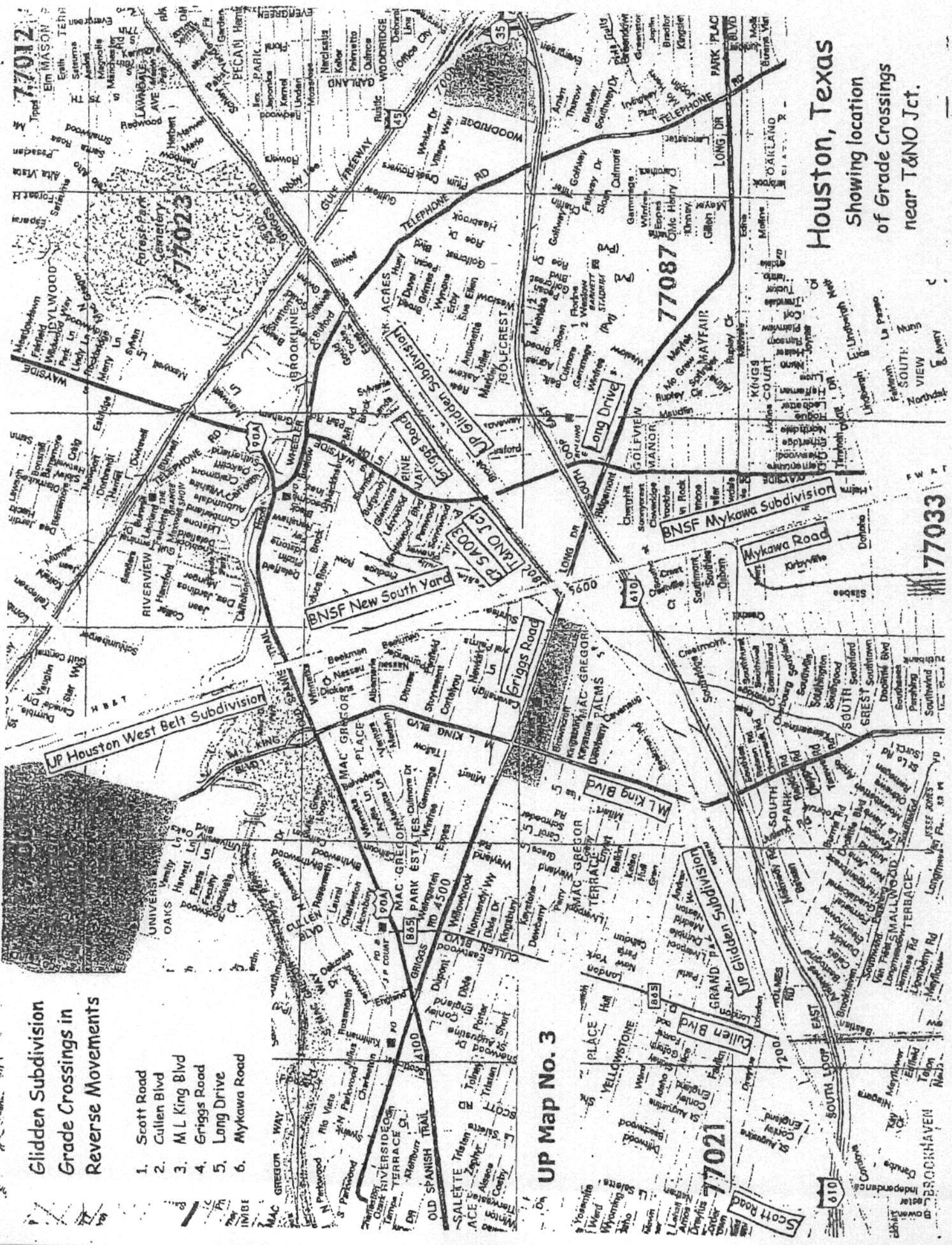
UP Map No. 2



BNSF Trackage
Rights on UP

**Glidden Subdivision
Grade Crossings in
Reverse Movements**

1. Scott Road
2. Cullen Blvd
3. M L King Blvd
4. Griggs Road
5. Long Drive
6. Mykawa Road



UP Map No. 3

Houston, Texas
Showing location
of Grade Crossings
near T&NO Jct.

77033

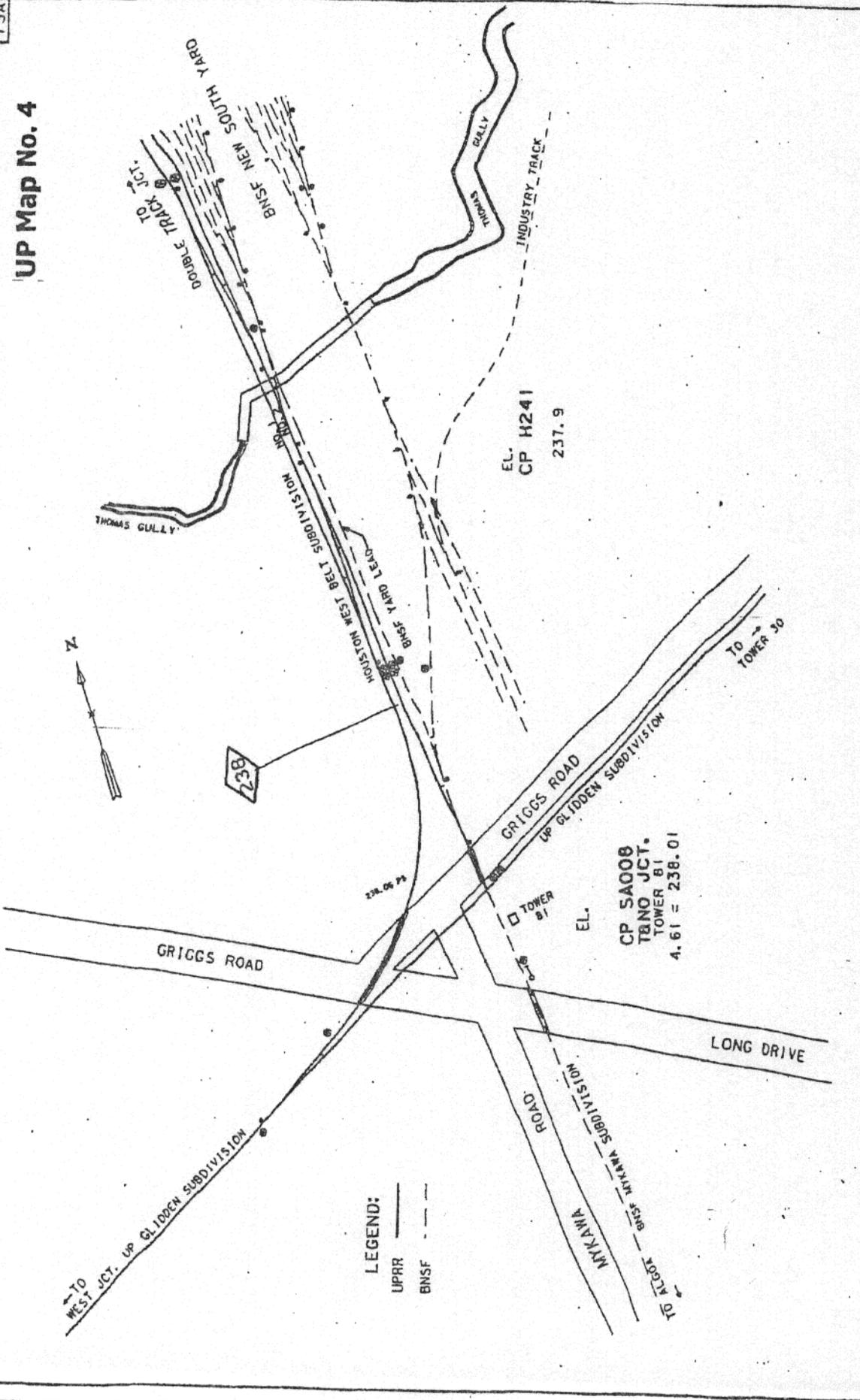
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77012

UP Map No. 4



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

February 19, 2002

Kathryn A. Kusske, Esq.
Mayer, Brown & Platt
1909 K Street, NW
Washington, D.C. 20006

RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

Dear Ms. Kusske:

Consistent with 40 C.F.R. § 1506.5(a), we would like to request additional information needed for the purposes of the Section of Environmental Analysis' environmental review in connection with the above-referenced proceeding. The list of information is attached and relates to rail operations.

I request that you send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor at 9300 Lee Highway, Fairfax, Virginia, 22031. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

Information Request for Rail Operations Safety
Finance Docket No. 34079
EIS for Bayport Loop Build-Out

1. Please confirm or correct our understanding of the crossing signal and/or protection systems that would be used at the proposed rail-rail crossings. As indicated in the Applicants' Petition for an Exemption filed on August 30, 2001, a signal system for rail/rail crossings in the Bayport Loop is not required because the current operations occur at low speeds and operate under the "restricted speed" rules (Page 5 of the Verified Statement of Harry P. Mann, Jr.). The filing indicates that the proposed operations would also occur under the "restricted speed" rules. Our understanding is that Union Pacific (UP) and Burlington Northern and Santa Fe (BNSF) would have to agree on the operating rules and procedures before BNSF can cross the UP tracks. Control at the crossings may be as simple as 1) a stop sign for either the BNSF or both UP and BNSF or 2) a swing gate with stop signs on it. When the swing gate is opened for one track direction, it closes the other track direction. In either case, as long as the route is clear, the first train at the crossing stops or opens the gate and proceeds. If two trains arrive at the same time, it is likely that the UP train would have priority. The operating rules must be submitted to the Federal Railroad Administration (FRA) at least 30 days before BNSF operations begin.
2. What type of dispatching arrangements do the Applicants anticipate for the operations within the Bayport Loop (e.g., Operating Rules and Special Instructions, the Joint Dispatch Center in Spring, Texas)?
3. How might the operating rules for the Bayport Loop address avoiding situations where trains stopped at rail-rail crossings would block highway-rail at-grade crossings or where other switching operations could result in trains stopping while they are blocking highway-rail at-grade crossings? For example, operating rules contain Special Instructions where unique or additional information concerning train operations are stated. The Special Instructions could contain reference to avoid blocking the crossings (by specific crossing name) if it is at all possible. We recognize, as stated above, that BNSF would have to develop the Operating Rules in cooperation with UP and that any measures that the Applicants might want to implement are subject to reaching an agreement with UP.
4. Would San Jacinto construct a triple track area on the alignment between the interchange yard and Red Bluff Road? While none of the other maps indicate this, the book of detailed aerial photos appears to indicate a triple track area.
5. The UP filing, dated October 11, 2001, states that they run six trains per day between T&NO Junction and Tower 30 and that BNSF uses the line more than UP. The BNSF

filing states that there are three reverse movements each day at T&NO Junction to access New South Yard. Given UP's statement that BNSF uses the line more than UP, how many other BNSF trains operate between T&NO Junction and Tower 30?

6. Provide the number of BNSF trains per day and trackage right trains per day and the train speed for the Mykawa Subdivision south of New South Yard.
7. What is the current unused capacity at New South Yard and what will the unused capacity be after moving the 300 cars to another yard? Provide the unused capacity in the form of an average number of cars per day or a range of cars per day. We understand from the Applicants' August 30th filing, that the capacity of the yard is 800 cars.
8. Provide the yard track diagram for New South Yard, including the new mainline being constructed adjacent to the yard.

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

March 11, 2002

Kathryn A. Kusske, Esq.
Mayer, Brown & Platt
1909 K Street, NW
Washington, D.C. 20006

RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

Dear Ms. Kusske:

Consistent with 40 C.F.R. § 1506.5(a), we would like to request additional information needed for the purposes of the Section of Environmental Analysis' (SEA) environmental review in connection with the above-referenced proceeding. As you know, SEA is finalizing the scope of the Environmental Impact Statement (EIS) that will be prepared for this proceeding. During the scoping process, SEA received and continues to receive comments that claim Applicants intend to serve the proposed Bayport Marine Terminal. However, based on information to date, it is our understanding that the Applicants did not involve the Port of Houston Authority (PHA) in the planning of the proposed build-out, and that Applicants have no plans to serve the proposed Bayport Marine Terminal in the foreseeable future. If this is still true, we request that the Applicants provide SEA with a Verified Statement supporting this position.

The Draft Environmental Impact Statement (Draft EIS), recently released and prepared by the U.S. Army Corps of Engineers (COE) for the Bayport Marine Terminal proposal, indicates that the Bayport Marine Terminal is not expected to require rail service until approximately 2012. Further, the Draft EIS states that a new rail line would be built from the Union Pacific Railroad Company's Strang Yard to the Bayport Marine Terminal within the existing right-of-way, generally along SH 146.

SEA acknowledges your earlier letters to the COE (dated August 29, 2001 and October 26, 2001) and to SEA (dated December 21, 2001), which address the independent utility of the Bayport Loop Build-out and the Bayport Marine Terminal, and which indicate that the Applicants do not have any plans to serve the Bayport Marine Terminal. The August 29, 2001 letter also states that the switching operations of the Bayport Loop, among other factors, "would severely hamper the efficient movement of through freight operations of lengthy doublestack container trains."

Notwithstanding the existing information, a Verified Statement from the Applicants to SEA outlining the Applicants' position regarding the Bayport Marine Terminal, and any additional clarification related to this issue that is appropriate, would greatly facilitate SEA's development of the final scope of the EIS.

We would appreciate your assistance. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,



Victoria Rutson
Chief

Section of Environmental Analysis

Transmittal

HDR Engineering, Inc.

8404 Indian Hills Drive
Omaha, Nebraska
68114-4049

Telephone:
402 399-1000



BNSF Bayport Loop Build-In Project

Attention Alan Summerville **Date** 3/15/2002 **Job No.** 09357-013-134

To ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

Regarding Bayport Loop Build-Out Land Use map, Harris County, Texas

We are sending you: Enclosed Under separate cover via _____ the following items
 Shop drawings Prints Plans Samples Specifications
 Copy of letter Change Order Other CD with digital habitat map

Copies	Date	No.	Description
1	2/11/2002		Bayport Loop Build-Out Digital Land Use Map, Harris County, Texas
1	2/11/2002		Hard Copy of Land Use Map found on the CD
1	3/15/2002		Written Instructions for the CD

These are transmitted as checked below:
 For approval Approved as submitted Resubmit _____ copies for approval
 For your use Approved as noted Submit _____ copies for distribution
 As requested Returned for corrections Return _____ corrected prints
 For review/comment Other _____
 For bids due _____ 19 _____ Prints returned after loan to us

Remarks

Cc: Kathryn Kusske, Lara Jarrett

If enclosures are not as noted please notify us at once **Signed** John Morton, Project Manager

This CD-ROM contains a land use GIS layer developed for the Bayport Loop Build-Out project. This layer was developed by HDR Engineering, Inc. by heads-up digitizing land use polygons from high resolution orthophotography. Land use was determined for all areas inside a 0.5 mile buffer along the proposed alignments. Classifications were assigned an attribute for each polygon.

The land use layer is in ESRI shapefile format. The shapefile can be directly viewed with ArcView 3.x, ArcGIS 8.1, and ArcExplorer software. A legend file is included on the CD (landuse_final.avl) that will create a thematic legend identical to what is on the hard copy map when opening the shapefile in ArcView 3.x.

The coordinate system of the shapefile is UTM, Zone 15, NAD83, Meters. This coordinate system is consistent with other GIS layers delivered in the past.

If you have any questions, please contact:

Shane Buscher
HDR Engineering, Inc.
402.399.1079
sbuscher@hdrinc.com

MAYER, BROWN, ROWE & MAW

1909 K STREET, N.W.

WASHINGTON, D.C. 20006-1101

*Received
Dana White
3/20/02*

KATHRYN A. KUSSKE
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DIRECT FAX (202) 263-5223
kkusske@mayerbrownrowe.com

MAIN TELEPHONE
(202) 263-3000
MAIN FAX
(202) 263-3300

March 20, 2002

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

Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct – And The Burlington Northern And Santa Fe Railway Company – Authority To Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Ms. Rutson:

Enclosed please find the Petitioners' responses to the your letter dated November 13, 2001 requesting information.

Please let me know if you have any questions.

Sincerely,

Kathryn A. Kusske / by jwp

Kathryn A. Kusske

Enclosure

cc: Dana G. White
Alan Summerville

BNSF



DAVID C. SEEP
*Director Environmental Engineering and
Program Development*

The Burlington Northern
and Santa Fe Railway Company

920 SE Quincy, P.O. Box 1738
Topeka, KS 66601-1738
Phone: (785) 435-2225
Fax: (785) 435-2202
E-mail: David.Seep@BNSF.com

Information Request for Transport of Hazardous Materials
Finance Docket No. 34079
EIS for Bayport Loop Build-Out

March 20, 2002

This is the response of The Burlington Northern and Santa Fe Railway Company (BNSF) and San Jacinto Rail Limited to SEA's November 13, 2001 request for hazardous materials transportation information. The information and traffic projections were compiled and developed by me or at my direction in my capacity as Director of Environmental Engineering and Program Development for BNSF.

Rail Line Analysis

1. *Number of derailments per train-mile system-wide and if available, at the track class for the build-out and the mainline between the build-out and New South Yard.*

In 2001, BNSF incurred 458 derailments in 162,943,990 total system train miles for a rate of 2.81 derailments per million train miles. In 2001, BNSF incurred 36 derailments on Class 2 track. Since we are unable to calculate train miles over Class 2 track, we are unable to calculate a rate per train mile for Class 2 track. These derailment numbers are publicly available on [http://safetydata.fra.dot.gov/officeof safety/default.asp](http://safetydata.fra.dot.gov/officeof%20safety/default.asp). We have no information on GH&H trackage.

2. *Number of collisions per train-mile system-wide and if available, by track class for the build-out and the mainline between the build-out and New South Yard.*

In 2001, BNSF incurred 14 collisions in 162,943,990 total system train miles for a rate of .086 collisions per million train miles. In 2001, BNSF incurred 0 collisions on Class 2 track. These collision numbers are publicly available on <http://safetydata.fra.dot.gov/officeofsafety/default.asp>. We have no information on GH&H trackage.

3. *Track class for proposed build-out.*

The track will be class 2.

BNSF

ROLJIN D. BREDEBERG
Vice President
Service Design and Performance

The Burlington Northern
 and Santa Fe Railway Company

P.O. Box 961034
 Fort Worth, TX 76161-0034

2600 Lou Meek Drive
 Fort Worth, TX 76131
 (817) 352-1304
 Fax (817) 352-7432
 E-mail: rollin.bredenber@bnsf.com

RECEIVED

NOV 20 2001

LAW DEPARTMENT

November 9, 2001

Mr. Steve Barkley
 Union Pacific Railroad
 Regional VP Southern Region
 24125 Aldine Westfield Rd.
 Spring TX 77373

Re: Bayport Loop Build-In

Dear Steve:

As you are aware, San Jacinto Rail Limited ("San Jacinto") and The Burlington Northern and Santa Fe Railway Company ("BNSF") filed a Joint Petition for Exemption with the Surface Transportation Board ("Board") on August 30, 2001, in Finance Docket No. 34079 for authority to construct and operate a 12.8 mile rail line from certain plastics and chemicals production facilities located in the Bayport Industrial District ("Bayport Loop") to a point of connection with the former Galveston, Henderson & Houston Railroad ("GH&H") line near the southeast corner of Ellington Field in Houston, TX. As further described in the Petition, BNSF will access the proposed line via trackage rights over the GH&H line which is now owned by UP. BNSF's right to such trackage rights arises from Section 13 of the CMA Agreement and the Board's conditions imposed on the UP/SP merger. BNSF anticipates running on average one linchaul train of approximately 36 to 66 cars each way per day over the trackage rights. BNSF will, at an appropriate time in the future, work with UP to finalize a trackage rights agreement for this segment or otherwise make arrangements to incorporate that segment into our other agreements.

Once the proposed line enters the Bayport Loop area, it will proceed in and through the Loop to serve facilities owned by ATOFINA, Basell, Equistar and Lyondell and will terminate near the ATOFINA facility located just east of State Highway 146. It is anticipated that service in the Loop to the producer facilities will be provided by switching locomotives operating out of Bayport Rail Terminal's yard just west of the Loop. As indicated in the Petition and referenced in UP's October 9, 2001, Comments filed with the STB, in order to provide this service, the new line will need to cross lines operated by UP at a number of locations as it proceeds.

4. *Number of hazardous material cars per BNSF train running between New South Yard and the Bayport Loop.*

We anticipate on average, one train movement per day with empties from the New South Yard (or other location, as operating circumstances require) to the Bayport Rail Terminal to drop off and exchange cars from the Loop and then a return movement out with loaded cars. Initial business projections are for an average of approximately 36 cars per train with an increase to an average of approximately 66 cars per train in the foreseeable future, depending upon BNSF's success in marketing its competitive service offerings. The outbound loads are projected to be plastic pellets and hazardous materials. Initially, there are projected to be 1,500 loaded hazardous material cars per year out of a total of 13,000 loaded cars. In the foreseeable future, this number is projected to be 7,000 loaded hazardous material cars out of 23,000 loaded cars annually.

Yard Analysis

1. *Number of derailments per million switching events system-wide or at New South Yard.*

In 2001, BNSF incurred 225 yard derailments. The number of switching events is not tracked. The number of yard switching miles is used by FRA/DOT. BNSF had 13,699,547 yard switching miles in 2001. In 2001 therefore, BNSF incurred 16.4 yard derailments per million switching miles. These yard derailment numbers are publicly available on the following website <http://safetydata.fra.dot.gov/officeofsafety/default.asp>.

2. *Annual number of cars switched at New South Yard in traditional manner both before and after construction of the build-out.*

Before construction: 216,000

After construction: 216,000 initially 216,000 projected in the future.

New South Yard has generally been operating at or near capacity for the last several years. Because there is no opportunity to expand the yard (because of land parcel constraints), it seems likely that car volumes switched there will remain constant. BNSF plans to accommodate the additional Bayport cars by re-routing current (or future) New South Yard traffic flows to other yards in Houston, South Texas, and other locations in Texas as circumstances dictate. These alternative yards may include, for example, Pearland, Casey or Dayton.

3. *Annual number of cars block-swapped at New South Yard both before and after construction of the build-out.*

Before construction: None

After construction: Unknown

4. *Fraction of cars that carry hazardous materials in New South Yard.*

Before construction: 16%

After construction: 16% initially 19 % projected in the future

The percentages are rounded to two significant figures based on current and projected estimates of shipments.

Please feel free to contact me at (785) 435-2225 if you have any questions regarding the above information.

MAYER, BROWN, ROWE & MAW

1909 K STREET, N.W.

WASHINGTON, D.C. 20006-1101

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March 21, 2002

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

*Julia Ventura
3/21/02, 4:30 PM*

Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct –
And The Burlington Northern And Santa Fe Railway Company – Authority To
Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The
Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Ms. Rutson:

Enclosed please find the Petitioners' responses to the your letter dated February 19, 2002 requesting information.

Please let me know if you have any questions.

Sincerely,

Kathryn A. Kusske / by JAP
Kathryn A. Kusske

Enclosure (with attachments)

cc: Dana G. White
Alan Summerville

Information Request for Rail Operations Safety
Finance Docket No. 34079
EIS for Bayport Loop Build-Out

1. *Please confirm or correct our understanding of the crossing signal and/or protection systems that would be used at the proposed rail-rail crossings. As indicated in the Applicants' Petition for an Exemption filed on August 30, 2001, a signal system for rail/rail crossings in the Bayport Loop is not required because the current operations occur at low speeds and operate under the "restricted speed" rules (Page 5 of the Verified Statement of Harry P. Mann, Jr.). The filing indicates that the proposed operations would also occur under the "restricted speed" rules. Our understanding is that Union Pacific (UP) and Burlington Northern and Santa Fe (BNSF) would have to agree on the operating rules and procedures before BNSF can cross the UP tracks. Control at the crossings may be as simple as 1) a stop sign for either the BNSF or both UP and BNSF or 2) a swing gate with stop signs on it. When the swing gate is opened for one track direction, it closes the other track direction. In either case, as long as the route is clear, the first train at the crossing stops or opens the gate and proceeds. If two trains arrive at the same time, it is likely that the UP train would have priority. The operating rules must be submitted to the Federal Railroad Administration (FRA) at least 30 days before BNSF operations begin.*

On November 9, 2001, BNSF sent a letter to UP providing a brief description of each of the twelve crossings and an invitation to meet with UP to discuss the crossings and any related operating, engineering or joint facilities details that require definition or clarification. (A copy of that letter is appended hereto as Attachment A.) BNSF representatives met with the UP representatives on February 6, 2002 to discuss the twelve rail-to-rail crossings. During the meeting, UP representatives voiced differing opinions regarding the types of crossings that would be appropriate at some of the locations. Discussions regarding those concerns are ongoing. It was agreed, however, that stop signs would be sufficient protection for ten of the twelve crossings. At the remaining two locations, where BNSF track would cross the main UP industrial lead, it was agreed that gates would be appropriate. The two locations where gates will be installed are: (i) on the west side of the Bayport Loop, north of the Celanese facility, where BNSF will cross the main UP industrial lead; and (ii) at the crossing close to the intersection of Port Road and Highway 146, where BNSF will cross the UP's north-south track that parallels Highway 146. It is anticipated that both railroads would install stop signs and gates.

2. *What type of dispatching arrangements do the Applicants anticipate for the operations within the Bayport Loop (e.g., Operating Rules and Special Instructions, the Joint Dispatch Center in Spring, Texas)?*

The Applicants anticipate that they will work with UP to coordinate dispatching arrangements within the Bayport Loop. BNSF understands that it is in the best interest of both railroads to coordinate operations for safety, to promote efficiency and to prevent unnecessary delays.

Such arrangements are likely to include the issuance of special instructions to govern the movements of trains around the Bayport Loop. Such instructions would likely direct BNSF crews to coordinate with UP crews on such matters as avoiding the blockage of road crossings, maximum operating speeds, establishing contact with Strang Yard for movements departing for Bayport Loop, and train-to-train contact via radio with UP roadswitchers within the Loop.

It is not anticipated that operations within the Bayport Loop will be coordinated by the Joint Dispatch Center in Spring, Texas because, as explained below, the Bayport tracks are not designated as "main track" by UP nor will they be so designated by BNSF. Specifically, current operations within the Bayport Loop are governed in accordance with special instruction Rule 6.28 which provides:

6.28 Movement on Other than Main Track

This rule is in effect on all industrial leads unless the subdivision page states otherwise.

The Union Pacific Houston Timetable section on the Strang Subdivision (which includes instructions for Bayport) makes no mention of an alternate operating method used on the Bayport Industrial Lead. Rule 6.28 refers to General Code Of Operating Rules (GCOR) rule 6.28, MOVEMENT ON OTHER THAN MAIN TRACK. The GCOR, defines rule 6.28, Movement on Other than Main Track, as the following:

Except when moving on a main track or on a track where a block system is in effect, trains or engines must move at a speed that allows them to stop within half the range of vision short of:

- Train
- Engine
- Railroad car
- Men or equipment fouling the track

- Stop signal

or

- Derail or switch lined improperly

In addition, according to the UP Timetable special instruction section on "Speed Restrictions," the maximum speed on tracks other than main tracks or sidings is limited to 10 mph.

3. *How might the operating rules for the Bayport Loop address avoiding situations where trains stopped at rail-rail crossings would block highway-rail at-grade crossings or where other switching operations could result in trains stopping while they are blocking highway-rail at-grade crossings? For example, operating rules contain Special Instructions where unique or additional information concerning train operations are stated. The Special Instructions could contain reference to avoid blocking the crossings (by specific crossing name) if it is at all possible. We recognize, as stated above, that BNSF would have to develop the Operating Rules in cooperation with UP and that any measures that the Applicants might want to implement are subject to reaching an agreement with UP.*

The locations where highway crossings could be blocked are: at the "on" and "off" ramps of Highway 146, at old Highway 146, at Bay Area Boulevard, at the access roads to/from customer facilities along Port Road, and at the crossing at Port Road itself. Coordination with UP will be key to efficient operation at these locations. BNSF is agreeable to including special instructions that direct crews to hold short of the crossings if movement cannot be made expeditiously through these locations.

4. *Would San Jacinto construct a triple track area on the alignment between the interchange yard and Red Bluff Road? While none of the other maps indicate this, the book of detailed aerial photos appears to indicate a triple track area.*

The "triple tracks" shown on the San Jacinto Rail plan between the interchange yard and Red Bluff road are the BNSF industrial lead and two interchange tracks.

5. *The UP filing, dated October 11, 2001, states that they run six trains per day between T&NO Junction and Tower 30 and that BNSF uses the line more than UP. The BNSF filing states that there are three reverse movements each day at T&NO Junction to access New South Yard. Given UP's statement that BNSF uses the line more than UP, how many other BNSF trains operate between T&NO Junction and Tower 30?*

The typical traffic moving via the UP Glidden Sub including the segment between T&NO Junction. and Tower 30 is as follows:

BNSF Yard engines 102, 209 and 309 are scheduled daily to transfer cars between the BNSF to/from the PTRA. These trains may operate either between New South Yard and PTRA-Pasadena Yard over this segment or move via the East or West Belt. The decision on routing depends upon traffic flows. All other BNSF-PTRA terminal transfer work moves via Belt trackage. On average, BNSF makes three reverse movements per day at T&NO Junction. The BNSF "AMAPTR" train is also scheduled to operate over this route six days per week. Thus, including non-scheduled train moves, the total daily number of BNSF trains on this segment varies from between 1 and 2 per day to as high as 5 or 6 per day.

The UP moves may fluctuate as well on any given day. BNSF believes that UP runs a Galveston to Sugarland and return local, a twice weekly rock train, a local to switch the Columbia Tap (a rail spur off the Glidden Subdivision), and a local to switch Arcola. Very infrequently, UP runs a Galveston grain train, but prefers to operate that train via its BNSF trackage rights. UP's traffic totals about 3-4 trains per day on the segment in question.

6. *Provide the number of BNSF trains per day and trackage right trains per day and the train speed for the Mykawa Subdivision south of New South Yard.*

The daily average train count of BNSF and UP on the Mykawa Subdivision (not including road switchers and local trains) for the period August–October 2001 is as follows:

August 2001	BNSF 7	UP 11
September 2001	BNSF 7	UP 12
October 2001	BNSF 7	UP 12

We believe that the traffic levels today are in the same range as those in the period August–October 2001.

The method of operation on the BNSF Mykawa Subdivision is CTC. The subdivision is 20.3 miles long, and the maximum track speed on 18 of the 20.3 miles is 55 mph. On average, including locals and roadswitchers, BNSF operates 10 trains per day on the Mykawa sub. UP operates 12 trains per day.

7. *What is the current unused capacity at New South Yard and what will the unused capacity be after moving the 300 cars to another yard? Provide the unused capacity in the form of an average number of cars per day or a range of cars per day. We understand from the Applicants' August 30th filing, that the capacity of the yard is 800 cars.*

New South Yard's average daily peak inventory currently ranges from approximately 500-600 cars on Monday to between 900-1000 cars by

Wednesday. As noted above, we have stated that New South Yard's capacity ("peak") is approximately 800 cars (see explanation below). Currently, there is unused capacity of 400 to 500 cars at the beginning of the week, but by the end of the week, there is typically no unused capacity. For your reference, attached hereto as Attachment B is a spread sheet listing all significant tracks at New South Yard and their lengths.

Absolute Track Capacity is the maximum number of cars that can physically fit in the yard tracks and still clear the switches. At New South Yard, there is approximately 82,911 feet of track clear of switches (including repair tracks). Assuming an average car length of 64 feet per car (C6 hopper car), theoretically, 1295 cars will fit in the yard tracks.

Yard Peak Capacity is the car inventory threshold over which switching efficiency becomes significantly degraded (too many cars and not enough open track to switch them into). Based upon previous yard analyses, we have found that for flat switching yards similar to New South Yard, the theoretical peak capacity ranges somewhere between 50% and 70% of the absolute track capacity of the yard. If these percentages are applied to the absolute capacity of 1295 cars, New South Yard peak capacity should theoretically range between 648 and 947 cars. Based upon experience, local operating personnel state that the peak capacity for New South Yard is approximately 800 cars.

Operations planning is a dynamic process which can fluctuate day-to-day, week-to-week and month-to-month. Changes in the BNSF operating plan are being implemented daily to take advantage of yard capacity where it is available and traffic flow trends. Several months ago, the BNSF operating plan included changes which shifted 300 cars from the New South Yard facility to BNSF's Brownwood, Texas Yard. As a result of operating plan changes, BNSF is not currently re-routing cars to the Brownwood Yard and no longer has plans to do so for the foreseeable future. BNSF may accommodate Bayport cars, as needed, by re-routing current (or future) New South Yard traffic flows to other yards in and around Houston, South Texas, and other locations in Texas as circumstances dictate. These alternative yards may include, for example, Pearland, Casey or Dayton.

8. *Provide the yard track diagram for New South Yard, including the new mainline being constructed adjacent to the yard.*

The yard track diagram for New South Yard has already been provided. For your convenience, another copy is attached hereto as Attachment C.

The Burlington Northern and Santa Fe Railway Company
November 5, 2001
Page -2-

The purpose of this letter is to provide UP with a brief description of each of the crossings (see attachment hereto) and to invite UP to meet with us to discuss the crossings and any related operating, engineering or joint facilities details that require definition or clarification. It is San Jacinto and BNSF's hope in this regard that we will be able to reach an agreement with UP concerning the terms and conditions for each of the crossings and that it will not be necessary for San Jacinto and BNSF to file a petition under Section 10901(d) to seek authority from the Board for the crossings.

I will be calling shortly to discuss possible dates and arrangements for a meeting.

Sincerely,



Rollin Bredenberg

**Crossings Required
for Bayport Loop Build-In**

1. MG Industries Lead -- The lead which UP uses to access the MG Industries facility will need to be crossed. A diamond crossing is possible, but relocation of the line and the turnouts and the construction of a crossover are proposed in lieu of a diamond crossing.
2. UP Dart Industrial Lead -- The build-in line will need to cross the UP Dart Lead track near the Equistar facilities at approximately Milepost 7.3 of the build-in line. A diamond crossing is proposed.
3. North Equistar -- The new track from the build-in line to the north Equistar facility will need to cross UP's Dart Lead track. A diamond crossing is possible, but the use of approximately 50 feet of UP's track and the installation of two new switches are proposed.
4. Celanese -- The build-in line will need to cross the UP Bayport Loop track at approximately Milepost 8.5 of the build-in line. A double diamond crossing is proposed, and UP's existing switch into the Celanese facility will need to be re-located approximately 300 feet to the south.
5. Basell (formerly Montell Polymers) -- The line which UP uses to access the Basell facility will need to be crossed. A diamond crossing is proposed. (An alternative would be to install a crossover to enable UP to move its traffic onto the build-in line and then use BNSF's new line into the Basell facility for access.)
6. Lyondell -- The line which UP uses to access the Lyondell facility will need to be crossed. A diamond crossing is proposed. (An alternative would be to install a crossover to enable UP to move its traffic onto the build-in line and then use BNSF's new line into the Lyondell facility for access.)
7. Carpenter -- The line which UP uses to access the Carpenter facility will need to be crossed. A crossing using a crossover and/or turnouts is proposed.
8. UP Strang Subdivision Main Track -- The build-in line will need to cross the UP Main (approximately MP 27.5) at Milepost 11.6 of the build-in line just north of Port Road at State Highway 146. A diamond crossing is proposed.
9. LBC Petro United (West Lead) -- The west lead, of two leads which UP uses to access the LBC Petro United facility will need to be crossed. A diamond crossing is proposed.
10. LBC Petro United (East Lead, Ex-Celanese) -- The east lead, of two leads which UP uses to access the LBC Petro United facility will need to be crossed. A diamond crossing is possible, but the construction of a crossover to the build-in line and the installation of a new turnout and track are proposed in lieu of a diamond crossing.
11. Bay Tank -- The line which UP uses to access the Bay Tank facility will need to be crossed. A diamond crossing is possible if the UP switch is moved. Instead, it is proposed that BNSF use the Bay Tank line for approximately 80 feet and then use a new turnout and crossover to get around the Bay Tank line.
12. ATOFINA -- The build-in line will need to cross the UP Navigation Industrial Lead track at approximately Milepost 12.4 of the build-in line. A diamond crossing is possible, but the use of approximately 80 feet of UP's track and the installation of two new switches are proposed.

ATTACHMENT B

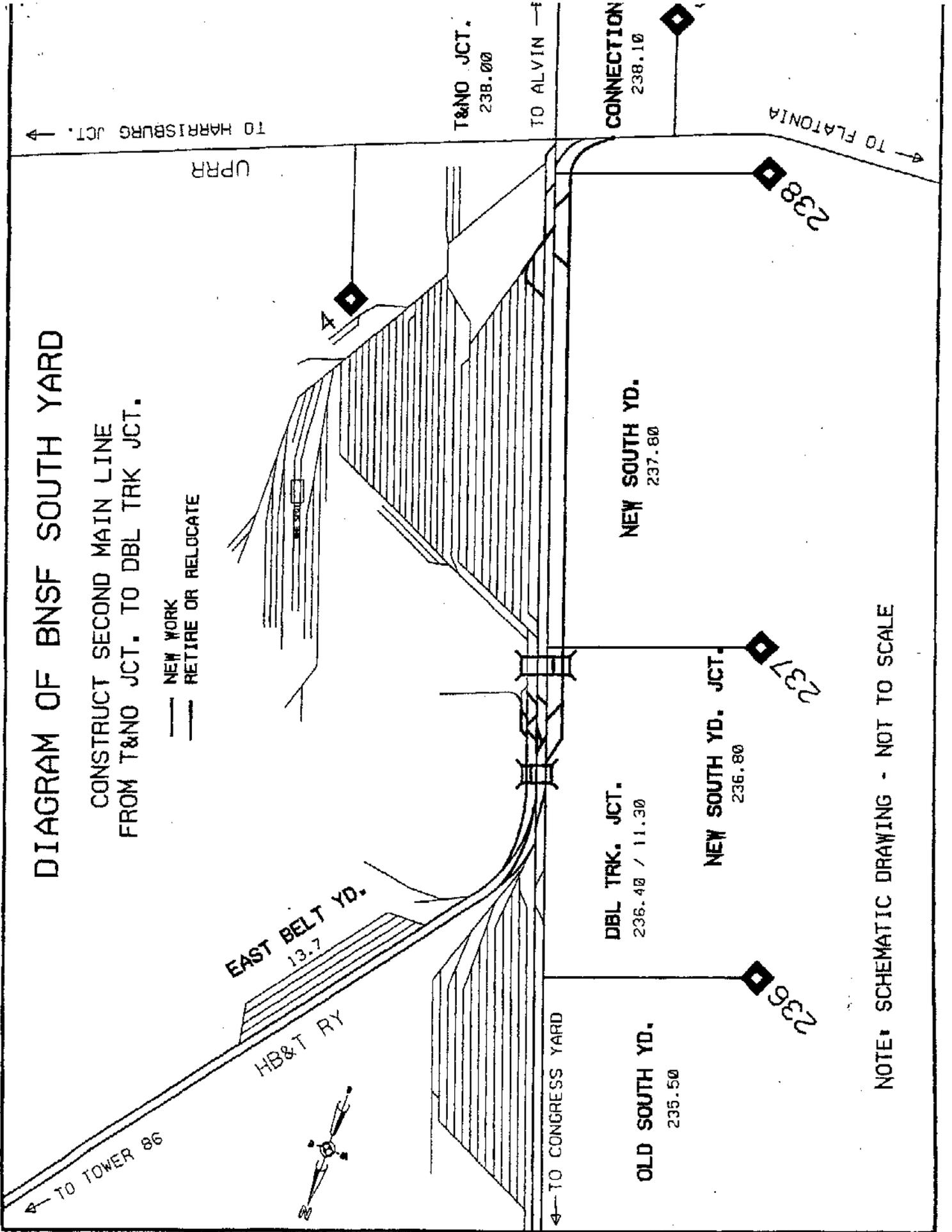
New South Yard Tracks

Track No.	Length (ft)		
912	1970		
913	3545		
914	3400		
915	3250		
916	3175		
917	2960		
918	2810		
919	2660		
920	2590		
921	2365		
922	2225		
923	2080		
924	1930		
925	1780		
926	1640		
927	1490		
928	1420		
929	1110		
1001	3731		
1002	3891		
1003	3851		
1004	3830		
1005	3658		
1006	3475		
1007	3300		
1008	3110		
1009	2940		
1010	3375		
1011	2350		
1501	750		
1502	675		
1503	600		
1504	525		
1505	450		
Total Feet	82911	Capacity Low	Capacity High
Car lengths	1295	647.5	906.5

DIAGRAM OF BNSF SOUTH YARD

CONSTRUCT SECOND MAIN LINE
FROM T&NO JCT. TO DBL TRK JCT.

— NEW WORK
--- RETIRE OR RELOCATE



NOTE: SCHEMATIC DRAWING - NOT TO SCALE

MAYER, BROWN, ROWE & MAW

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April 16, 2002

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

Re: Finance Docket No. 34079, San Jacinto Rail Limited -- Authority To Construct -- And The Burlington Northern And Santa Fe Railway Company -- Authority To Operate -- Petition For An Exemption From 49 U.S.C. §10901 -- Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Ms. Rutson:

As you are aware, the Petitioners have continued their efforts to study, on a preliminary basis, various alignments in connection with the above-referenced proceeding. These efforts have taken into account information learned during outreach efforts by Petitioners to provide information about the project to the local community and governmental agencies, the scoping process including the meetings which SEA held on January 14-15, 2002 in Houston, and the comments received to date in this proceeding. Based on all of this information and our efforts to date, we have developed new information that we would like to provide you in the form of updated responses to your letter request November 7, 2001. Specifically, enclosed please find our updated responses to Questions 1, 2, 3, 6 and 7; we have no updated information to provide with respect to Questions 4 or 5.

As discussed in our updated responses, Petitioners propose some slight modifications to their Proposed Alignment (Alignment 1) which would include Alignment 1B and a lead off Bridge No. 10.2 to Mile Post 10.4 terminating before Bay Area Boulevard. These modifications would take into account the purpose and need of the project, engineering and design feasibility, operational and efficiency issues, concerns identified by community and interested governmental agencies, and economic considerations.

PORT OF HOUSTON AUTHORITY

EXECUTIVE OFFICE: 111 East Loop North • P.O. BOX 3442 • HOUSTON, TEXAS 77252-3442
TELEPHONE: (713) 676-3442
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NEED E. HOLMES
Chairman

November 10, 1995

James Dolan, Esq.
Vice President - Law
Union Pacific Railroad Company
1416 Dodge Street
Omaha, Nebraska 68179

Mr. John T. Gray
Vice President - Network and
Corporate Development Southern Pacific Lines
1860 Lincoln Street
Denver, CO 80295

Re: Finance Docket No. 32760, Union Pacific Corp., Union Pacific R.R. and Missouri Pacific R.R. — Control and Merger Southern Pacific-Rail Corp., Southern Pacific Transp. Co., St. Louis Southwestern Railway Co., SPCSL Corp. and the Denver and Rio Grande Western Railroad

Dear Messrs. Dolan and Gray:

This is to confirm the terms of an agreement ("the Agreement") reached by the Primary Applicants in the above-captioned proceeding, Union Pacific Corporation, Union Pacific Railroad Missouri Pacific Railroad, (collectively, "UP") and Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway, SPCSL Corporation, and the Denver and Rio Grande Western Railroad (collectively, "SP"), on the one hand, and the Port of Houston Authority ("PHA"), on the other hand, concerning the proposed merger of UP and SP.

Contingent upon consummation of the above-captioned merger, the parties agree to the following terms:

Ms. Victoria J. Rutson
April 16, 2002
Page 2

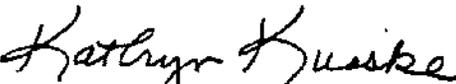
With respect to alternatives to Petitioners' Proposed Alignment, our further study has yielded additional information that may be relevant to your determination of reasonable and feasible alternatives as part of SEA's ongoing NEPA review. As detailed in our updated responses to Questions 2 and 3, Petitioners believe that Alignments 2D and 1C are reasonable and feasible alternatives and should be carried forward for further study by SEA.

Finally, Petitioners propose that SEA adopt an approach to the review of alternatives in this proceeding similar to that followed in the Dakota, Minnesota & Eastern Railroad Corporation Final Environmental Impact Statement ("FEIS") for the Powder River Expansion Project, Fin. Dkt. No. 33407 (served Nov. 19, 2001). In that FEIS, SEA made recommendations to the Board for mitigation with respect to more than one alternative at certain locations in the event that the preferred alignment were to become infeasible. (FEIS at 7-10 and 8-3). *See also Tongue River Railroad Co. -- Rail Construction and Operation -- Ashland to Decker, Montana*, Fin. Dkt. No. 30186 (Sub-No. 2), at 4 (served Nov. 8, 1996).

Because variations of Alignments 1 and 2 would require acquisition of properties held in whole or in part by the City of Houston, and the City may not entertain acquisition of some of the needed properties through voluntary negotiation, one or more of the variations of Alignment 1 and 2 may turn out to be impracticable. Accordingly, Petitioners request that SEA study the Petitioners' Proposed Alignment and alternatives with an eye toward developing appropriate mitigation, as necessary, for consideration by the Board in its final decision in this proceeding. This approach would be consistent with prior STB precedent.

Please let me know if you have any questions.

Best regards,


Kathryn A. Kusske

Enclosure

cc: Dana G. White
Alan Summerville

Petitioners' Updated Responses to SEA's November 7, 2001 Information Request

- Several of the agencies that Dana and Alan met with raised questions about Applicants' possible access to the Bayport Loop through the use of the Union Pacific's (UP) Strang mainline (formerly Southern Pacific (SP)) and the Port Terminal Railway Association's (PTRA) mainline along part of that UP mainline. Dana and Alan explained that the Board conditioned the UP/SP merger by requiring build-in/build-out options to replicate the competitive options provided by the independent operations of UP and SP prior to the merger (in the case of the Bayport Loop, the condition applies to the pre-merger UP line). They also explained that there are legal impediments to using the PTRA mainline. In addition, the purpose and need for the proposed action as stated in the Applicants' Petition for an Exemption from 49 U.S.C. Section 10901, dated August 30, 2001, is to utilize the build-in/build-out condition imposed by the Board on the UP/SP merger. Aside from the fact that the UP/SP merger condition does not apply to the UP Strang mainline, please provide any information that the Applicants might have to further explain the difficulty that the Applicants would face if they tried to obtain trackage rights to the UP Strang mainline to access a build-in/build-out and the legal impediments to using the PTRA mainline to access a build-in/build-out.**

In addition, if trackage rights were possible on the UP Strang line, would the Applicants face operational constraints? Any information that the Applicants could provide on the PTRA charter and operations would be helpful.

Updated Response:

As you are aware, Alignments 3 and 4 rely upon entry into the Bayport Loop via a new north-south line which would extend from an existing east-west right-of-way referred to as the "La Porte line." Prior to the UP/SP merger, the La Porte line was owned by SP, and neither the Port of Houston nor the PTRA had rights of access over the line and/or parallel trackage on the right-of-way. Pursuant to a settlement agreement between UP, SP, and the Port in the UP/SP merger proceeding, UP granted the Port the right to construct a new track on the right-of-way of the La Porte line. The Port then granted PTRA trackage rights to operate over the track once it was constructed. UP also agreed that the new track could be used to access the Port's newly-planned line running southward to the Bayport Container Terminal. However, UP required that any new construction off of the new track or the new north-south extension would be limited to access to the Container Terminal or other authorized facilities, which did not include the Bayport Industrial Complex. A copy of the parties' settlement agreement is attached hereto.

As mentioned, the PTRA operates on the new track by virtue of the restrictive permission/authority granted by UP to the Port and PTRA. Even assuming authority exists for San Jacinto and/or BNSF to access the new track notwithstanding UP's 1995

agreement with the Port of Houston, UP has indicated publicly that it opposes alternative access via route(s) over which UP claims its consent would be required. See Testimony of Joe Adams, Chairman's Special Representative, Union Pacific Railroad, January 28, 2002 at 6-7 (previously submitted to SEA as an attachment to BNSF and SJRL's February 1, 2002 comments on the draft scope of study). Also, UP previously opposed all requests for alternative competitive service to the Bayport Industrial District during the 1997-98 rail service crisis in Houston.

If San Jacinto and/or BNSF were to obtain consent from UP or otherwise receive authority to operate via trackage rights over or to interchange with the La Porte line and/or the Port's new line, we believe that it would be feasible for BNSF to operate over such lines, but it would require coordination between BNSF, UP and PTR. A.

2. **Confirm the feasibility or infeasibility of Alternative 2 as soon as possible. If it does appear feasible, please explain, to the extent that you can at this preliminary stage, how the Genoa-Red Bluff Road corridor would accommodate Alternative 2 between the Beltway and Space Center Boulevard in light of the roadway expansion.**

Updated Response:

Since our response was submitted to SEA on December 21, 2001, the Applicants have continued their studies of the various modifications to Alignment 2 depicted in the Studied Alignments map presented during SEA's scoping meetings on January 14-15, 2002 at the Pasadena Convention Center in Houston, Texas. Specifically, the Applicants have continued to undertake an examination of the various modifications to Alignment 2 for the purpose of identifying a routing which would be technically feasible from a design and engineering standpoint, would minimize potential conflicts with the proposed expansion of Genoa-Red Bluff Road, and would enhance the opportunities for competitive rail service to shippers located in the Bayport Loop, while at the same time offering an efficient and economically feasible routing. Although Alignment 2D has been under study for some time, we did not want to formally identify it as a preferred option for Alignment 2 until our preliminary studies could be completed. Accordingly, we have continued to gather and develop non-public data (including geotechnical studies and environmental sampling) and engineering studies concerning some of the properties that Alignment 2D would traverse, including a closed construction demolition material landfill site. Applicants have completed their preliminary efforts and believe that the route identified as Alignment 2D is the preferred option for Alignment 2 taking into account various factors, as further described below.

Alignment 2D would begin at Milepost 1.38 (just north of the golf course) in Alignment 2. It would head east until just before the water treatment plant, it would turn southeast approximately 1000 feet and then turn back east continuing until it would tie back in to Alignment 1 at approximately station 188+40 or Milepost 3.56.

In comparing the relative benefits of Alignment 2B, which was extensively discussed in our prior submission, Alignment 2D offers an even more efficient routing (1700 feet

shorter than Alignment 2B), less potential impacts to the community including homes and churches, and a significant reduction in the potential impact to businesses located along the Genoa-Red Bluff Road.

In sum, while Alignment 2D is less preferable than Applicants' proposed Alignment 1 as modified (see response to Question 3), the Applicants believe that Alignment 2D is technically feasible even though it involves use of land in and around the water treatment facility. This route involves less intrusion on the City of Houston's 80 foot right-of-way adjacent to Genoa-Red Bluff Road and moves the route away from the City of Houston's 96 inch water main also adjacent to Genoa-Red Bluff.

3. **Confirm the feasibility or infeasibility of Alternatives 1A and 1B and the relocation of the runaround track near Taylor Bayou. Alternative 1A would be a variation of Alternative 1 and would arc to the north before the Exxon and Tejas gas plants and connect with the original Alternative 1 before the interchange yard. Alternative 1B would follow Port Road on the north side to cross Taylor Bayou rather than swinging to the east before running south to cross Taylor Bayou. Confirm whether the runaround track to the south of the Taylor Bayou crossing could be relocated to the north of the crossing. During the site inspection, an Alternative 2A was discussed, which would arc to the north in a manner similar to Alternative 1A. Given that Alternative 2 crosses Armand Bayou further north of Alternative 1, thereby avoiding the area of habitat that Texas Parks and Wildlife is concerned about, an Alternative 2A may not be necessary. If these alternatives are feasible, please provide a map of the alignments when one is available.**

Updated Response:

As depicted in the Studied Alignments map presented during SEA's scoping meetings on January 14-15, 2002 at the Pasadena Convention Center in Houston, Texas, three modifications—1A, 1B and 1C—to Alignment 1 were presented. For the reasons described in detail in our prior submission dated December 21, 2001, the Applicants have determined that Alignment 1A is infeasible based on information obtained from the City of Pasadena as well as the results of further study by the Applicants.

With respect to modifications 1B and 1C, the Applicants have continued their studies for the purpose of determining whether either of the routings would be technically feasible from a design and engineering standpoint, would minimize potential environmental impacts, would enhance the opportunities for competitive rail service to shippers located in the Bayport Loop, and would offer an efficient and economically feasible routing.

To that end, the Applicants have completed their preliminary efforts and have concluded that Alignment 1 with two modifications is the preferred option for Alignment 1 taking into account a myriad of factors, as further described below. The two modifications to Alignment 1 are: (i) the incorporation of modification 1B as depicted in the Studied Alignments map; and (ii) the inclusion of a lead off Bridge No. 10.2 to Mile Post 10.4 terminating before Bay Area Boulevard.

Specifically, at the request of the Texas Parks and Wildlife Department, the Applicants have studied the feasibility of crossing Taylor Bayou on Alignment 1B and have determined that it will reduce access to certain shippers, but that it offers an acceptable routing, and that it does not pose measurable additional potential environmental impacts as compared to the original Alignment 1. To offset the reduced access, the Applicants would like to include in a modified Alignment 1 a lead off Bridge No. 10.2 to Mile Post 10.4 terminating before Bay Area Boulevard. The construction of the lead would preserve the opportunity for competitive rail service to be offered to shippers located between Mile Posts 10 and 11.

The Applicants have continued to study Alignment 1C, as proposed by the Federal Aviation Administration ("FAA"), that would be outside the Runway Protection Zone ("RPZ") and the fence line of Ellington Field.¹ Alignment 1C would begin south of the proposed turnout on the GH&H line. It would then cross the Exxon Mobil pipeline corridor north of Sylvan Rodriguez Park, just east of the RPZ traveling in a northeasterly direction before rejoining the Alignment 1 near the Boeing/NASA facility.

At this stage of preliminary study, the Applicants believe that Alignment 1C is technically feasible from a design and engineering standpoint, but it would be in closer proximity to the Sylvan Rodriguez Park and to the residences in Clear Lake City. The Applicants continue to believe that the modified Alignment 1 (as discussed above) is preferable to Alignment 1C, in spite of the concerns that have been raised by the FAA and the City of Houston about Alignment 1.

6. **Provide any additional information to confirm that the proposed build-out and the Port Authority's proposed container port facility are not connected actions.**

Updated Response:

As requested by SEA by letter dated March 11, 2002, we are preparing a Verified Statement addressing these issues, and we will submit that statement for the environmental record shortly.

¹ There would appear to be no limitation on the FAA's authority to release airport property in an RPZ for non-aeronautical use. For example, in a recent notice of intent to waive conditions prior to disposal of airport property, the FAA indicated that approximately five acres of land at the Portland, Maine, International Jetport would be transferred to the Maine Turnpike Authority for construction of an interchange. The FAA noted that this parcel was approach land in the Runway 11 RPZ. 66 Fed. Reg. 47258 (Sept. 11, 2001).

7. **Do the Applicants have a plan to replace the acreage that they would acquire from Harris County's wetland mitigation set-aside area? Would there be any difficulties associated with the Army Corps of Engineers requirement that the County establish a permanent conservation easement? Have the Applicants discussed the easement with the Army Corps of Engineers?**

Updated Response:

The Applicants are continuing their discussions with Harris County and the Corps concerning the mitigation set-aside areas adjacent to Space Center Boulevard. No formal requests to either agency have been made.

James Dolan, Esq.
Mr. John T. Gray
November 8, 1995
Page 2

1. Access to a portion of SP's La Porte Line:

A. PHA shall have the right to construct a track on the right-of-way of the current SP La Porte Line from Deer Park Junction to the junction with the Houston Lighting and Power Company ("HL&P") lead east of SP's Strang Yard in La Porte, Texas, termed "New Track 1" hereinafter. Provisions regarding ownership, construction and use of New Track 1 are set forth in paragraph 3. herein.

2. Access to Planned Bayport Container Terminal.

A. PHA shall have the right to construct a track on the right-of-way of the current SP Bayport Line from a junction with the SP La Porte Line west of Strang Yard to the planned PHA terminal at Bayport, termed "New Track 2" hereinafter. Provisions regarding ownership, construction and use of New Track 2 are set forth in paragraph 3 herein.

3. Ownership, Construction and Use of New Tracks 1 and 2.

A. Primary Applicants shall have reasonable access to the New Tracks 1 and 2 when they are not needed for the operations of PHA (or, if PHA so designates from time to time, Port Terminal Railroad Association ("PTRA")). Primary Applicants shall dispatch the New Tracks 1 and 2 and PHA (or, if PHA so designates from time to time, PTRA) will have priority.

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Mr. John T. Gray
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Page 3

- B. PHA shall have no land ownership rights. Rather, PHA shall own the New Tracks 1 and 2 and PTRAs shall have suitable trackage rights from Primary Applicants and PHA to operate over the New Tracks 1 and 2 and right-of-way. These trackage rights shall reserve for Primary Applicants the right to use the New Tracks 1 and 2, subject to PHA's priority. PHA shall have no right to build any additional track springing from or connecting to the New Tracks 1 or 2, except the connections to the expanded intermodal ramp at Barbours Cut, the connections to the planned Bayport Terminal, and other connections as may be subsequently agreed between Primary Applicants and PHA.
- C. Only Primary Applicants, PHA and PTRAs (but not its other members) shall have access over the New Tracks 1 and 2.
- D. Primary Applicants shall coordinate with PHA to review final engineering for the New Tracks 1 and 2 and the final plans and engineering detail shall be subject to approval by Primary Applicants prior to construction, such approval not to be unreasonably withheld.
- E. PHA shall construct the new Tracks 1 and 2 and its contractors shall enter into the merged carrier's standard right of entry agreements and carry the merged carrier's normal minimum amounts of insurance.
- F. Primary Applicants and PTRAs shall share maintenance expense and all risk of loss associated with the New

James Dolan, Esq.
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Tracks 1 and 2 in the same manner as set forth in existing agreements between SP and PTR.A.

- G. It is understood the New Tracks 1 and 2 shall be located so as to minimize disruption of Primary Applicants' operations in the area and PHA agrees to construct necessary power crossover switches to accomplish this result and to relocate the existing railroad scale, if necessary. The actual location of New Tracks 1 and 2 and necessary crossover switches and signals and any junction signals or switches shall be determined at the sole discretion of Primary Applicants, but New Tracks 1 and 2 shall be located within the existing right-of-way of Primary Applicants whenever practicable.
- H. The New Track 1 shall be used by PHA and PTR.A only for the purpose of moving freight to and from New Track 2, PHA's Barbours Cut Terminal or its other property which the PTR.A or PHA may have the right to serve under prior trackage rights granted by SP.
- I. The New Track 2 shall be used by PHA and PTR.A only for the purpose of moving freight to and from the planned PHA's Bayport Terminal. Neither PTR.A nor PHA shall have any right to serve existing or future industries on either Primary Applicants' Bayport Loop or adjacent to other right-of-way of Primary Applicants. PHA expressly agrees that the foregoing provision is of paramount importance to this agreement and that any attempt by PHA to establish rail service to others springing from New

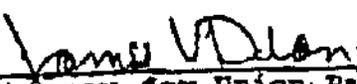
James Dolan, Esq.
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Page 5

Track 2 shall void all other rights granted herein including the right to operate over the right-of-way of Primary Applicants and any operating rights which may be granted to PTRR or PHA by subsequent agreements whose purpose is to implement this letter agreement.

- J. It is understood that PHA shall pay all costs and Primary Applicants shall bear no cost associated with New Tracks 1 and 2, but Primary Applicants shall cooperate with PHA in making available to it all pertinent pipeline right-of-way agreements, utility agreements, roadway agreements, etc.
4. With respect to the trackage rights provided for in this Agreement, the parties shall negotiate in good faith to agree in an expeditious and timely manner on definitive trackage rights agreements which generally conform to industry standards prior to beginning PTRR or Primary Applicants' operations over either New Track 1 or 2.
5. Primary Applicants shall establish and maintain a reciprocal switch charge assessed on cars handled into or out of the facilities of Woodhouse Terminal in Galena Park, Texas, other than Houston Public Grain Elevator No. 2 ("HPGEZ"), at a level equal to 123% of the previous 5 calendar year average of the PTRR's average cost per car handled.
7. Primary Applicants agree that if following consummation of the merger, Primary Applicants use the new connection to be constructed by PHA between the HB&T and SP at Tower 86 for the

James Dolan, Esq.
Mr. John T. Gray
November 8, 1995
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Accepted and agreed upon by: Accepted and agreed upon by:


Attorney for Union Pacific
Corporation, Union Pacific
Railroad Company and
Missouri Pacific Railroad
Company

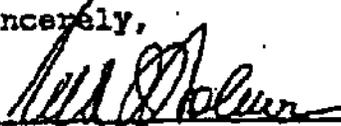

For Southern Pacific
Rail Corp., Southern Pacific
Transp. Co., St. Louis Southwestern
Railway Co., SPCSL Corp. and the
Denver and Rio Grande Western
Railroad

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movement of traffic other than grain traffic, Primary Applicants shall reimburse PFA for up to one-half the cost of construction of such connection, based on a car-count proportion of usage by Primary Applicants during the three-year period following the first use of the connection, and Primary Applicants and PFA shall share maintenance expense and all risk of loss associated with such new connection in the same manner as set forth in existing agreements between SP and PTRR.

8. PFA agrees that, upon the signing of this Agreement, it shall file a verified statement with the ICC in its Finance Docket No. 32760, signed by Chairman Ned Holmes on behalf of the PFA and the Port of Houston Commission, supporting the application filed by Primary Applicants for control and merger authority.
9. This Agreement is intended to establish a binding contract between the parties. Time is of the essence in this contract.
10. This Agreement shall be interpreted under the laws of the State of Texas.
11. This Agreement may be executed in more than one counterpart, including facsimile transmissions, each of which shall be deemed an original.

Sincerely,



For Port of Houston Authority

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April 17, 2002

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

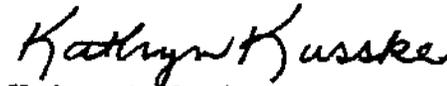
Re: Finance Docket No. 34079, San Jacinto Rail Limited -- Authority To Construct --
And The Burlington Northern And Santa Fe Railway Company -- Authority To
Operate -- Petition For An Exemption From 49 U.S.C. §10901 -- Build-In To The
Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Ms. Rutson:

Enclosed please find the Petitioners' responses to the your letter dated November 14, 2001 requesting information.

Please let me know if you have any questions.

Sincerely,


Kathryn A. Kuske

Enclosure (with attachments)

cc: Dana G. White
Alan Summerville

BNSF

DAVID C. SEEP
*Director Environmental Engineering and
Program Development*

The Burlington Northern
and Santa Fe Railway Company

920 SE Quincy, P.O. Box 1738
Topeka, KS 66601-1738
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E-mail: David.Seep@BNSF.com

Information Request Related to Air Quality
Finance Docket No. 34079
EIS for Bayport Loop Build-Out

April 17, 2002

This is the response of The Burlington Northern and Santa Fe Railway Company (BNSF) and San Jacinto Rail Limited (SJRL) to SEA's November 14, 2001 request for construction and operation information. Estimates for the construction phase of the project were developed by TranSystems Corporation (TranSystems) and HDR Engineering, Inc. (HDR) at the direction of F.R. (Ray) Herman, BNSF's Manager of Engineering. In my capacity as Director of Environmental Engineering and Program Development for BNSF and with input from BNSF operations personnel, I prepared the operating estimates.

Construction Phase

- 1. Confirmation of the Applicant's published construction schedule of 15 months to complete construction of the Build-Out.*

The construction phase is estimated to take between 16 and 21 months. For purposes of estimating air emissions, we have assumed the more aggressive 16-month schedule in order to estimate the maximum number of pieces of equipment that will be used per day. Assuming the shortest period therefore will provide an estimate of the highest rate of emissions over the construction period. The total volume of emissions for the construction phase of the project generally would remain unchanged regardless of the duration of construction. The total volume of emissions would remain unchanged because the total number of hours of equipment usage would be the same to finish the job, *i.e.* running one piece of equipment for ten hours would contribute the same volume of emissions as running two pieces of that equipment simultaneously for five hours.

The construction workweek is projected to average five days a week at eight hours per day based on our reasonable construction objectives, anticipated labor conditions, and past experience. A five-day workweek will allow two days a week to "catch up" in the event of weather-related or other delays. An eight-hour workday will avoid excessive overtime cost and will minimize disruptions to the surrounding community. We have anticipated that construction reasonably will be staged at three-

mile intervals. This plan also is efficient and cost-effective, allows for the convenient staging of materials and supplies, and provides for the option of rail delivery of materials.

- 2. List of all materials (e.g., dirt, gravel, cement, etc.) brought into or removed during the construction phase (e.g., average of two tons of soil will be moved per day).*

The roadbed will require approximately 325,000 cubic yards of fill material and 5,600 tons of lime. In addition, the track structure will require approximately 97,000 cubic yards of sub-ballast, 52,000 cubic yards of ballast, 47,000 ties, 3,400 tons of rail, as well as associated other track materials (tie plates, spikes, and anchors).

Bridge structures will be required for the crossing of Taylor Bayou, Armand Bayou, Horsepen Bayou, Spring Gully, Big Island Slough, and Harris County Flood Control District ditches. The crossing of Taylor Bayou would require the longest span. Grade separation structures have also been assumed at Red Bluff Road and Space Center Boulevard. In addition there will be several "land bridges" required to cross pipeline corridors. It is anticipated that the majority of bridges will be constructed from pre-cast concrete slabs, which will be brought into the site. Currently, BNSF and SJRL anticipate that only the grade separation at Red Bluff Road and the five land bridges over pipeline corridors will be constructed of cast-in-place concrete. The total quantity of concrete required for the grade separation and the land bridges is approximately 14,000 cubic yards. These designs will be submitted under separate cover as soon as they are finalized.

The terrain in the project site is flat and thus cuts and fills during grading will be minimized. The primary fills will be in connection with the grade separations. Detailed geotechnical investigations have not been completed. Therefore, in order to be conservative in our estimate, we have assumed that the subgrade will require lime treatment for stabilization; the asphalt re-claimer listed in Attachment A (described below) is typically the piece of equipment used to incorporate the lime into the soil.

- 3. An estimate of the daily average construction activity associated with the construction activity (e.g., 12 hours per day for 3 bulldozers).*

Please see TranSystems' estimates of equipment requirements (including equipment types and unit days) contained in Attachment A, Equipment Usage for Bayport Project Construction Phase, based on the eight-hour workday and five-day workweek. BNSF and SJRL have endeavored to provide the most accurate assessment possible of construction equipment usage based on industry experience, thorough research, and the expertise of our outside engineering consultants. We believe these totals are reasonable estimates and provide an appropriate basis for calculating quantities of anticipated emissions.

- 4. An estimate of the daily average traffic activity associated with the construction activity (e.g., 12 hours per day for 3 dump trucks with a round trip for removal and return of 12 miles).*

Please see both Attachment A and the trip information contained in Attachment B, Construction Activity Estimates, prepared by HDR.

To the extent possible, borrow and soil disposition activities will take place within the right-of-way (ROW). However, BNSF and SJRL anticipate that borrow from sources outside of the ROW will be required. In order to minimize cost and haul distances, these sources will be located adjacent to the ROW. Most of the materials imported for the construction of the new rail line, such as rails, ties, tie plates, spikes, and sub-ballast will be brought in by rail and staged along the line as construction progresses. For example, the one-way trip to haul sub-ballast would not exceed three miles. Ballast will be belly-dumped in place from the material unit train. The material unit trains would consist of four ribbon rail trains that would stay on the job site one day each while the rail was unloaded, and four ballast trains that would each take one day to unload.

5. *An estimate of the number of vehicles by size category (heavy heavy-duty, medium heavy-duty, etc.), fuel type, equipment type, number of each vehicle and frequency of use for the following source types:*
 - a. *Vehicles used exclusively for on-site construction (i.e., off-road vehicles),*
 - b. *Vehicles used exclusively for hauling material, equipment or people in and out of the construction site (i.e., on-road vehicles).*

Please see Attachments A and B.

6. *An estimate of other powered equipment by fuel type, equipment type (i.e., portable equipment such as generators, cranes, drillers, cutters, blowers etc.), number and frequency of use.*

Please see Attachments A and B.

Operational Phase

1. *Number of locomotive engines used per train trip per day and the annual average gallons of fuel consumed round-trip from New South Yard to the Bayport Loop.*

It is projected that an average of two line-haul locomotives will be used per train trip per day. The projected annual fuel usage for a loaded and empty train between the New South Yard and the start of the proposed Bayport Loop south of Ellington Field should range between 41,000 gallons (assuming 36 car trains) to 76,000 gallons (assuming 66 car trains).

The projected annual fuel usage for a loaded and empty train between the start of the proposed Bayport Loop to the Transfer area east of Red Bluff Road should range from 17,000 gallons (assuming 36 car trains) to 31,000 gallons (assuming 66 car trains). The estimated weight of the loaded cars to be moved will be a determining factor. These

fuel usage numbers were based on the BNSF locomotive fuel consumption rate of 745.8 gross ton-miles per gallon (GTM/G).

It is also projected that switching operations within the Bayport Loop (which will be conducted by BNSF or its designated operator) will also consume an average of 82,000 gallons per year, assuming two switching locomotives operating 12 hours per day, 365 days per year. This number is based on the EPA estimated average yard locomotive fuel consumption. Because the project involves predominantly rail-to-rail diversions of traffic, it is not anticipated to appreciably increase rail traffic or associated emissions.

New South Yard has generally been operating at or near capacity for the last several years and there is no practical option to expand the yard (because of land parcel constraints). While BNSF's operating plans anticipated that the additional Bayport cars would be accommodated by re-routing current (or future) New South Yard traffic flows to other yards in Houston, South Texas, and other locations in Texas (e.g., Pearland, Casey or Dayton) as circumstances might dictate, BNSF is actively considering what operating changes might be feasible to reduce traffic flows into/out of New South Yard.

2. *Locomotive engine specifications such as type (line-haul, yard switching, or local), engine horsepower rating, and year of manufacture.*

BNSF has an extensive fleet of locomotives of various specifications, horsepower ratings, and years of manufacture. It is projected that line-haul units utilized in the Bayport Loop train movements will have a manufacture date of 1995 or newer with horsepower ratings ranging from 2000 to 4400 horsepower. BNSF allocates locomotives based on horsepower needed to move the shipments. The estimated weight of the loaded cars to be moved will be a determining factor in the assignment of locomotives.

With respect to switching and local train operations, it is estimated that BNSF will utilize two switch locomotives operating twelve hours per day for switching in the Bayport Loop itself. The majority of BNSF switch engines currently used in similar service in Houston are generally 1500 horsepower switch engines built in 1996. It is anticipated that BNSF's designated operator, Bayport Rail Terminal (BRT), will perform yard switching for classification and make-up of line-haul trains. It is our understanding that BRT's fleet of switch engines that may be available for use consists of two GP9s of 1750 horsepower (RS-473 was built in 1953 and re-built in July 1972 and RS-2537 was built in 1969 and re-built in December 1989) and one 1500 horsepower switch engine (USD-703 was built in 1957).

3. *The air quality agreement that BNSF and UP have for operations in the Houston area.*

This agreement was provided under separate cover.

Please feel free to contact me at (785) 435-2225 or Ray Herman at (817) 352-2900 if you have any questions regarding the above information.

Attachment A

Equipment Usage for Bayport Project Construction Phase

Equipment estimate is based on a 16 month construction period assuming 5 work days per week, 8 hours per day. All of the equipment listed is anticipated to use diesel fuel.

TRUCKS

6 wheelers (assumed 18 ton cap)

9	days	using	11 trucks
3	days	using	10 trucks
124	days	using	8 trucks
134	days	using	4 trucks

18-wheelers with pup (≈/- 20 cu yds cap)

94	day	using	4 trucks
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18-wheelers lime tankers (≈/- 20 ton cap)

16	days	using	1 truck
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Water trucks

1	days	using	6 trucks
5	days	using	5 trucks
3	days	using	4 trucks
35	days	using	3 trucks
88	days	using	1 trucks

D-7 CATERPILLARS

8	days	using	5 cats
86	days	using	4 cats
42	days	using	3 cats
134	days	using	2 cats

TRACK MOUNTED BACKHOES—large

36	days	using	2 hoes
106	days	using	1 hoe

FRONT END LOADERS---large

12	days	using	3 loaders
6	days	using	2 loaders
118	days	using	1 loader

ROAD GRADERS

12	days	using	3 graders
24	days	using	2 graders
58	days	using	1 grader

ASPHALT RE-CLAIMER

24 days using 1 re-claimer

PILE DRIVER--large

30 days using 3 drivers

12 days using 2 drivers

39 days using 1 driver

CRANE---large

39 days using 5 cranes

3 days using 3 cranes

190 days using 2 cranes

72 days using 1 crane

LARGE DIESEL GENERATORS FOR WELDER

30 days using 6 generators

12 days using 4 generators

39 days using 3 generators

189 days using 2 generators

TAMPER (250 hp diesel engine)

30 days using 1 tamper

PUP-TAMPER (170-190 hp diesel engine)

30 days using 1 pup-tamper

REGULATOR (160-170 hp diesel engine)

30 days using 1 regulator

MATERIAL UNIT TRAIN (Ribbon Rail Train)

4 days using 1 switch engine

MATERIAL UNIT TRAIN (Sub-Ballast Train)

24 days using 1 switch engine

MATERIAL UNIT TRAIN (Ballast Train)

4 days using 1 switch engine

CONCRETE DELIVERY TRUCKS (10 yard capacity)*

14,000 vehicle miles

EQUIPMENT MAINTENANCE TRUCK (2 hours per day per truck)

134 days using 2 trucks

* Concrete delivery trucks will be provided by third-party commercial sources which currently are operating in the region. Because these emissions are occurring irrespective of the project, such emissions already should be accounted for in the Houston inventory.

Attachment B

Construction Activity Estimates					
BNSF Bayport Loop					
Nonroad Equipment Type (a)	Unit Days	Total Unit Hours	Horsepower Rating	Load Factor	Horsepower and Load Data Source
D-7 Caterpillar	778	6,224	134	0.64	NEVES(b) Table 2-04 and NR-005A (c) (for crawler tractor)
Truck-mount backhoe	178	1,424	71	0.55	NEVES Table 2-04 and NR-005A (tractors, loaders, backhoes)
Large front-end loader	166	1,328	356	0.68	NEVES Table 2-04 and NR-005A (rubber-tire dozer).
Road grader	142	1,136	147	0.61	NEVES Table 2-04 and NR-005A.
Asphalt re-claimer	24	192	127	0.78	NEVES Table 2-04 and NR-005A (crush/proc. Equip)
Pile driver/hammer	153	1,224	161	0.62	NEVES Table 2-04 and NR-005A (other const. equip)
Large crane	656	5,248	194	0.43	NEVES Table 2-04 and NR-005A.
Welder generator	723	5,784	35	0.45	NEVES Table 2-04 and NR-005A
Maintenance Truck	268	536	280	0.25	Horsepower & Load: BNSF
Tamper	30	240	250	0.56	Horsepower: BNSF Est. Load: "Roller" in and NR-005A
Pup-Tamper	30	240	190	0.56	Horsepower: BNSF Est. Load: "Roller" in NR-005A
Regulator	30	240	170	0.62	Horsepower: BNSF Est. Load: "Other Const. Equip." in NR-005A
Switch Locomotive (material unit trains)	32	256	2500	0.2	BNSF Estimates
Truck Type (a)	Days	Trips/Day	Total Trips	Miles/Trip	Total Miles
6-wheelers (d)	1447	16	23152	8	185,216
6-wheelers (d)	210	24	5040	8	40,320
Water trucks	236	4	944	6	5,664
Concrete trucks	N.A. (e)	N.A. (e)	1400	10	14,000
18-wheelers - pup	376	16	6016	6	36,096
18-wheelers - lime	51	6	306	6	1,836
NOTES:					
(a) Equipment/truck types and activity rates provided by Pat Barclay, TransSystems Corporation Consultants.					
(b) Most nonroad engine horsepower ratings based on Nonroad Engine and Vehicle Emissions Study (NEVES), EPA Publication 460/3-91-02, November 1991. Others as noted.					
(c) Most nonroad engine load factors based on Median Life, Annual Activity, and Load Factor Values for Nonroad Engine Emissions Modeling, EPA Report No. NR-005A. Others as noted.					
(d) The two lines for 6-wheelers represent the same type of vehicle, but they are listed separately because one group of 6-wheelers will make 16 trips/day, while the other group will make 24 trips/day.					
(e) Not Available. However, days of usage and trips/day are not needed to estimate annual annual emissions.					

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May 6, 2002

Ms. Victoria J. Rutson
Chief
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Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

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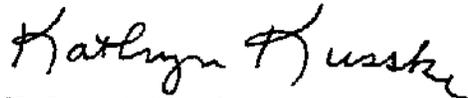
Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct –
And The Burlington Northern And Santa Fe Railway Company – Authority To
Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The
Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Ms. Rutson:

Enclosed please find the Petitioners' responses to the your letter dated March 11, 2002 requesting information.

Please let me know if you have any questions.

Sincerely,



Kathryn A. Kusske

Enclosure

cc: Dana G. White
Alan Summerville

VERIFIED STATEMENT OF KATIE M. FARMER

1. My name is Katie M. Farmer. I am General Director, Sales for Chemical Products at The Burlington Northern and Santa Fe Railway Company ("BNSF"). My office address is 2650 Lou Menk Drive, Marketing Building , 3rd Floor, Fort Worth, Texas 78131.

2. I joined BNSF in 1990. I have held positions ranging from Corporation Management Trainee in Network Operations to various Finance and Revenue Management and Commodity and Account Management positions.

3. As General Director, Sales for Chemical Products at BNSF, I am responsible for the sales function for over \$350 million in transportation in chemicals products, including plastics. I have functional responsibility for account management, from strategic plan development, and for market, economic and forecast analysis.

4. On behalf of BNSF and San Jacinto Rail Limited ("SJRL"), I am submitting this Verified Statement in response to the Surface Transportation Board ("STB")'s Section of Environmental Analysis ("SEA")'s March 11, 2002 request. SEA requests such Statement for the purpose of its environmental review in connection with the exemption proceedings pertaining to proposed construction of a new rail line to serve existing shippers in the Bayport Loop near Houston, Texas (Finance Docket No. 34079) (the "Bayport Loop Build-In"). I am basing this Verified Statement on first-hand knowledge from my involvement, as a representative of BNSF's Industrial Products Group, in the negotiations with our shipper partners that culminated in the formation of SJRL and the commitment of the partners to build the new rail line to serve the Bayport Loop.

5. SEA's letter of March 11, 2002 states that it has received "comments that claim Applicants intend to serve the proposed Bayport Marine Terminal," a project proposed by the Port of Houston Authority ("PHA") currently under review by the U.S. Army Corps of Engineers (the "Marine Terminal"). This viewpoint is incorrect; the two proposals are wholly separate and distinct projects. BNSF and SJRL had no plans during development of the Project, nor do they have plans currently or in the foreseeable future to serve the proposed Bayport Marine Terminal. Summarized below are a number of key facts in support of my views:

6. The purpose and need behind, and sole justification for, the Bayport Loop Build-In is to provide competitive rail service to the plastic and chemical rail shippers in the Bayport Loop which currently are captive to Union Pacific Railroad ("UPRR"). A plastic or chemical facility which has access to only one rail carrier, otherwise known as a "captive shipper," may be in a competitive disadvantage when negotiating shipping contracts.

7. SJRL is made of up BNSF and four Bayport Loop plastic and chemical industry shippers. The partners forming SJRL justified the capital investment in the line

on the anticipated traffic, which will be diverted from the existing carrier to the BNSF, and the value of competition to the shippers. Through the formation of SJRL, BNSF and its Bayport Loop partner/customers will share in the financial benefits and risks of the proposed rail construction project.

8. In reaching the business decision to construct a new line, potential traffic from the Marine Terminal was not a factor and is not required to make the line economically viable. Our economic analysis of this project and our investment decisions related to this project were based solely upon projected revenues and returns from plastics and chemicals traffic from the new route. The contemplated chemicals and plastics rail traffic independently justifies the investment by the SJRL partners. The plastic and chemical industry is heavily dependent on rail transportation not only to ship their products to market, but also to manage their inventory, unlike intermodal traffic. Accordingly, this project was important as a stand-alone project to create rail competition for rail dependent customers at Bayport.

9. The Bayport Loop Build-In will proceed without regard to the completion of the Marine Terminal. Whether or not the Marine Terminal is ultimately constructed is in no way material to the commitment of SJRL to pursue the rail line. At BNSF we were generally aware of the ongoing proposal for the Bayport Container Terminal project; however, we also were aware that the facility would have independent access via the Port Terminal Rail Association ("PTRA").¹

10. PHA was not involved in, nor was even notified of, the nearly two years of confidential discussions leading to the formation of SJRL and the decision to pursue construction of the Bayport Loop Build-In which was publicly announced shortly after formation of the partnership on June 29, 2001. PHA has made no commitments to fund or support the proposed rail line. At no time during the negotiations did we entertain proposals for handling container terminal traffic. Moreover, at no time during the negotiations did we represent to our partners that any Bayport container terminal traffic would be available. Finally, we have not entered into any negotiations, or even discussed, with the Port of Houston or any of its potential customers the possible transportation of containers via the proposed new San Jacinto route. We currently have no plans for handling any of that proposed traffic on this new route.

11. BNSF and SJRL are not aware of any facts demonstrating that the Marine Terminal would not be constructed in the absence of access to rail transportation. According to PHA's permit application, rail access to the Marine Terminal is not scheduled for the first phase of the project, but eventually may be provided from the existing UPRR line located adjacent to the proposed Marine Terminal, either by UPRR or the PTRA. The Bayport Loop Build-In would not alter the potential for BNSF to serve traffic from the Marine Terminal inasmuch as access to the BNSF system would be provided by the PTRA in Houston if the PTRA were to connect to the Marine Terminal.

¹ PTRA is an association of all the railroads serving Houston. Formed in 1924, its purpose is to furnish neutral switching services for the benefit of its railroad members. PTRA's current members are BNSF, UPRR, and the Texas Mexican Railroad Company ("Tex-Mex").

Indeed, if the Marine Terminal is built and PTRAs were to connect to the Terminal, BNSF has the ability to compete for the Marine Terminal traffic regardless of whether the Bayport Loop Build-In is constructed, since traffic available to the PTRAs can be interchanged with BNSF, UPRR or Tex-Mex.

12. When preliminary design plans were prepared for the San Jacinto project, engineering and operations were directed to design the new line to move hopper cars and chemical tank cars in contemplation of handling traffic from the Bayport Industrial District. I would assume that PTRAs would handle container traffic more efficiently than BNSF could since it would not be required to wend its way through the industrial district amid industrial switching in and around the Loop area. Further, I would assume that PTRAs would handle the traffic more efficiently because the proposed route for that traffic as developed by the Port of Houston has been in the planning stage for many years. I understand the PHA's permit application pending with the Army Corps of Engineers shows the container terminal's planned rail traffic moving via the Port/PTRAs route through UP's Strang Yard.

13. Unlike the situation in the Bayport Loop, SJRL's line is not needed to establish competition for the Marine Terminal since the opportunity for such competition already exists in the form of trucks and would not be enhanced by SJRL. Containers, by their very nature are designed to be mode independent, that is they can be shipped by truck, rail, or ship. Since container traffic can be readily shifted to trucks, the competitive pressure already exists in the form of this mode shift. This is substantially different than the traffic that is generated by the plastic and chemical industry, where trucks do not generally provide adequate competition to rail service for high volume shippers.

14. The proposed construction of the Bayport Loop Build-In is economically and physically independent from the Marine Terminal, serves a different purpose, and does not have its origin in any business decision based upon anticipated traffic from the Port. Consequently, construction of the Bayport Loop Build-In would proceed in the absence of the Marine Terminal. Likewise, BNSF and SJRL have no information suggesting that PHA's decision to proceed with the Marine Terminal in any way is dependent upon the construction of the Bayport Loop Build-In.

VERIFICATION

I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Further, I certify that I am qualified and authorized to file this Verified Statement.


Katie M. Farmer

Dated: 4/25/02

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

May 22, 2002

Kathryn A. Kusske, Esq.
Mayer, Brown, Rowe & Maw
1909 K Street, NW
Washington, D.C. 20006

RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

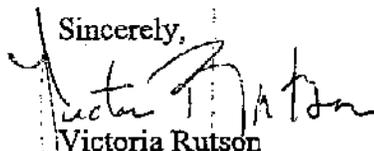
Dear Ms. Kusske:

Consistent with 40 C.F.R. § 1506.5(a), we would like to request additional information needed for the purposes of the Section of Environmental Analysis' environmental review in connection with the above-referenced proceeding. During the scoping process for the EIS, several questions have arisen or suggestions have been made about the feasibility of various routes. First, please provide information to substantiate the feasibility or infeasibility of a possible new alignment that Applicants would build within the SH 225 corridor that would connect to Alignment 3 and Alignment 4.

Second, while the original Alignment 2 appears to be infeasible for the same reasons as Alignments 1A and 2A, namely, because of the engineering problems associated with the need to build a grade separation for both Genoa Red Bluff Road and Red Bluff Road, your previous filings do not specifically indicate the feasibility or infeasibility of Alignment 2. Please clarify whether original Alignment 2 is feasibility or infeasible.

Thank you for your assistance. I request that you send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor at 9300 Lee Highway, Fairfax, Virginia, 22031. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,



Victoria Rutson
Chief

Section of Environmental Analysis

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

May 24, 2002

Kathryn A. Kusske, Esq.
Mayer, Brown, Rowe & Maw
1909 K Street, NW
Washington, D.C. 20006

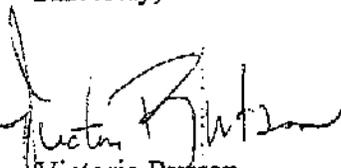
RE: Finance Docket No. 34079 - San Jacinto Rail Limited - Construction Exemption -
And The Burlington Northern and Santa Fe Railway Company -
Operation Exemption - Build-Out to the Bayport Loop Near
Houston, Harris County, Texas

Dear Ms. Kusske:

Consistent with 40 C.F.R. § 1506.5(a), we would like to request additional information needed for the purposes of the Section of Environmental Analysis' environmental review in connection with the above-referenced proceeding. The list of information is attached and relates to the Alignment 2D landfill crossing.

I request that you send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor at 9300 Lee Highway, Fairfax, Virginia, 22031. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,



Victoria Rutson
Chief

Section of Environmental Analysis

Information Request for Alignment 2D Landfill Crossing
Finance Docket No. 34079
EIS for Bayport Loop Build-Out

The following information needs relate to the conceptual design for Alignment 2D in order to assess the potential environmental impacts resulting from the construction of any structure(s) over the existing landfill(s) and from the operation of the rail line in conjunction with such structure(s).

1. Soil/landfill stratigraphy (data from soil borings along Alternative 2D alignment in landfill area; other soil boring information; specific landfill profile and composition information in the vicinity of the Alternative 2D alignment, nature and condition of top and bottom liner, hydrogeologic information, etc.).
2. Conceptual design of the structure(s) that would have to be constructed to lay the rail line over the existing landfill(s). Conceptual design information should include, if possible, type of structure, preliminary dimensions, relationship with soil/waste profile and landfill structure.

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

June 13, 2002

Kathryn A. Kusske, Esq.
Mayer, Brown, Rowe & Maw
1909 K Street, NW
Washington, D.C. 20006

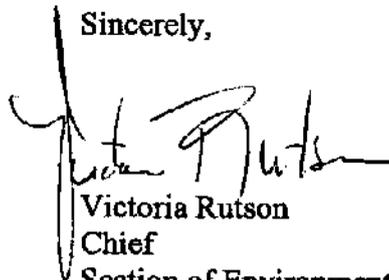
RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

Dear Ms. Kusske:

Consistent with 40 C.F.R. § 1506.5(a), we would like to request additional information needed for the purposes of the Section of Environmental Analysis' environmental review in connection with the above-referenced proceeding. The list of information is attached and relates to natural resources.

I request that you send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor at 9300 Lee Highway, Fairfax, Virginia, 22031. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,



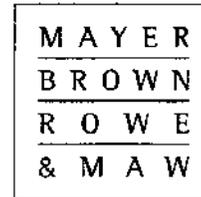
Victoria Rutson
Chief

Section of Environmental Analysis

Information Request for Natural Resources
Finance Docket No. 34079
EIS for Bayport Loop Build-Out

The items are listed from highest priority to lowest priority.

1. Figure (digitally in GIS format) showing alignment modification refinements to avoid the Texas prairie dawn populations.
2. Figure (digitally in GIS format) showing wetlands (isolated and jurisdictional) for Alignments 1, 1C, 2B, 2C, and 2D, including the modification refinements to avoid the prairie dawn populations.
3. Copy of the revised prairie dawn survey report. Zone of influence analysis for the alignments that are located in proximity to the Texas prairie dawn populations. Concept drawing for the proposed low permeability berms to be located adjacent to wetlands.
4. Concept drawing (or at a minimum a narrative) for the Armand and Taylor Bayou crossings and all other waterway crossings not yet provided for Alignments 1, 1C, 2B, 2C, and 2D. Copies of any coordination with the U.S. Coast Guard concerning design requirements for the Taylor Bayou and Armand Bayou bridge crossings. Estimate of the fill or impact acreage to Essential Fish Habitat for the Taylor Bayou crossing. This estimate would include impacts to the main types of EFH including submerged aquatic vegetation, emergent wetlands, and open water.
5. Conceptual plan for mitigation required by the agencies for impacts to jurisdictional waters of the U.S. (through Section 404 permits).
6. Provide GIS layer with the approximate construction and ROW footprint for the entire length of Alignments 1, 1C, 2B, 2C, and 2D. This information should include the areas where the ROW might be widened for grade separated crossings, laydown areas, staging areas, borrow pits, and where extra fill might be needed (i.e. Armand Bayou crossing).
7. Information about whether catchment or detention basins or other stormwater controls would be located near water bodies to capture stormwater discharges from the right-of-way in order to satisfy TNRCC's Section 401 water quality certificate.
8. Wetland delineation report for Alignments 1, 1C, 2B, 2C, and 2D.
9. Confirm that no causeway would be needed for the Taylor Bayou crossing.
10. Copy of the permit application to the USACE for impacts to jurisdictional waters of the U.S. including wetlands.



June 14, 2002

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Direct Fax (202) 263-5223
kkusske@mayerbrownrowe.com

TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

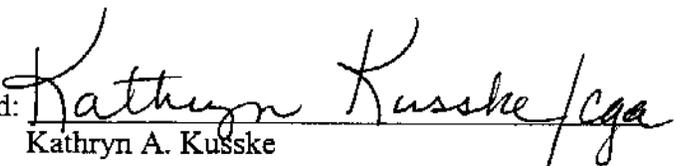
ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
2 copies	<i>Maps – Prairie Dawn Locations Along Bayport Loop Build-out.</i>

REMARKS: _____

Signed: 
Kathryn A. Kusske

Brussels Charlotte Chicago Cologne Frankfurt Houston London Los Angeles Manchester New York Palo Alto Paris Washington, D.C.
Independent Mexico City Correspondent: Jauregui, Navarrete, Nader y Rojas, S.C.

Mayer, Brown, Rowe & Maw is a U.S. General Partnership. We operate in combination with our associated English partnership in the offices listed above.

BNSF



F. RAY HERMAN
Manager, Engineering

**The Burlington Northern
and Santa Fe Railway Company**

5800 North Main Street
Ft. Worth, TX 76179
(817) 352-2900
Fax (817) 352-2912
E-mail Fredrick.Herman@BNSF.com

June 11, 2002

Mr. Alan Summerville
Project Manager
ICF Consulting
90300 Lee Highway
Fairfax, VA 22031-1207

Subject: BRT Terminal

Dear Alan,

Per your request, attached are two (2) copies of the existing Bayport Rail Terminal facility.

Please advise if you have any questions or need additional information.

Respectfully,

A handwritten signature in cursive script that reads "Ray".

Ray Herman
Manager Engineering

Cc: Sarah Bailiff
Kathryn Kusske

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

June 20, 2002

Kathryn A. Kusske, Esq.
Mayer, Brown, Rowe & Maw
1909 K Street, NW
Washington, D.C. 20006

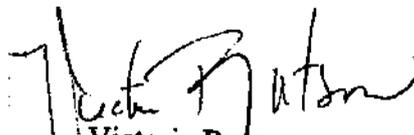
RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

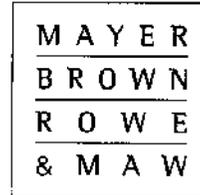
Dear Ms. Kusske:

Consistent with 40 C.F.R. § 1506.5(a), we would like to request additional information needed for the purposes of the Section of Environmental Analysis' environmental review in connection with the above-referenced proceeding. We would like any additional information that you might have on the Bayport Rail Terminal's plans to accommodate the Applicants' traffic that would be associated with the proposed action.

I request that you send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor at 9300 Lee Highway, Fairfax, Virginia, 22031. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,


Victoria Rutson
Chief
Section of Environmental Analysis



June 24, 2002

1909 K Street, N.W.
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TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

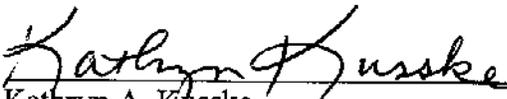
ATTENTION: Alan Summerville
Project Manager

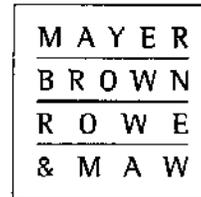
Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
✓ 2 Sets	Concept drawings of Alignment 1 in response to Question 4 of SEA's June 13, 2002 letter request.
✓ 2 Sets	Maps depicting crossings of public roadways in response to Question 6 of SEA's June 13, 2002 letter request.
✓ 2 Copies	Addendum Wetland Delineation for Alternative 1B (Port Road Alignment) in response to Question 8 of SEA's June 13, 2002 letter request.

REMARKS: _____

Signed: 
Kathryn A. Kusske



June 26, 2002

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kkusske@mayerbrownrowe.com

TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

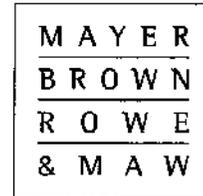
Enclosed please find the following:

#Copies	Description
1 Copy	Map of SH 225 corridor in response to Question 1 of SEA's May 22, 2002 letter request.

REMARKS: _____

Signed: _____

Kathryn A. Kusske
Kathryn A. Kusske



June 28, 2002

1909 K Street, N.W.
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kkusske@mayerbrownrowe.com

TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

ATTENTION: Alan Summerville
Project Manager

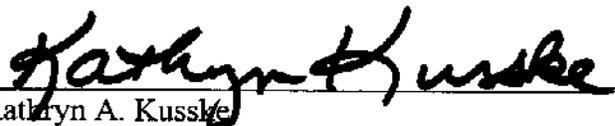
Re: Finance Docket No. 34079

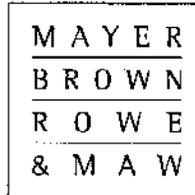
Enclosed please find the following:

#Copies	Description
1 copy	United States Coast Guard Application dated June 2002 in response to Question 4 of SEA's June 13, 2002 Letter Request.

REMARKS: _____

Signed: _____


Kathryn A. Kusske



July 11, 2002

1909 K Street, N.W.
Washington, D.C. 20006-1101

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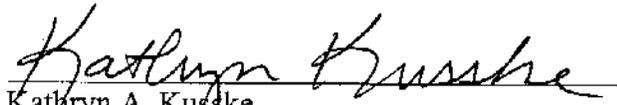
ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
1	Table identifying Aquatic Resources Within the Right of Ways of the Alternative Alignment in response to Question 8 of SEA's June 13, 2002 letter request.
1	Cover Letter and Surveys for Texas Prairie Dawn for the Proposed Bayport Loop Build-In, Harris County, Texas in response to Question 3 of SEA's June 13, 2002 letter request.

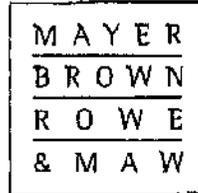
REMARKS: _____

Signed: 
Kathryn A. Kusske

Aquatic Resources Within the Right of Ways of the Alternative Alignments, Bayport Build-In, Harris County, Texas							
Water Resource Types (Jurisdictional and Non- Jurisdictional) ¹	West of Merge ²				East of Merge		
	Alignment 1 1	1c	2b	2c	2d	Alignment 1 1	Alignment 1b 1b
Adjacent Wetlands	0.00	0.00	0.00	0.00	0.00	1.13	0.35
Isolated Wetlands							
<i>Prairie</i>	1.00	1.00	5.99	4.46	6.00	0.00	0.00
<i>Disturbed</i>	2.66	1.96	0.00	0.00	0.00	0.59	0.56
<i>Gilgia Wetlands</i>							
<i>Willow Oak</i>	0.00	0.00	0.00	0.00	0.00	0.65	0.47
<i>Disturbed Areas (Tallow)</i>	0.00	0.00	0.00	0.00	0.00	1.16	1.16
Tidal (Open Water)	0.00	0.00	0.00	0.00	0.00	1.22	0.88
Streams	0.02	0.02	0.00	0.00	0.00	0.37	0.36

¹ A formal wetland delineation has been submitted to the Corps of Engineers, however, the Corps of Engineers has not yet verified either the delineation or determined which wetland are jurisdictional. The table identifies wetland resources within the proposed right-of-way without regard to the issue of jurisdiction and was determined by the applicant based on the information submitted to the Corps of Engineers in the wetland delineation report and is subject to change based on the Corps of Engineers' review and verification.

² The merge refers to the point at which alignments 1, 1c, 2b, 2c, and 2d all come together and follow a common alignment eastward.



July 2, 2002

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TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

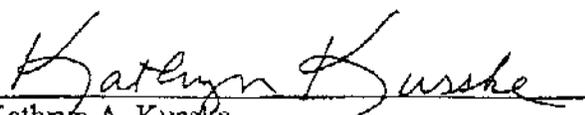
ATTENTION: Alan Summerville
Project Manager

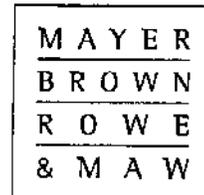
Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
2	CDs with GIS shapefiles for alignments, wetlands, prairie dawn sites, and landuse/habitat types in response to Questions 1, 2, 6 and 8 of SEA's June 13, 2002 letter request.
2	11 x 17 strip maps with centerline, ROWs, wetlands, and prairie dawn sites in response to Questions 1, 2, 6 and 8 of SEA's June 13, 2002 letter request.

REMARKS: _____

Signed: 
Kathryn A. Kusske



July 17, 2002

1909 K Street, N.W.
Washington, D.C. 20006-1101

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kkusske@mayerbrownrowe.com

TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
1	Essential Fish Habitat in partial response to Question 4 of SEA's June 13, 2002 information request.
1	Memorandum re: Alternative Alignment Impacts on Wetlands and Important Habitats in response to Question 8 of SEA's June 13, 2002 information request.

REMARKS: _____

Signed: Kathryn A. Kusske
Kathryn A. Kusske

MEMORANDUM

To: *Alan Summerville*
Project Manager, ICF Consulting Group, Inc.

Date: *July 17, 2002*

Subject: *Essential Fish Habitat For Taylor Bayou Crossings*

This memorandum was prepared by HDR Engineering, Inc. on behalf of Petitioners BNSF and SJRL in partial response to Question 4 of SEA's June 13, 2002 information request. It evaluates the Essential Fish Habitat (EFH) impacts of the bridge crossings of Alignments 1 and 1B over Taylor Bayou.

Alignment 1

The bridge over Taylor Bayou along Alignment 1 spans approximately 765 feet. The bridge is split into 23 segments, each spanning a length of approximately 32 feet 11 inches. Each of 24 bridge pier sections will include 4 round piers (driven as pilings) with an outside diameter of 16 inches. Four of the 24 bridge pier sections will include 8 piers. Impacts of this crossing were calculated for the tidal marsh, tidal shrub, and open water areas. Area of the tidal marsh and tidal shrubs impacted was approximately 0.05 acres and 1.07 acres respectively. The areas of these affected wetland habitats was taken from the delineation report submitted in January 2002 to the U.S. Army Corps of Engineers (USACE) by HDR on behalf of Petitioners. The wetland areas were calculated using the footprint of the affected areas within the bridge construction area. The volume of the piers to be placed in the open water area of the crossing would be a direct impact to the EFH of approximately 1304.5 ft³ (calculations for the volume are shown in the following pages). The area of the substrate disturbed by the piers would be a direct impact to the EFH of approximately 156.8 ft². The indirect impacts to the open water areas would be 0.55 acres due to the shadowing and noise of the crossing.

Habitat Type	Area/Volume
Tidal Marsh	0.05 ac
Tidal Shrub	1.07 ac
Substrate	156.8 ft ²
Open Water (direct)	1304.5 ft ³
Open Water (indirect)	0.55 ac

Alignment 1B

The bridge over Taylor Bayou along Alignment 1B spans approximately 860 feet. The bridge is split into 26 segments, each spanning a length of approximately 32 feet 11 inches. Each of 27 bridge pier sections will include 4 round piers (driven as pilings) with an outside diameter of 16

Essential Fish Habitat

July 17, 2002

Page 2

inches. Four of the 27 bridge pier sections will include 8 piers instead of 4. Impacts of this crossing were calculated for the tidal marsh, tidal shrub, and open water areas. Area of the tidal marsh and tidal shrubs impacted was approximately 0.11 acres and 0.23 acres respectively. The areas of these affected wetland habitats was taken from the delineation report submitted in January 2002 to USACE by HDR on behalf of Petitioners. The wetland areas were calculated using the footprint of the affected areas within the bridge construction area. The volume of the piers to be placed in the open water area of the crossing would be a direct impact to the EFH of approximately 1444.4 ft³ (calculations for the volume are shown on the following pages). The area of the substrate disturbed by the piers would be a direct impact to the EFH of approximately 173.6 ft². The indirect impacts to the open water areas would be 0.78 acres due to the shadowing and noise of the crossing.

Habitat Type	Area/Volume
Tidal Marsh	0.11 ac
Tidal Shrub	0.23 ac
Substrate	173.6 ft ²
Open Water (direct)	1444.4 ft ³
Open Water (indirect)	0.78 ac

The tidal marsh areas include species that provide essential habitat such as leafy three-square (*Scirpus robustus*) and smooth cordgrass (*Spartina alterniflora*). The tidal shrub areas include species such as seacoast sumpweed (*Iva frutescens*) and marshhay cordgrass (*Spartina patens*). The open water habitat would include the water column and substrate on the bayou floor that is essential to the fish habitat.

Essential Fish Habitat Impact Calculations for Alignment 1

Cross-Sectional Area for 1 pier $\frac{\pi}{4}(16in)^2 = 201.06in^2 = 1.40ft^2$

Impact Volume per pier $1.4ft^2 * 8.32ft = 11.65ft^3$

Impact Volume per single span $11.65ft^3 * 4 = 46.59ft^3$

Impact Volume per double span $11.65ft^3 * 8 = 93.18ft^3$

Area of Impacted Substrate $1.4 \frac{ft^2}{pier} * 112 piers = 156.8ft^2$

Impact Volume (single span)	Impact Volume (double span)	Number of single span	Number of double span
46.59 ft ³	93.18 ft ³	20	4

Total Impact Volume = **1304.5 ft³**
 (for 765' bridge length)

Essential Fish Habitat Impact Calculations for Alignment 1b

Cross-Sectional Area for 1 pier $\frac{\pi}{4} (16 \text{ in})^2 = 201.06 \text{ in}^2 = 1.40 \text{ ft}^2$

Impact Volume per pier $1.4 \text{ ft}^2 * 8.32 \text{ ft} = 11.65 \text{ ft}^3$

Impact Volume per single span $11.65 \text{ ft}^3 * 4 = 46.59 \text{ ft}^3$

Impact Volume per double span $11.65 \text{ ft}^3 * 8 = 93.18 \text{ ft}^3$

Area of Impacted Substrate $1.4 \frac{\text{ft}^2}{\text{pier}} * 124 \text{ piers} = 173.6 \text{ ft}^2$

Impact Volume (single span)	Impact Volume (double span)	Number of single span	Number of double span
46.59 ft ³	93.18 ft ³	23	4

TOTAL IMPACT VOLUME = **1444.4 FT³**
 (for 860'-4" bridge length)

MEMORANDUM

*To: Alan Summerville
Project Manager, ICF Consulting Group, Inc.*

Date: July 17, 2002

Subject: Alternative Alignment Impacts on Wetlands and Important Habitats

This memorandum was prepared by HDR Engineering, Inc. on behalf of Petitioners BNSF and SJRL in response to Question 8 of SEA's June 13, 2002 information request. For the purpose of making the evaluation of impacts on wetlands and important habitats from all alternative alignments for the Bayport Build-In Project more efficient, the study area was split into two sections, East and West. The sections are divided at the merge of the alignments. The merge refers to the point at which alignments 1, 1C, 2B, 2C, and 2D all come together and follow a common alignment eastward. The West section is divided into five alignments (1, 1C, 2B, 2C, and 2D). The East section is divided into two alignments (1 and 1B). Each of the alignments for both sections was then evaluated for jurisdictional waters of the United States (U.S.) and important habitat impacts. The results of these evaluations are as follows.

Wetlands

A formal wetland delineation was submitted in January 2002 to the U.S. Army Corps of Engineers (USACE) by HDR on behalf of Petitioners; however, the USACE has not yet verified either the delineation or determined which waters are jurisdictional. Table 1 identifies waters within the Right-Of-Way (ROW) without regard to the issue of jurisdiction. The numbers in the Table 1 were determined by Petitioners based on the information submitted to the USACE in the wetland delineation report and are subject to change based on USACE's review and verification.

West Section

The West section of alternative alignments contained no jurisdictional wetlands. The majority of the wetlands that occur within the West section are isolated wetlands. These isolated wetlands would be found in two different habitat types throughout the West alignments. Alignments 1 and 1C would impact most of these isolated wetlands in disturbed areas, 2.66 and 1.96 acres respectively. Both of these alignments would impact 1.00 acres of isolated wetlands within remnant coastal prairie habitat. There would be no Gilgai wetland areas within the West section of alternative alignments. The only jurisdictional stream channel that would be crossed is Horsepen Bayou. This stream would only be impacted by alternative Alignments 1 and 1C. Both Alignments 1 and 1C would impact 0.02 acres (Table 1).

East Section

The East section of alternative alignments contained several areas that would impact jurisdictional wetlands. Alignment 1 would impact a total of 1.13 acres of adjacent wetlands throughout the alignment. Of those adjacent wetlands, 1.12 acres would include tidal marsh and

Alternative Alignments Impacts

July 17, 2002

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shrub habitat along Taylor Bayou. The other 0.01 acres would occur along Armand Bayou. Alignment 1B would impact a total of 0.35 acres of adjacent wetlands throughout the alignment. Of those adjacent wetlands, 0.34 acres would include tidal marsh and shrub habitat along Taylor

**Table 1: Aquatic Resources Within the Right of Ways of the Alternative Alignments,
 Bayport Build-In, Harris County, Texas**

Water Resource Types (Jurisdictional and Non- Jurisdictional)¹	West of Merge						East of Merge	
	Alignment 1		Alignment 2		Alignment 1B		Alignment 1B	
	I	IC	2B	2C	2D	I	IB	IB
<i>Adjacent Wetlands</i>	0.00	0.00	0.00	0.00	0.00	1.13		0.35
<i>Isolated Wetlands</i>								
Prairie	1.00	1.00	5.99	4.46	6.00	0.00		0.00
Disturbed	2.66	1.96	0.00	0.00	0.00	0.59		0.56
<i>Gilgai Wetlands</i>								
Willow Oak	0.00	0.00	0.00	0.00	0.00	0.65		0.47
Disturbed Areas (Tallow)	0.00	0.00	0.00	0.00	0.00	1.16		1.16
<i>Tidal (Open Water)</i>								
Streams	0.02	0.02	0.00	0.00	0.00	1.22		0.88
Total Non-Jurisdictional Waters	3.66	2.96	5.99	4.46	6.00	0.59		0.56
Total Jurisdictional Waters	0.02	0.02	0.00	0.00	0.00	4.53		3.22

¹ A formal wetland delineation was submitted in January 2002 to USACE by HDR on behalf of Petitioners; however, USACE has not yet verified either the delineation or determined which wetlands are jurisdictional. Table 1 identifies wetland resources within the proposed ROW without regard to the issue of jurisdiction and was determined by Petitioners based on the information submitted to the USACE in the wetland delineation report. Thus, they are subject to change based on the USACE's review and verification.

Alternative Alignments Impacts

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Page 4

Bayou, and only 0.01 acres would occur out of tidal influence along Armand Bayou. There would be areas along both alignments where Gilgai wetland depressions would be impacted. These gilgai wetlands were found in two types of habitat, willow oak bottomlands and disturbed areas with tallow invasion. Alignment 1 would impact both types of gilgai habitats, approximately 0.65 acres of willow oak bottomlands gilgai wetlands and 1.16 acres of disturbed gilgai wetlands. Alignment 1B would also impact both habitats of gilgai wetlands, approximately 0.47 acres of willow oak bottomlands gilgai wetlands and 1.16 acres of disturbed gilgai wetlands. The East section would impact six jurisdictional stream channels. These streams were divided into streams (Intermittent Channel, Armand Bayou, Spring Gully, Big Island Slough) and tidal (Harris County Flood Control District Channel (tidally-influenced) and Taylor Bayou). Alignment 1 would have 0.37 acres of impacts to streams and 1.22 acres of impacts to tidal waters. Alignment 1B would impact 0.36 acres of streams and 0.88 acres of tidal waters.

A combination of any of these East and West alternative alignments can be used for the evaluation of potential final proposed alignments of the Bayport Build-In project. The following Table 2 illustrates the impacts to jurisdictional waters of potential combinations of these East and West alignments.

<i>West Alignment</i>	<i>East Alignment</i>	<i>Total Jurisdictional Waters (ac)</i>	<i>Total Non-Jurisdictional Waters (ac)</i>
<i>1</i>	<i>1</i>	<i>4.73</i>	<i>4.25</i>
<i>1</i>	<i>1B</i>	<i>3.24</i>	<i>4.22</i>
<i>1C</i>	<i>1</i>	<i>4.73</i>	<i>3.55</i>
<i>1C</i>	<i>1B</i>	<i>3.24</i>	<i>3.52</i>
<i>2B</i>	<i>1</i>	<i>4.53</i>	<i>6.58</i>
<i>2B</i>	<i>1B</i>	<i>3.22</i>	<i>6.55</i>
<i>2C</i>	<i>1</i>	<i>4.53</i>	<i>5.05</i>
<i>2C</i>	<i>1B</i>	<i>3.22</i>	<i>5.02</i>
<i>2D</i>	<i>1</i>	<i>4.53</i>	<i>6.59</i>
<i>2D</i>	<i>1B</i>	<i>3.22</i>	<i>6.56</i>

Important Habitats

The important habitats that would potentially be impacted along the alternative alignments would be the remnant coastal prairie and willow oak bottomland. The West section would impact only the remnant coastal prairie habitat, whereas the East section would only impact the willow oak bottomland habitat.

West Section

Alignment 1 would impact approximately 18.65 acres of coastal prairie habitat. Alignment 1C would impact 18.64 acres. Alignments 2B, 2C, and 2D would impact approximately 22.15 acres, 13.17 acres, and 22.15 acres, respectively.

East Section

Alignment 1 would potentially impact 13.92 acres of willow oak bottomland habitat. Alignment 1B, on the other hand, would impact approximately 11.63 acres.

As set forth in Table 2 below, combination of any of these East and West alternative alignments can be used to evaluate the impacts to important habitat within the ROWs.

Table 2. Combinations of Potential Alignment and the Impacts to Important Habitat Within Those Right of Ways, Bayport Build-In, Harris County, Texas				
West Alignment	East Alignment	Remnant Coastal Prairie Habitat (ac)	Willow Oak Bottomland Habitat (ac)	Total Important Habitat (ac)
<i>1</i>	<i>1</i>	<i>18.65</i>	<i>13.92</i>	<i>32.57</i>
<i>1</i>	<i>1B</i>	<i>18.65</i>	<i>11.63</i>	<i>30.28</i>
<i>1C</i>	<i>1</i>	<i>18.64</i>	<i>13.92</i>	<i>32.56</i>
<i>1C</i>	<i>1B</i>	<i>18.64</i>	<i>11.63</i>	<i>30.27</i>
<i>2B</i>	<i>1</i>	<i>22.15</i>	<i>13.92</i>	<i>36.07</i>
<i>2B</i>	<i>1B</i>	<i>22.15</i>	<i>11.63</i>	<i>33.78</i>
<i>2C</i>	<i>1</i>	<i>13.17</i>	<i>13.92</i>	<i>27.09</i>
<i>2C</i>	<i>1B</i>	<i>13.17</i>	<i>11.63</i>	<i>24.80</i>
<i>2D</i>	<i>1</i>	<i>22.15</i>	<i>13.92</i>	<i>36.07</i>
<i>2D</i>	<i>1B</i>	<i>22.15</i>	<i>11.63</i>	<i>33.78</i>

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July 17, 2002

Mr. Alan Summerville
Project Manager
ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

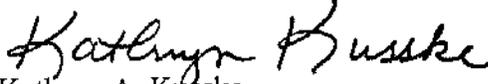
Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct – And The Burlington Northern And Santa Fe Railway Company – Authority To Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Mr. Summerville:

Enclosed please find the Petitioners' response to the first item in SEA's letter dated May 22, 2002 requesting information about a possible new alignment within the SH 225 corridor.

Please let me know if you have any questions.

Sincerely,


Kathryn A. Kusske

Enclosure

Petitioners' Responses to SEA's May 22, 2002 Information Request

1. **Please provide information to substantiate the feasibility or infeasibility of a possible new alignment that Applicants would build within the SH 225 corridor that would connect to Alignment 3 and Alignment 4.**

Petitioners have gathered information concerning the feasibility of a possible new alignment within the SH 225 corridor that would connect to Alignment 3 or Alignment 4. A map depicting the possible location of such an alignment was previously provided to you under separate cover.

Enclosed herewith are several attachments that present additional information compiled during Petitioners' study of a possible new alignment within the SH 225 corridor:

1. At Tab 1, in outline format, is a summary of general information about a possible new alignment, including identification of no-build locations (where physical constraints would not permit the location of new line) and other locations which pose challenging engineering/design and economic issues.
2. At Tab 2, Petitioners present a series of photographs along the SH 225 corridor. These photographs (and accompanying text) show locations where a new alignment would encounter physical constraints and/or present potential impacts to existing structures.
3. At Tab 3, another series of photographs is presented. These photographs (and accompanying text) show locations along the SH 225 corridor where above-ground pipeline structures are within 100 feet either side of the possible new alignment.

As documented by the information provided herein, there are a myriad of physical impediments (*e.g.*, pipeline corridors, utilities, lack of sufficient land, and presence of existing structures), as well as economic considerations (*e.g.*, the cost of relocation/protection of pipelines) that make a new alignment along SH 225 infeasible. In addition, such an alignment would pose potential impacts to homes, businesses, parks, streets and low-income populations. In terms of economic considerations, an alignment along SH 225 would add significant mileage over the other alignments under consideration, making its cost prohibitive and commercially infeasible. Specifically, an alignment along SH 225 would add 15.4 miles from Tower 30 to the beginning of Alignment 4 and 12.1 miles from Tower 30 to the beginning of Alignment 3. Finally, an alignment along SH 225 would require the use of UP's right-of-way for at least 12.5 miles.

2. **While the original Alignment 2 appears to be infeasible for the same reasons as Alignments 1A and 2A, namely, because of the engineering problems associated with the need to build a grade separation for both Genoa Red Bluff Road and Red**

Bluff Road, your previous filings do not specifically indicate the feasibility or infeasibility of Alignment 2. Please clarify whether original Alignment 2 is feasible or infeasible.

A response to this request was provided under separate cover on June 25, 2002.

Information Concerning An Alignment Along SH 225

- **GENERAL INFORMATION**

- Approximately 12.1 miles from Tower 30 to the beginning of Alignment 3.
- Approximately 15.4 miles from Tower 30 to the beginning of Alignment 4.
- Would require utilizing the Union Pacific Railroad Company's right-of-way for at least 12.5 miles.
- Would adversely impact homes, businesses, parks, streets and utilities.
- Would adversely impact minority homes and businesses around Tower 30.
- Would require the relocation or protection of miles of parallel pipelines, unlike the other alignments under consideration

- **NO BUILD LOCATIONS**

- Station 190+00 to 260+00 - Light Company Road, Richey and Shaver Streets
 - There would appear to be no available land on which to build another rail line in this area. The existing railroads, pipelines, utility lines and city streets thread through refineries, tank farms and chemical plants. The existing railroads are bounded by pipeline and other utility corridors within 25' of the tracks.
- Station 281+00 to Station 440+00
 - The existing UP line appears to have a 50' right-of-way through this area. It is paralleled by pipeline corridors, tank farms, and other businesses within 25' to 30' of the centerline of track. Such physical features make an a new alignment in the UP right-of-way economically infeasible.
 - While we have shown an alternate alignment north of the UP, it threads though pipeline and utility corridors longitudinally over an extended distance. It is unlikely that the utility companies would permit this alignment to be constructed and/or would only do so if they were compensated for the loss of the use of the corridor. That added cost would be prohibitive and make the project no longer commercially feasible.
- Station 480+00 to 510+00
 - There is no possibility of building another rail line in this area without moving existing infrastructure. It is not apparent where the existing pipeline corridors and drainage outlets could be relocated given the configuration of the tank farms and city streets.

Information Concerning An Alignment Along SH 225

- **NO BUILD LOCATIONS (Cont'd)**

- Station 510+00 - Highway 225
 - There are no more open spans wide enough to accommodate another railroad line.
 - There is not enough room to share the span currently used by the UP. Even if UP were to shift its track, the new alignment would exceed the the close clearance limits under state law.

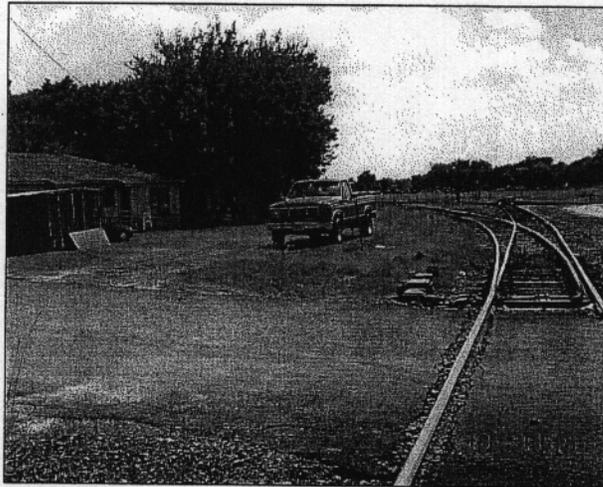
- **OTHER LOCATIONS**

- Station 15+00 to Station 30+00
 - Would require closure of Erath Street.
 - Would require buying homes and businesses located on the frontage of Erath Street.
 - Would require new bridge over Broadway to support train tonnage.
- Station 515+00 to 560+00
 - Would require relocating several longitudinal pipelines.
 - Would require retaining walls to hold railroad embankment from drainage channel.
 - Would require a major retaining wall at 560+00 near water treatment plant.
- Station 560+00 to Station 570+00
 - Would require relocation of several longitudinal pipelines.
 - Would require relocation of existing drainage structures.
 - May require retaining wall or modification of entrance to serve existing businesses.

Highway 225 Alignment Issues

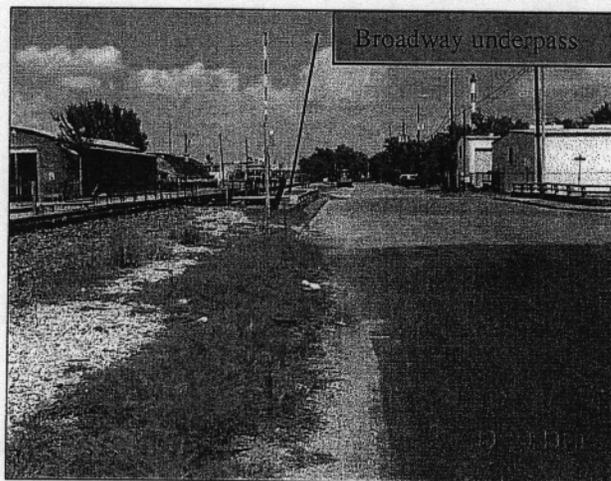
Station 15+00 looking west at Tower 30.

- Additional track would require a diamond in the GH&H.
- Would impact several homes.



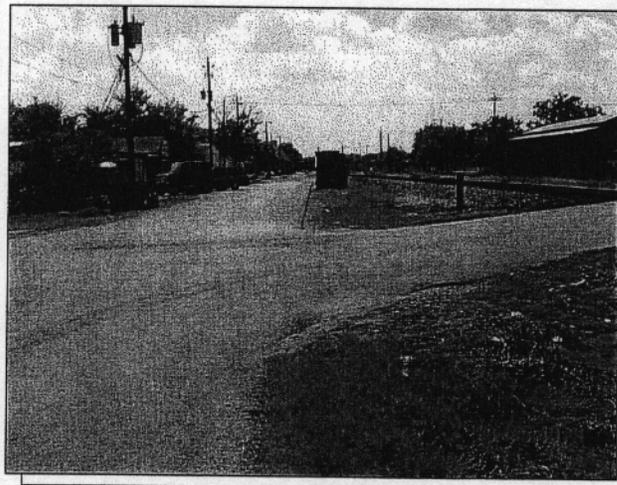
Station 25+00 looking east at Erath Street.

- Additional track would eliminate existing street.
- Would impact/eliminate several businesses and homes fronting on Erath Street.
- Would require new overpass at Broadway.



Station 35+00 looking west at intersection of Erath and Frio Streets.

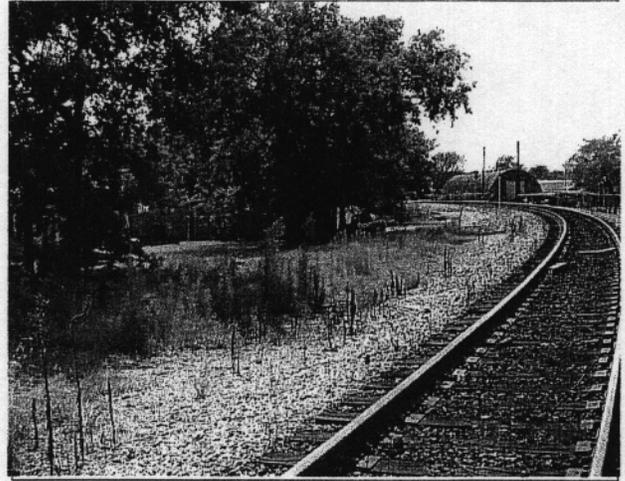
- Additional track would eliminate existing street (25' from edge of pavement to centerline of track).
- Will impact/eliminate several businesses and homes fronting on Erath Street.



Highway 225 Alignment Issues

Station 38+00 looking west.

- Additional track would impact homes.



Station 40+00 looking east at Manchester Junction.

- Glendale Cemetery on Left.
- Additional track would impact business on right.
- Would also impact Peiser Park.



Station 95+00 looking east.

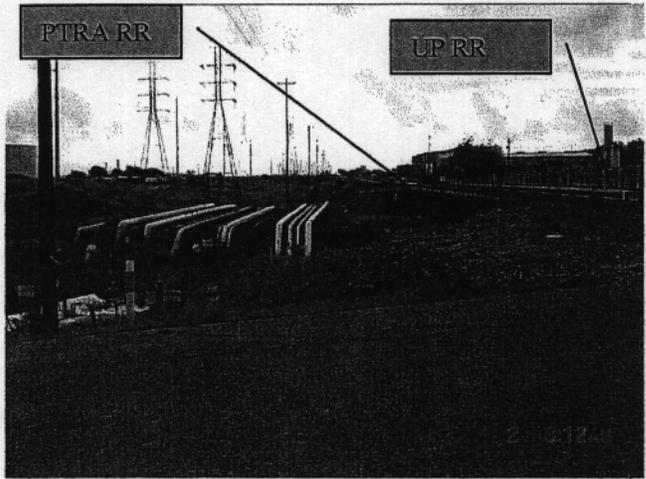
- Two pipelines parallel the UP on the south side the entire length. They vary from 20' to 30' from centerline.



Highway 225 Alignment Issues

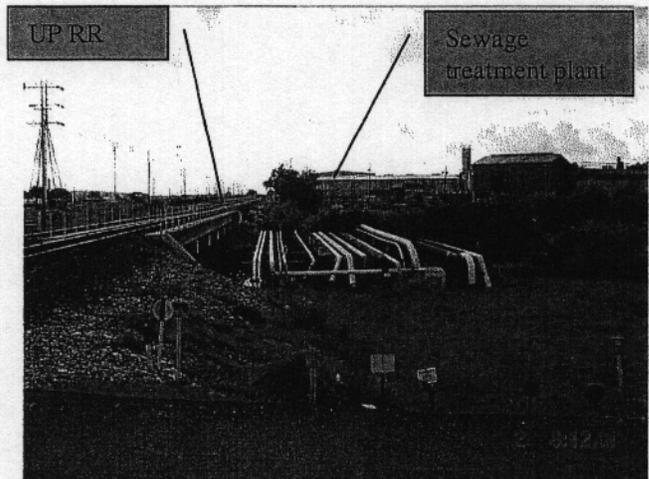
Station 230+00 (north side) looking east.

- Pipeline corridor 43' from track.
- Power line corridor adjacent to pipelines.



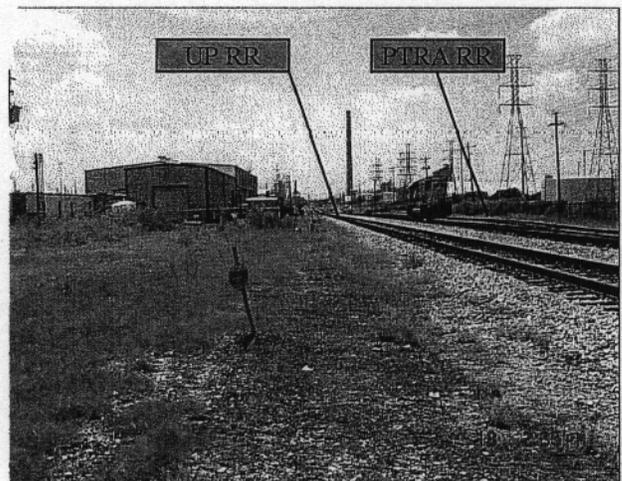
Station 230+00 (south side) looking east.

- Pipeline corridor 23' from track.
- Sewage treatment plant adjacent to pipeline corridor.



Station 245+00 (standing on Richey Street) looking west.

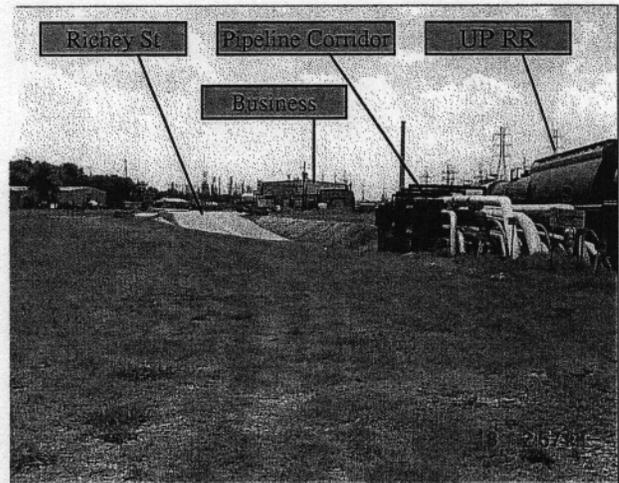
- Business and fence at 25' from track.
- Pipeline corridor on both sides of tracks.
- Power line on north side.



Highway 225 Alignment Issues

Station 250+00 (south side of UP) looking west at W. Richey Street.

- Pipeline corridor within 25' of railroad.
- Business within 25' of railroad
- Richey Street adjacent to business and pipeline corridor.
- Other business and homes adjacent to south side of Richey.



Station 256+00 (north side of UP/PTRA) looking west at W. Richey and Shaver Street underpasses.

- Pipeline corridor and power lines adjacent to PTR A on north side.



Station 256+00 (south side of UP/PTRA) looking west at W. Richey and Shaver Streets.

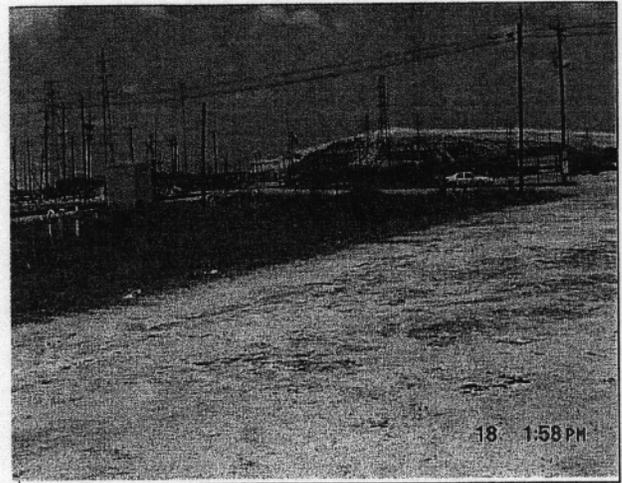
- Pipeline corridor within 30' of centerline.
- Water treatment plant adjacent to pipeline.



Highway 225 Alignment Issues

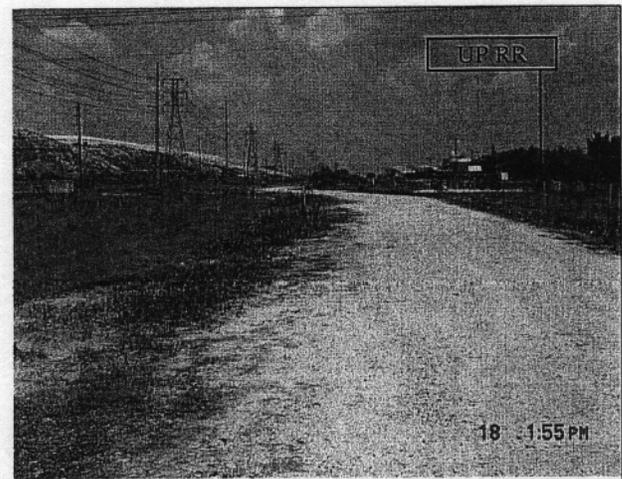
Station 281+00 looking east at Witter Street.

- This photograph depicts the beginning point for an alternative alignment north of UP.
- Would require crossing diamond in UP.
- Would cross pipeline corridors and city street.



Station 290+00 looking east.

- This alignment would require 'threading' through a major pipeline/power line corridor.



Station 330+00 looking west at Jackson Road.

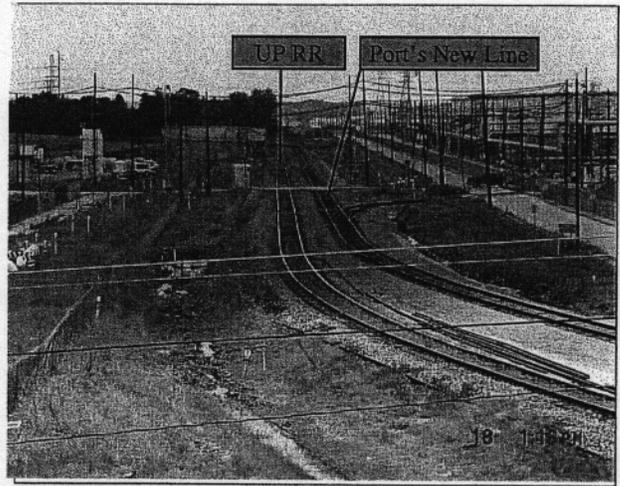
- UP rail corridor confined to 50' by business, pipeline corridors, tank farms and power lines.



Highway 225 Alignment Issues

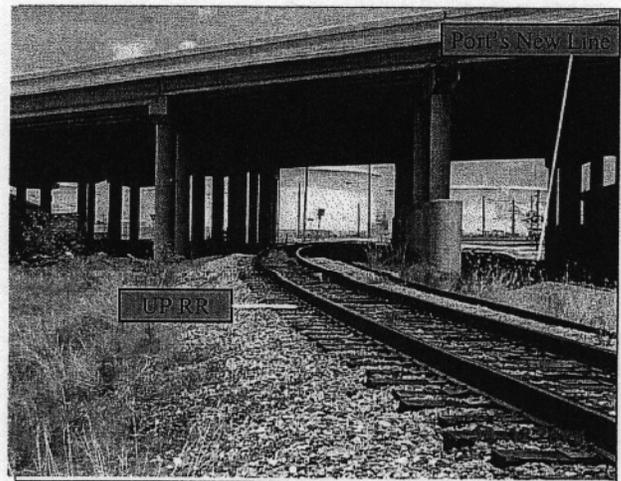
Station 505+00 looking west.

- Various infrastructure problems for additional rail line:
 - Tank farms
 - Pipeline corridors
 - Drainage
 - Streets



Station 510+00 looking west at Hwy 225.

- UP and PTR A occupy the only spans wide enough for a rail line:
- Highway plans indicate not enough room for an additional railroad line in either span.



Station 525+00 looking east at Center St.

- Rail corridor expansion limited by infrastructure. From left to right:
 - Railroad Street
 - Drainage channel
 - Pipeline corridor
 - UP line
 - PTR A line
 - Pipeline Corridor
 - Hwy 225 frontage road
 - Hwy 225



Highway 225 Alignment Issues

Station 580+00 looking east.

- Rail corridor expansion limited by infrastructure. From left to right:
 - Hwy 225
 - Frontage Road
 - Pipeline Corridor
 - PTRA line
 - UP line
 - Pipeline Corridor
 - Drainage Channel
 - Water Treatment Plant



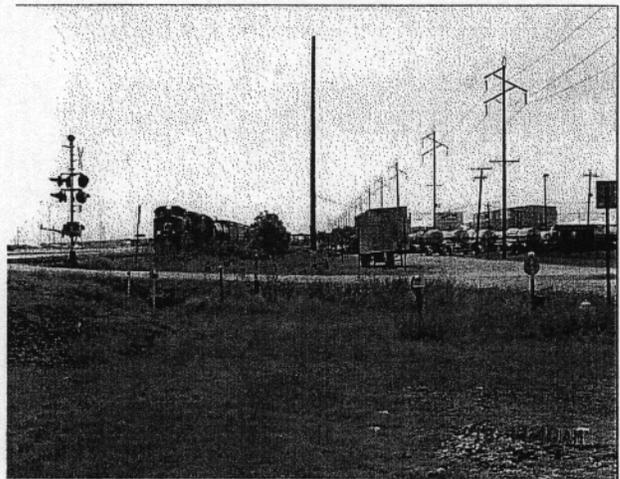
Station 770+00 looking west at Houston Street.

- Pipeline corridors within 25' of track on both sides.

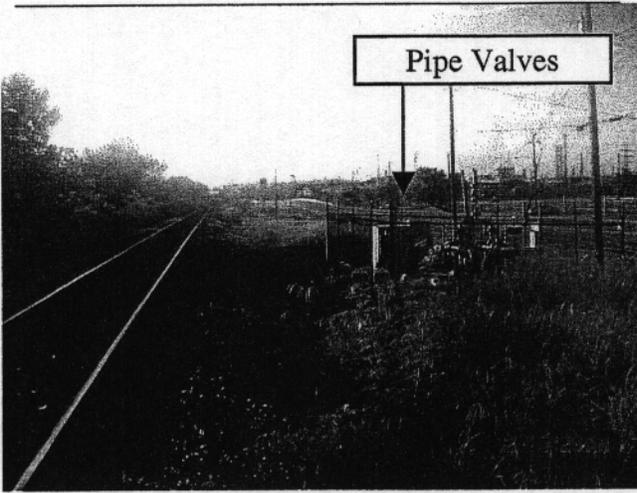


Station 765+00 looking east at Houston Street.

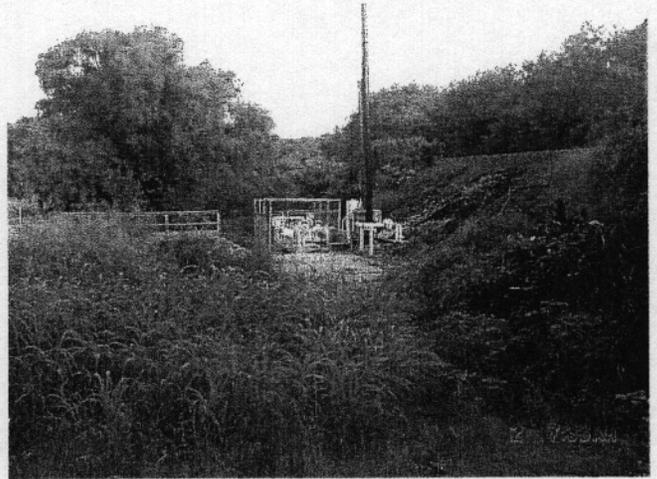
- Phillips Services Corporation and Louisiana Chemical Equipment Company are adjacent to street.
- Pipeline corridors within 25' of track.
- Street and business access would prohibit relocation.



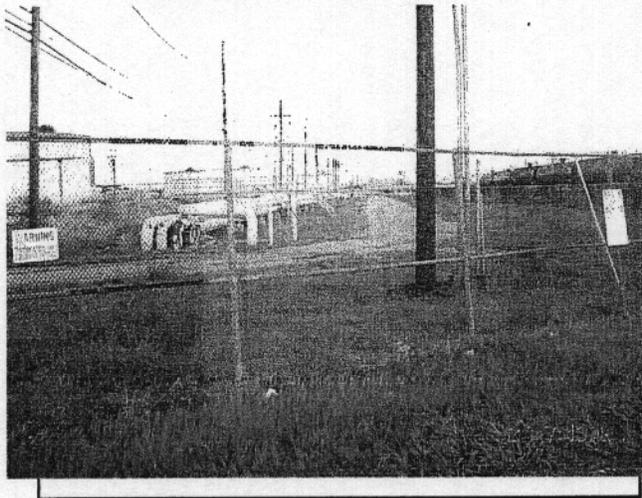
Highway 225 Pipelines



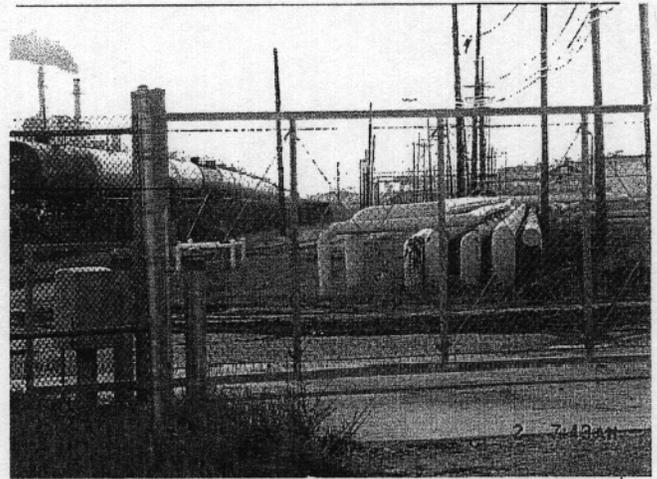
Sta 95+00 - 27' South Side



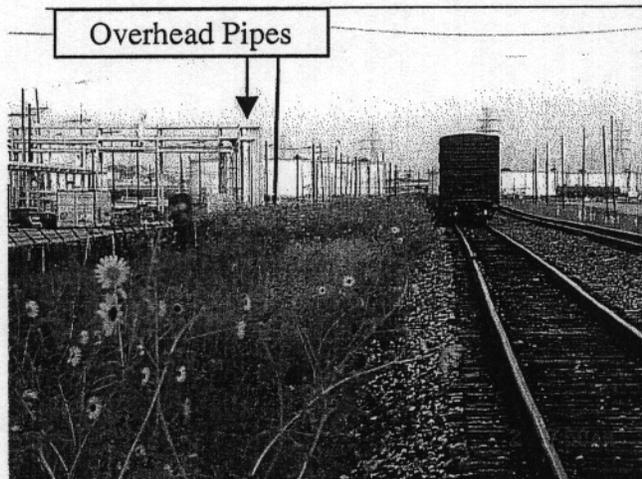
Sta 113+00 - 28' South Side



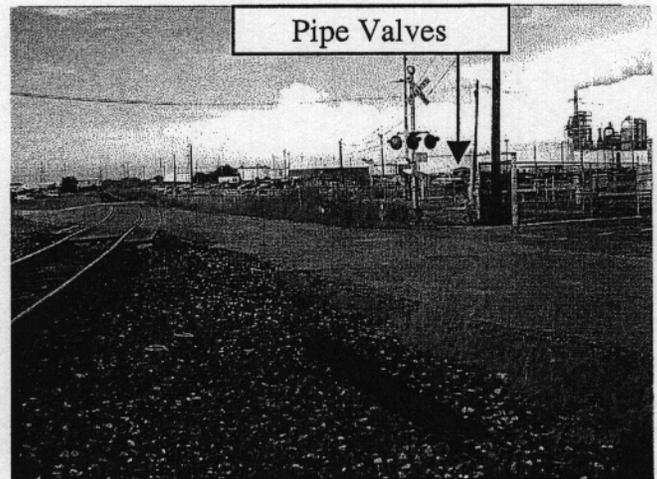
Sta 135+00 looking West - 125' South Side



Sta 135+00 looking East - 100' South Side

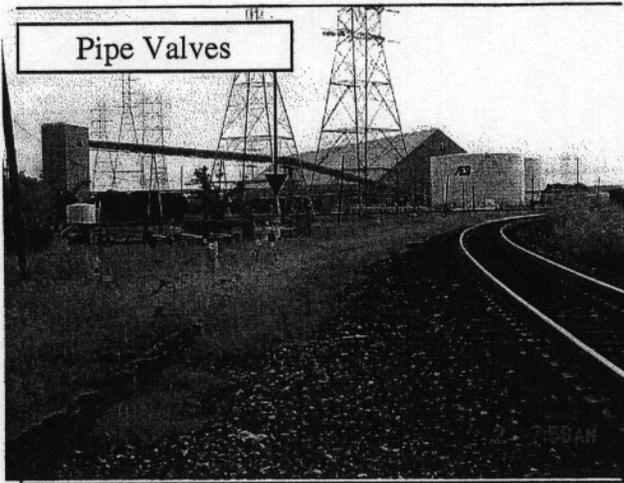


Sta 160+00 - Approx. 50' South Side



Sta 208+00 - 53' North Side

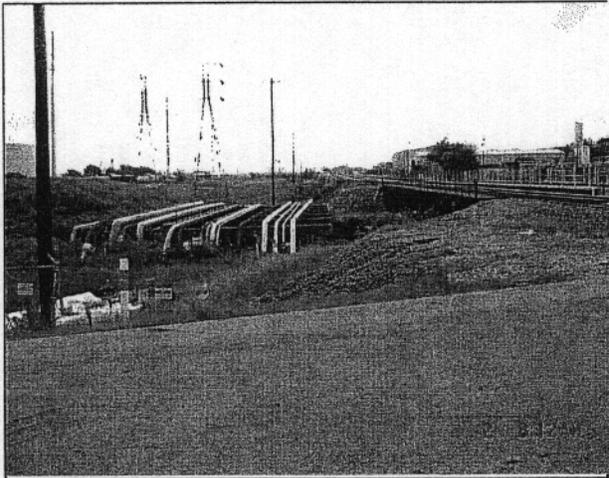
Highway 225 Pipelines



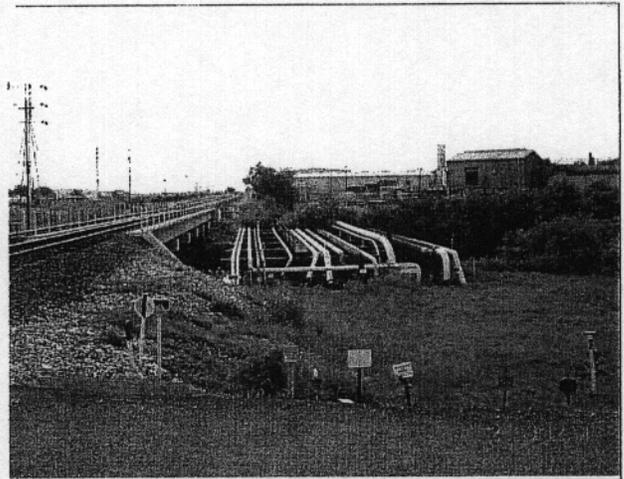
Sta 211+00 - 55' North Side



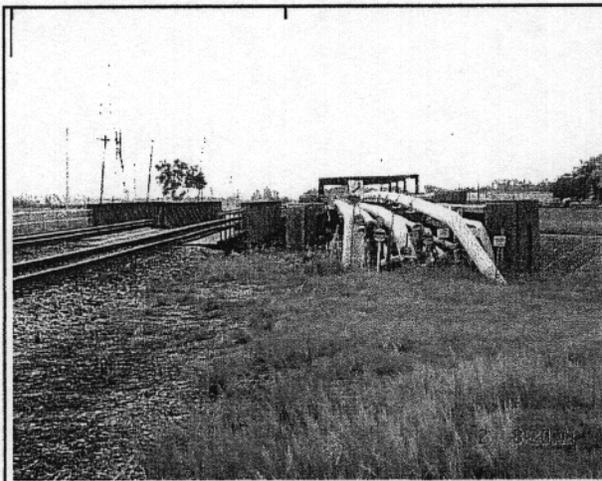
Sta 218+00 - 43' North Side



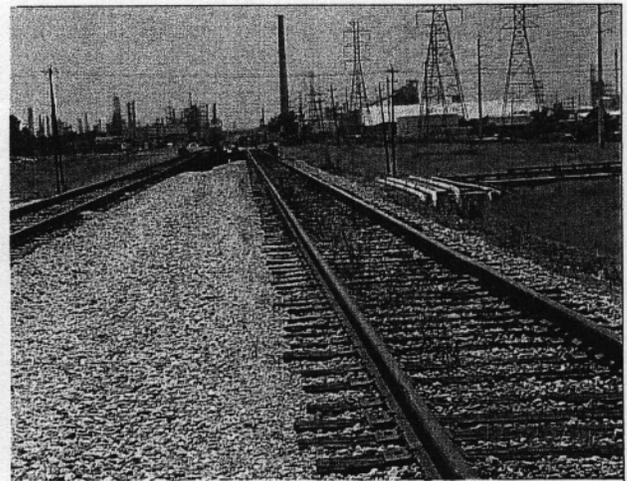
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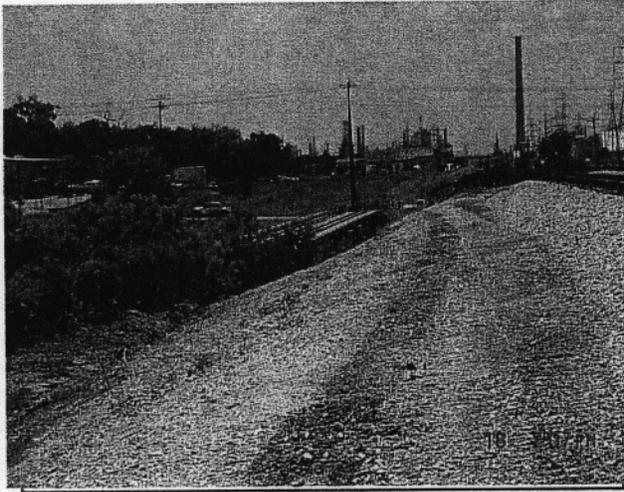


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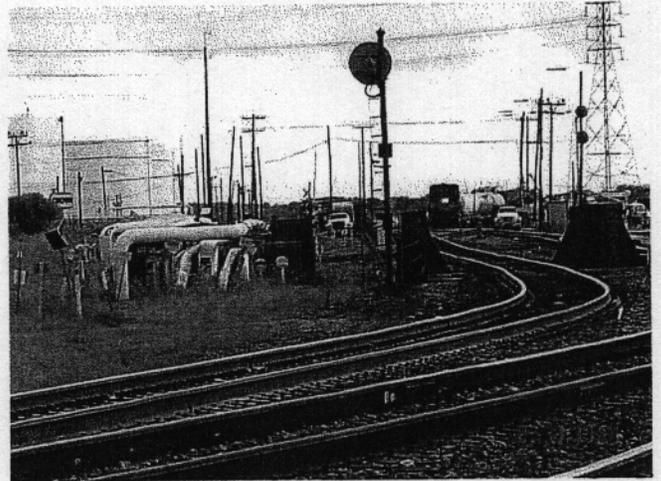


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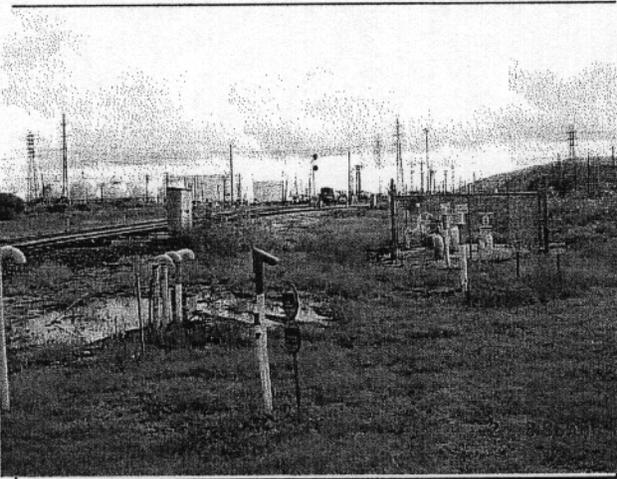
Highway 225 Pipelines



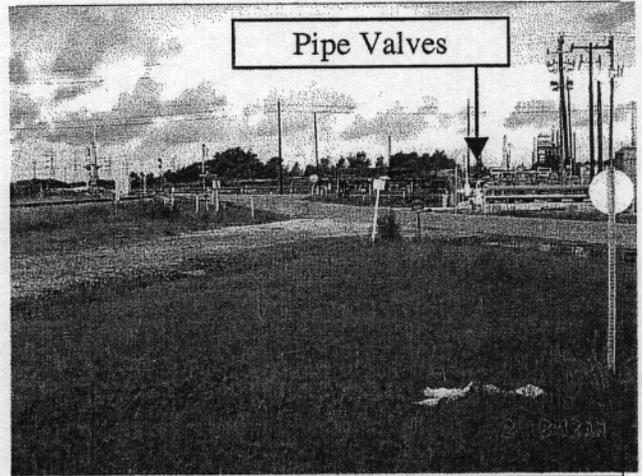
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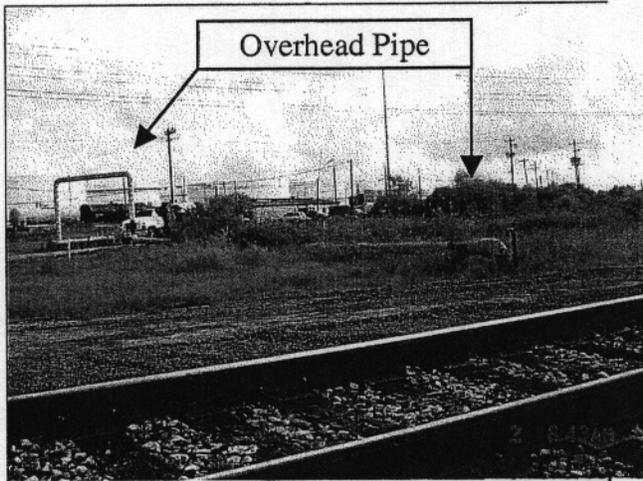
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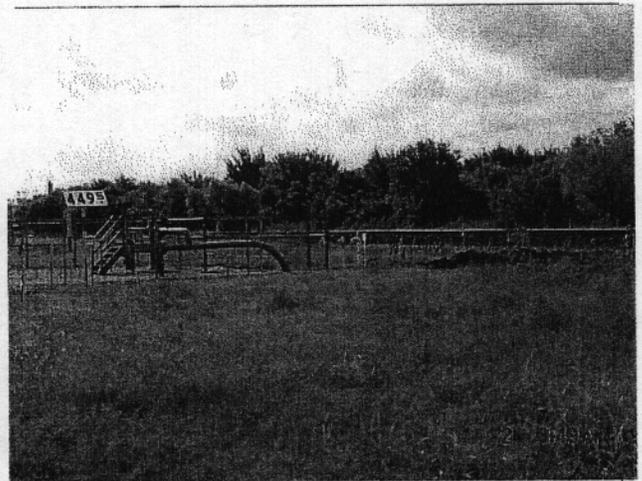
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Sta 285+00 - 74' North Side

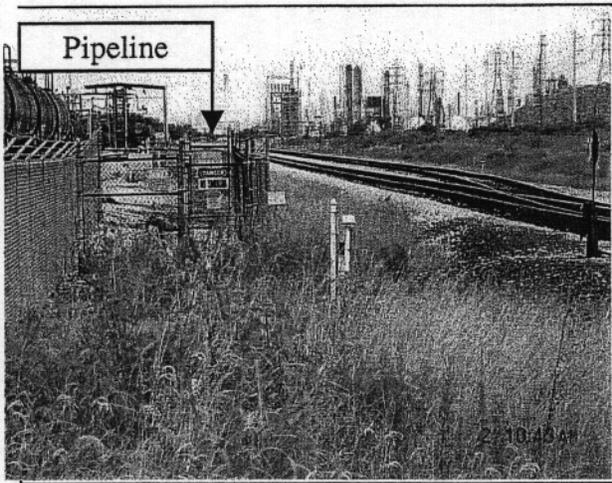


Sta 288+00 - 24' North Side



Sta 295+00 - 81' North Side

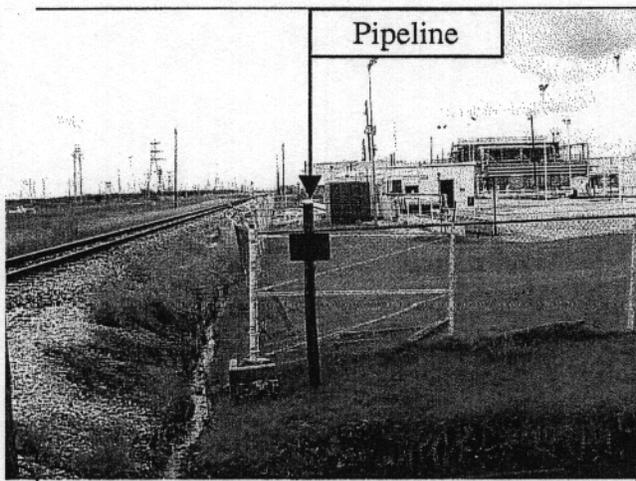
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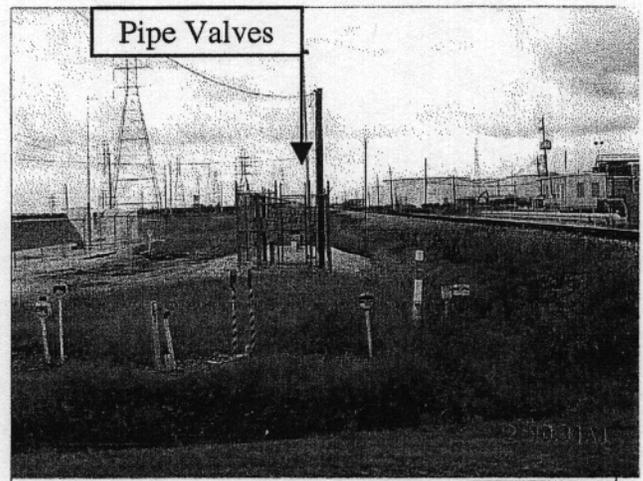
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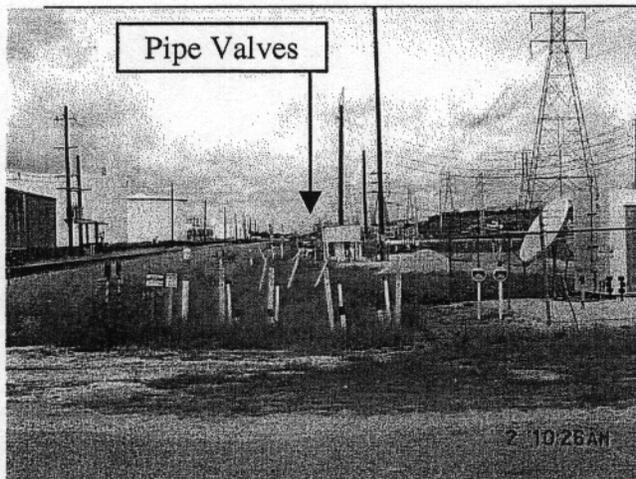
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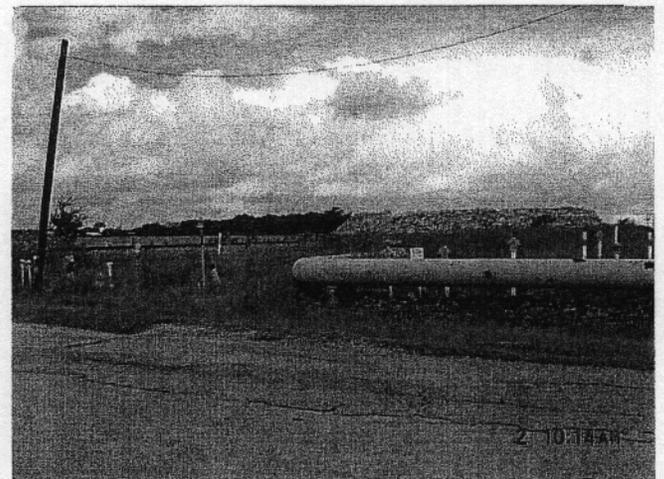
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Sta 350+00 - 48' South Side



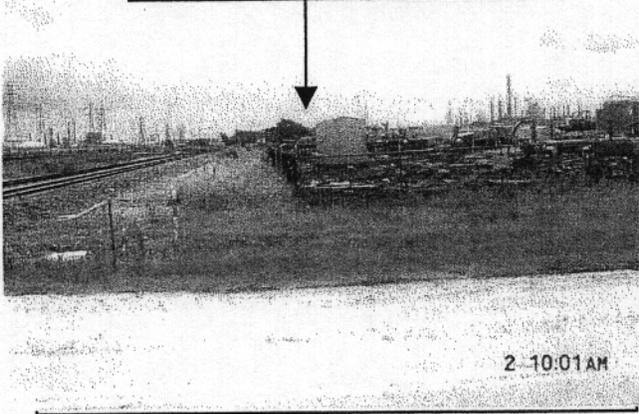
Sta 375+00 - 45' North Side



Sta 400+00 - 93' North Side

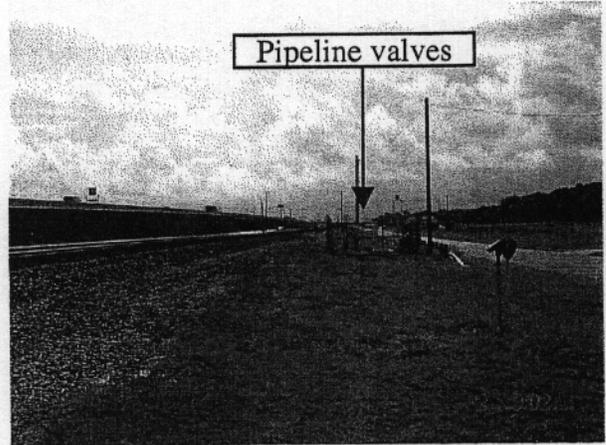
Highway 225 Pipelines

Pipeline facility - under construction

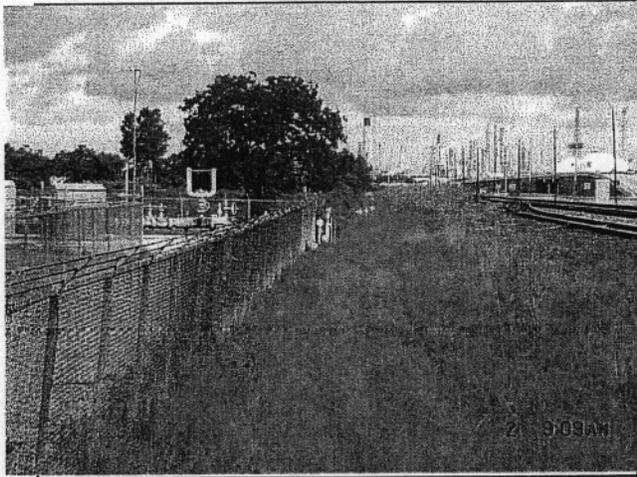


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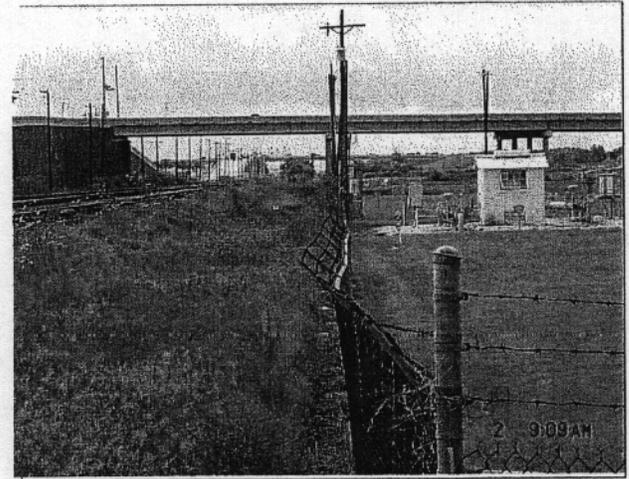
Pipeline valves



Sta 535+00 - 338' South Side



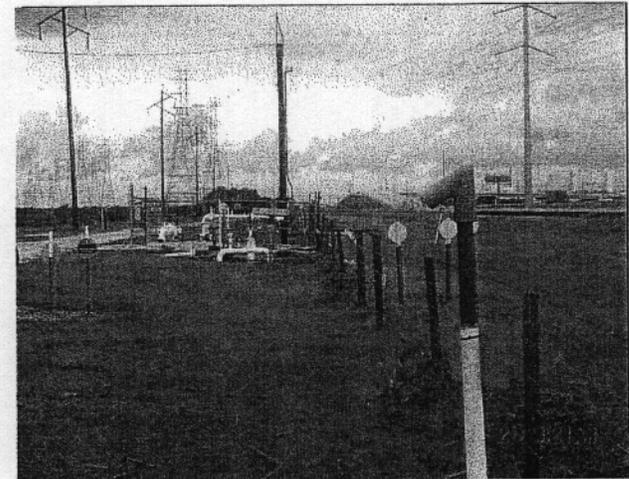
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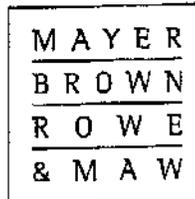
Sta 620+00 - 61' South Side



Sta 660+00 - 59' South Side



Sta 760+00 - 59' South Side



July 17, 2002

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kkusske@mayerbrownrowe.com

TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
1	Hazardous Materials Safety List: Updated List of Materials Proposed to be Transported in response to your letter request dated October 16, 2001.

REMARKS: _____

Signed: Kathryn A. Kusske
Kathryn A. Kusske

Hazardous Materials Safety: Updated List of materials proposed to be transported¹

Alcohols
Dipropylene glycol
Ethylene glycol
Ethylene oxide
Flammable gasses such as isobutane
Flammable liquids such as hexane
Glycol ethers
Glycols
Isobutylene
Monoethanolamine, and other ethanolamines
Organic acids
Propylene glycol
Propylene oxide

Other types of commodities that potential shippers may request to be transported²:

Acids, such as sulfuric acid
Flammable liquids such as benzene or styrene
Freezing liquids such as Carbon dioxide or argon

Source: BNSF and SJRL Partners, 07/15/02

¹ As indicated in the Environmental Background for Bayport Industrial Loop Build-In, preliminary forecasts indicate the rail line will initially carry between 1,500 hazardous material tank cars annually and potentially increase to 7,000 in the foreseeable future, which is less than a "key route" (10,000 cars). Of the 7,000 hazardous material tank cars projected annually in the foreseeable future, more than 2,500 are expected to contain glycols – substances which are not regulated as hazardous materials by U.S. DOT. However, such substances (e.g., ethylene glycol) have been included in Petitioners' traffic forecast because they are classified as a hazardous substances by other regulating entities such as U.S. EPA.

² As a common carrier, BNSF is legally obligated to transport traffic tendered to it. Accordingly, other commodities (not presently known or expected) may be shipped to and from the Bayport Loop as may be requested by area shippers.

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

July 31, 2002

Kathryn A. Kusske, Esq.
Mayer, Brown, Rowe & Maw
1909 K Street, NW
Washington, D.C. 20006

RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

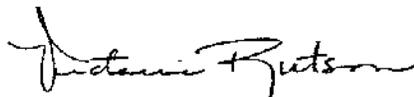
Dear Ms. Kusske:

While verifying the information that you submitted on July 17, 2002, in response to our information request of June 13, 2002, we determined that the information on Essential Fish Habitat (EFH) did not appear to include impacts associated with the original Taylor Bayou crossing for the open-water EFH in the abandoned borrow pit that is now hydrologically connected to Taylor Bayou. I would appreciate your providing this information.

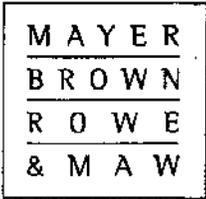
In addition, please confirm that the calculated impacts to the tidal marsh and tidal shrub wetland include the impacts to the same borrow site. Based on our analysis, the project would impact both the fringe wetland and open water habitat for the siding area proposed in this portion of the alignment.

I request that you send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor at 9300 Lee Highway, Fairfax, Virginia, 22031. If you have any questions, please feel free to contact Alan Summerville at (703) 934-3616, or Dana White of my staff at (202) 565-1552.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis



August 1, 2002

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TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
1 copy	Revised Essential Fish Habitat Memorandum in response to SEA's July 31, 2002 letter request.
1 set	Pipeline maps in response to SEA's October 16, 2001 letter request.

REMARKS: _____

Signed: Kathryn A. Kusske
Kathryn A. Kusske

MEMORANDUM

To: *Alan Summerville*
Project Manager, ICF Consulting Group, Inc.

Date: *August 1, 2002*

Subject: *Essential Fish Habitat For Taylor Bayou Crossings*

This memorandum was prepared by HDR Engineering, Inc. on behalf of Petitioners BNSF and SJRL in partial response to Question 4 of SEA's June 13, 2002 information request. It evaluates the Essential Fish Habitat (EFH) impacts of the bridge crossings of Alignments 1 and 1B over Taylor Bayou.

EFH is defined in the Magnuson-Stevens Fishery Conservation and Management Act as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." 16 U.S.C. § 1802(10). The EFH along the Taylor Bayou crossings of the Bayport Loop Build-In includes areas that consist of the water column, substrate, tidal marshes, and irregularly inundated tidal shrub habitat. The direct impacts to the water column would include the direct impact of the piers and indirect impact of the bridge shading. Substrate within the construction area would be impacted by the installation of piers. The tidal marshes and shrubs would be impacted by the piers and fill required for bridge construction. The species that would potentially be affected by the disturbance of these habitats would include brown shrimp (*Penaeus aztecus*), white shrimp (*Penaeus setiferus*), red drum (*Sciaenops ocellatus*), and Spanish mackerel (*Scomberomorus maculatus*).

Table 1. Fisheries Species Potentially Utilizing Essential Fish Habitat at Taylor Bayou

Species	Life Stages	Habitat type
Brown shrimp	<ul style="list-style-type: none">Late postlarvae and Juveniles	Marsh edge, tidal creeks, open water, muddy bottoms, estuaries
White shrimp	<ul style="list-style-type: none">Spawning adults, fertilized eggs, larvae, and pre-settlement postlarvae	Estuaries, bays, muddy bottoms
Red drum	<ul style="list-style-type: none">Post larvae, early juveniles, late juveniles, and adults	Open water, tidal marsh, emergent wetlands, grassy or muddy bottoms, tidal flats, bays, bayous
Spanish mackerel	<ul style="list-style-type: none">Early juveniles and late juveniles	Estuaries

* Source: Gulf of Mexico Fishery Management Council, October 1998, Generic Amendment for Addressing Essential Fish Habitat Requirements in the Following Fishery Management Plans of the Gulf of Mexico

Of the two alignments crossing Taylor Bayou, Alignment 1B is the preferred alternative. This alignment would impact less of the aquatic habitat that is essential for the local fish population, and was chosen to minimize impacts based on recommendations from NMFS and Texas Parks and Wildlife.

Alignment 1

The bridge over Taylor Bayou along Alignment 1 spans approximately 765 feet. The bridge is split into 23 segments, which span a length of approximately 32 feet 11 inches. Each bridge pier section (24) will include 4 round piers (driven as pilings) with an outside diameter of 16 inches. Four of the 24 bridge pier sections would include 8 piers. Impacts of this crossing were calculated for the tidal marsh, tidal shrub, and open water areas. Area of the tidal marsh and tidal shrubs impacted was approximately 0.05 acres and 1.07 acres respectively. The areas of these affected wetland habitats was taken from the delineation report submitted in January 2002 to the U.S. Army Corps of Engineers (USACE) by HDR on behalf of Petitioners. The wetland areas were calculated using the footprint of the affected areas within the bridge construction area upslope of the abutment because the exact limits to the fill are not known at this time.

The area calculated for the wetland impacts from the abutments to the open water were the areas impacted by the piers. The volume of the piers to be placed in the open water area of the crossing would be direct impacts to the EFH of approximately 1304.5 ft³ (calculations for the volume are shown in the following pages). This volume was then added to the volume of the open water impacted with fill material (116305.2 ft³) to get a total direct open water impact of 117609.7 ft³. The area of the substrate disturbed by the piers would be a direct impact on EFH of approximately 156.8 ft². The indirect impacts to the open water areas would be 0.39 acres due to the shading affect of the bridge crossing. This area of potential impact was calculated by decreasing the area underneath the bridge by 30% to account for reflection of sunlight due to the height of the bridge above the water (approximately 9 feet).

Table 2. Area/Volume of EFH at the Alignment 1 Crossing of Taylor Bayou

Habitat Type	Area/Volume
Tidal Marsh	0.05 ac
Tidal Shrub	1.07 ac
Substrate	156.8 ft ²
Open Water (direct)	117609.7 ft ³
Open Water (indirect)	0.39 ac

The tidal marsh areas included species that provide essential habitat such as smooth cordgrass (*Spartina alterniflora*) and leafy three-square (*Scirpus robustus*). The tidal shrub habitat was dominated by seacoast sumpweed (*Iva frutescens*) and included gulf cordgrass (*Spartina spartinae*), and marshhay cordgrass (*Spartina patens*). The open water habitat would include open water and substrate on the bayou floor that is essential to the fish habitat. No submerged vegetation was identified in Taylor Bayou or the excavation area.

The bridge over Taylor Bayou along Alignment 1b spans approximately 860 feet. The bridge is split into 26 segments, which span a length of approximately 32 feet 11 inches. Each bridge pier section (27) will include 4 round piers (driven as pilings) with an outside diameter of 16 inches. Four of the 27 bridge pier sections would include 8 piers instead of 4. Impacts of this crossing were calculated for the tidal marsh, tidal shrub, and open water areas. Area of the tidal marsh and tidal shrubs impacted was approximately 0.11 acres and 0.23 acres respectively. The areas of these affected wetland habitats was taken from the delineation report submitted in January 2002 to USACE by HDR on behalf of Petitioners. The wetland areas were calculated using the footprint of the affected areas within the bridge construction area upslope of the abutment because the exact limits to the fill are not known at this time.

The area calculated for the wetland impacts from the abutments to the open water were the areas impacted by the piers. The volume of the piers to be placed in the open water area of the crossing would be direct impacts to the EFH of approximately 1444.4 ft³ (calculations for the volume are shown in the following pages). The area of the substrate disturbed by the piers would be a direct impact on EFH of approximately 173.6 ft². The indirect impacts to the open water areas would be 0.55 acres due to the shading of the crossing. This acreage was calculated by taking the area underneath the bridge and decreasing it by 30% to account for the sunlight coming through the open spaces between the crossies of the bridge structure.

Table 3. Area/Volume of EFH at the Alignment 1B Crossing of Taylor Bayou

Habitat Type	Area/Volume
Tidal Marsh	0.11 ac
Tidal Shrub	0.23 ac
Substrate	173.6 ft ²
Open Water (direct)	1444.4 ft ³
Open Water (indirect)	0.55 ac

The tidal marsh areas included species that provide essential habitat such as smooth cordgrass (*Spartina alterniflora*), leafy three-square (*Scirpus robustus*), and cattail (*Typha domingensis*). The tidal shrub habitat was dominated by seacoast sumpweed (*Iva frutescens*) and included gulf cordgrass (*Spartina spartinae*), and marshhay cordgrass (*Spartina patens*). The open water habitat would include open water and substrate on the bayou floor that is essential to the fish habitat. No submerged vegetation was identified in Taylor Bayou or the excavation area.

Essential Fish Habitat Impact Calculations for Alignment 1

Cross-Sectional Area for 1 pier $\frac{\pi}{4}(16in)^2 = 201.06in^2 = 1.40ft^2$

Impact Volume per pier $1.4ft^2 * 8.32ft = 11.65ft^3$

Impact Volume per single span $11.65ft^3 * 4 = 46.59ft^3$

Impact Volume per double span $11.65ft^3 * 8 = 93.18ft^3$

Area of Impacted Substrate $1.4 \frac{ft^2}{pier} * 112 piers = 156.8ft^2$

Impact Volume (single span)	Impact Volume (double span)	Number of single span	Number of double span
46.59 ft ³	93.18 ft ³	20	4

Total Impact Volume = **1304.5 ft³**
 (for 765' bridge length)

Essential Fish Habitat Impact Calculations for Alignment 1B

Cross-Sectional Area for 1 pier $\frac{\pi}{4} (16 \text{ in})^2 = 201.06 \text{ in}^2 = 1.40 \text{ ft}^2$

Impact Volume per pier $1.4 \text{ ft}^2 * 8.32 \text{ ft} = 11.65 \text{ ft}^3$

Impact Volume per single span $11.65 \text{ ft}^3 * 4 = 46.59 \text{ ft}^3$

Impact Volume per double span $11.65 \text{ ft}^3 * 8 = 93.18 \text{ ft}^3$

Area of Impacted Substrate $1.4 \frac{\text{ft}^2}{\text{pier}} * 124 \text{ piers} = 173.6 \text{ ft}^2$

Impact Volume (single span)	Impact Volume (double span)	Number of single span	Number of double span
46.59 ft ³	93.18 ft ³	23	4

TOTAL IMPACT VOLUME = 1444.4 FT³
 (for 860'-4" bridge length)

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August 5, 2002

Mr. Alan Summerville
Project Manager
ICF Consulting Group, Inc.
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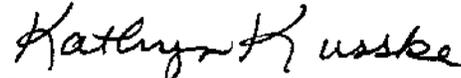
Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct – And The Burlington Northern And Santa Fe Railway Company – Authority To Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Mr. Summerville:

Enclosed please find the Petitioners' responses to SEA's letter dated June 20, 2002 requesting information about Bayport Rail Terminal.

Please let me know if you have any questions.

Sincerely,


Kathryn A. Kusske

Enclosure

cc: Victoria J. Rutson (w/o map)
Dana G. White (w/out map)

**Petitioners' Response to SEA's June 20, 2002 Request
concerning Bayport Rail Terminal**

BNSF and SJRL have an agreement with Bayport Rail Terminal (BRT) which obligates BRT to provide the following services and support for Petitioners' Bayport Loop traffic: car gathering tracks, transfer tracks, storage tracks, use of a Direct To Locomotive (DTL) fueling spot, tracks for the tie-up of locomotives, and a on-duty and off-duty facility for BNSF crews. More specifically, the agreement¹ requires BRT to provide a guaranteed minimum level of capacity of 600 car spots (400 car spots in operational/storage tracks and 200 car spots in transfer tracks). (See enclosed map depicting the current configuration of the Bayport Rail Terminal.) It is our understanding based on discussions with BRT that BRT's facility currently has the minimum required capacity of 600 cars (C6 covered hoppers). (See enclosed map.) While Petitioners believe that BRT's yard could be expanded to accommodate a projected peak capacity of 1500 cars, See Verified Statement of Harry P. Mann at ¶ 12, any additional expansion would be within the discretion of BRT subject to its own business needs and capital commitments. We believe there is ample property on BRT's premises for expansion, as may be needed. Should the Board be interested in additional information about where suitable locations for capacity expansion might be located, we would be pleased to provide another map showing those areas.

BRT will provide storage, gathering, and transfer services, 7 days a week, on behalf of BNSF and SJRL. When ordered by BNSF, BRT will transfer outbound cars to the BRT exchange tracks. BRT will also transfer inbound cars from storage and deliver the cars to designated BRT exchange tracks for pick-up by BNSF roadswitchers and subsequent delivery and spotting at Bayport customer facilities. It is expected that BRT will have on hand two days' worth of empty cars to support BNSF's Bayport customers.

BNSF roadswitcher crews will go on and off duty at BRT and will operate the roadswitchers out of the BRT facility to service Bayport customer facilities. BNSF Bayport roadswitchers will pick-up inbound cars at the BRT exchange tracks, pull and spot customers, and then deliver the outbound cars to the BRT exchange tracks.

BNSF will operate a shuttle roadswitcher to transfer cars between the BNSF system and BRT. The shuttle roadswitcher will pick-up inbound Bayport cars at the Dayton, Texas storage facility (CMC Railroad) and will deliver the cars to the BRT exchange tracks. At BRT, the BNSF shuttle will pick-up outbound cars from the BRT exchange tracks and return to the Dayton storage yard.

BRT will serve as the on-duty and off-duty facility for BNSF roadswitcher crews. BNSF will utilize BRT's designated DTL fueling tracks for locomotive fueling on an "as required" basis. BNSF Bayport roadswitchers will tie-up locomotives at the end of shift in designated locomotive tie-up tracks at BRT.

¹ The agreement is confidential by its terms, but allows for limited disclosures to the extent necessary, to satisfy regulatory requirements.

MAYER, BROWN, ROWE & MAW

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August 6, 2002

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

Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct – And The Burlington Northern And Santa Fe Railway Company – Authority To Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Ms. Rutson:

Petitioners San Jacinto Rail Limited (SJRL) and The Burlington Northern and Santa Fe Railway Company (BNSF) have submitted today to the Section of Environmental Analysis their proposed Voluntary Mitigation Measures (VMM) in the above-referenced proceeding for consideration as part of the environmental review process. Although we continue to believe that BNSF's original routing would have little or no appreciable impacts on rail traffic congestion in the area, we are nevertheless sensitive to the concerns of the citizens of the East End community and have committed to local representatives that we would avoid potential impacts to New South Yard, in particular.

As indicated in Measure No. 63 of the VMM, and subject to the acquisition of trackage rights or trackage rights modifications that may be needed,¹ Petitioners propose a slight revision to the proposed routing for the Bayport traffic through the City's East End. In lieu of routing Bayport traffic into and out of New South Yard, Petitioners propose to route Bayport traffic along the GH&H and East Belt to Dayton Yard. This route revision would address the concerns raised in this proceeding by the communities in and around New South Yard that the addition of Bayport traffic to New South Yard might exacerbate existing congestion. In addition, this change in routing of the Bayport traffic is consistent with BNSF's long-term goals of ameliorating congestion in the area, particularly with regard to the New South Yard area. This route revision pertains only to a shift in proposed operations within the East End area and does not affect the proposed route locations for the new line construction.

¹ This proposed route revision for Bayport traffic would be contingent upon BNSF's acquisition of trackage rights on the segment of the GH&H between Tower 30 and Tower 85, in addition to the initial proposal for trackage rights on the GH&H between the new line and Tower 30.

Specifically, BNSF's inbound trains would access the new line from the storage yard operated by the CMC Railroad at Dayton, Texas. From that yard, BNSF trains would operate north over approximately two miles of the Union Pacific Railroad (UP) Baytown Subdivision and then turn west onto a 29-mile joint BNSF/UP track segment (between Dayton Junction and Tower 87) on the UP Lafayette and Terminal Subdivisions. At Tower 87, BNSF trains would then turn south onto the Houston East Belt between Tower 87 and Tower 85. UP currently routes Bayport business, to and from the UP eastern gateways of New Orleans, Memphis, St. Louis and Chicago over this Houston East Belt segment. From Tower 85, for all variations of Alignment 1, BNSF trains would operate south over the UP Galveston Subdivision (former GH&H Railroad) to reach the connection point at Graham Siding (approximately MP 16) on the former GH&H line. In the case of variations of Alignment 2, the connection point would be approximately MP 12 on the former GH&H line. Trains would then proceed to the Bayport Rail Terminal. Outbound trains from Bayport to the Dayton Yard will operate over the same route.

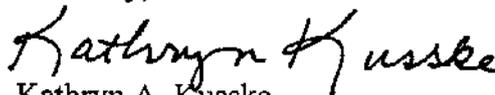
The storage yard at Dayton, Texas, operated by the CMC Railroad, would be the facility where BNSF will both (a) pick-up empties (and any loaded cars) in a daily train destined for the Bayport Loop and (b) deliver loaded blocks of cars by a daily train from the Bayport Loop. From Dayton, BNSF will add the Bayport traffic to long-haul trains destined to receivers around the country.

The CMC Dayton Yard is a large, flat yard designed for storage that operates 24 hours per day, seven days per week. The CMC Railroad currently provides storage services for both BNSF and UP. The sections of the Dayton Yard dedicated to BNSF service consist of approximately 1250 car spots for storage located on the east side of the UP Baytown Subdivision main track, and a medium-sized 850 car gathering yard located on the west side of the Baytown Subdivision main track. The CMC Railroad has recently begun an expansion of the Dayton Yard to handle existing traffic (to be completed by March 2003) which will increase the capacity of the yard by 1500 additional car spots. That expansion is slated to proceed whether or not the Bayport project is approved.

The UP Lafayette and Terminal Subdivisions and the UP Houston East Belt Subdivision are dispatched by both UP and BNSF employees of the Joint Trackage Group at the Spring, Texas Joint Dispatching Center. UP Baytown and UP Galveston Subdivisions are solely dispatched by UP dispatchers at the Spring Joint Dispatching Center. The addition of one train per day, inbound and outbound, over the above described routes, is not expected to negatively impact operations over those segments.

If you need any further information concerning this proposal, we would be pleased to provide it.

Sincerely,


Kathryn A. Kusske

Enclosure

cc: Dana G. White
Alan Summerville

MAYER, BROWN, ROWE & MAW

1909 K STREET, N.W.

WASHINGTON, D.C. 20006-1101

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August 8, 2002

Mr. Alan Summerville
Project Manager
ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct – And The Burlington Northern And Santa Fe Railway Company – Authority To Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Mr. Summerville:

Enclosed please find the Petitioners' partial response to Question 6 of SEA's June 13, 2002 letter request.

Please let me know if you have any questions.

Sincerely,


Kathryn A. Kusske

Enclosure

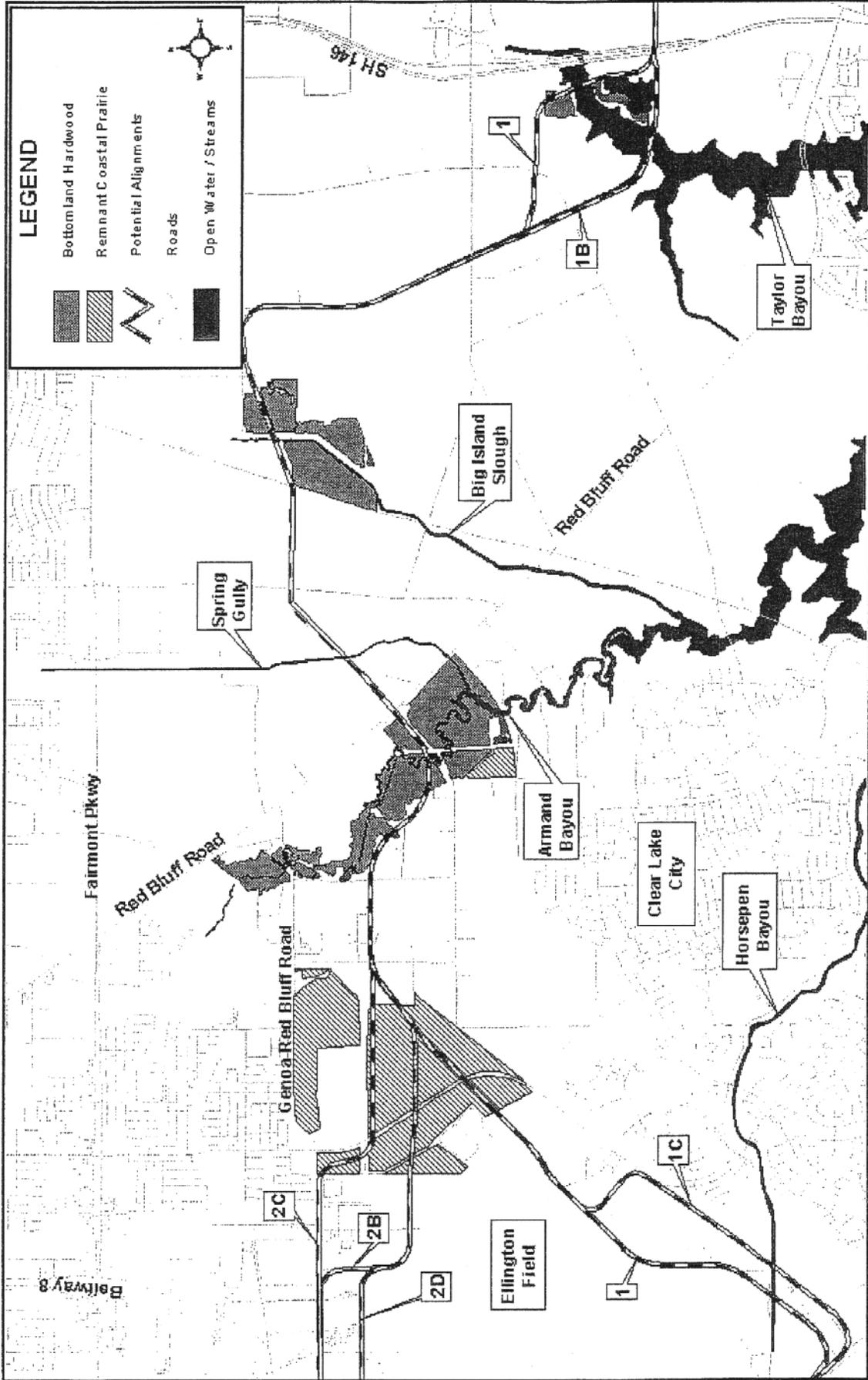
Petitioners' Partial Response to Question 6 of SEA's June 13, 2002 Request

6. Provide GIS layer with the approximate construction and ROW footprint for the entire length of Alignments 1, 1C, 2B, 2C, and 2D). This information should include the areas where the ROW might be widened for grade separated crossings, laydown areas, staging areas, borrow pits, and where extra fill might be needed (i.e. Armand Bayou crossing).

The Right-Of-Way (ROW) that will be required for construction along the entire length of each of the alignments was previously provided to you in maps. The ROW shown on those maps was sized to accommodate the increased width that would be required for grade separations and other physical features of the project. That information reflects Petitioners' current information and knowledge about the ROW.

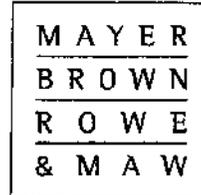
With respect to the location of laydown and staging areas, it will be the responsibility of Petitioners' contractors to locate and acquire any temporary laydown or staging areas that may be needed. With respect to borrow areas, Petitioners expect that much of the borrow will be obtained on-site from the drainage ditches or from the off-setting storm water storage and conveyance that may be required. If additional off-site borrow is required, it will be responsibility of Petitioners' contractors to either acquire the borrow from a commercial source or develop appropriate off-site borrow areas.

Petitioners have identified certain important habitat areas where they would restrict contractor activities to the ROW (see Exhibit 1). However, outside of these selected areas, the contractors will be expected to acquire any permits, approvals, or easements that may be required to allow for the use of off-site locations that the contractors may determine are desirable to facilitate the work.



Sensitive Habitats

Exhibit 1



August 14, 2002

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TO: ICF Consulting Group, Inc.
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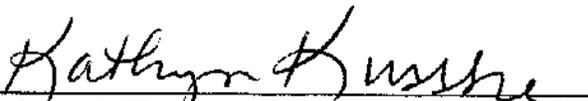
ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

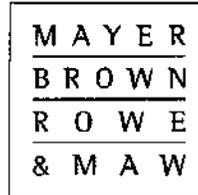
Enclosed please find the following:

#Copies	Description
1 map	Bayport Loop Build-Out Routes To Be Studied in the STB Environmental Impact Statement as of July 19, 2002.
1 map	Bayport Loop Build-Out Primary Proposed Route as of July 19, 2002.

REMARKS: _____

Signed: 
Kathryn A. Kusske

cc: Dana G. White



August 26, 2002

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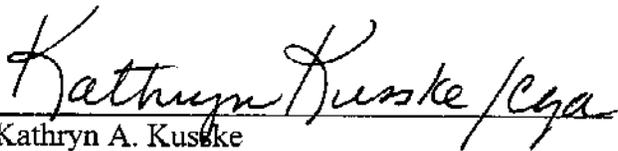
ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
2 notebooks	Section 401/404 Joint Permit Application in response to Item No. 10 of SEA's June 13, 2002 request for information.

REMARKS: _____

Signed: 
Kathryn A. Kusske

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

October 2, 2002

Kathryn A. Kusske, Esq.
Mayer, Brown, Rowe & Maw
1909 K Street, NW
Washington, D.C. 20006

RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

Dear Ms. Kusske:

Consistent with 40 C.F.R. § 1506.5(a), we would like to request confirmation of our assumptions and additional information that is needed for the Section of Environmental Analysis' environmental review in connection with the above-referenced proceeding. The list of assumptions is attached and relates to construction equipment in the context of construction noise. If any of these assumptions is incorrect, please supply appropriate information for our analysis.

I request that you send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor at 9300 Lee Highway, Fairfax, Virginia, 22031. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,

Dana A. White

jr

Victoria Rutson
Chief
Section of Environmental Analysis

Enclosure

Information Request for Construction Noise
Finance Docket No. 34079
EIS for Bayport Loop Build-Out

Please check and correct, if necessary, the following assumptions.

1. The two noisiest pieces of construction equipment used along most of the new rail line, would be heavy trucks and bulldozers.
2. The two noisiest pieces of construction equipment used in the area with the closest receptors, which is located along Genoa-Red Bluff Road, would also be heavy trucks and bulldozers.
3. Heavy trucks would operate for 8 hours per day, but only be at full power for 15 minutes per hour at any given location.
4. Heavy trucks would be at the minimum distance to the nearest residential receptor for 10 minutes out of each hour for 8 hours per day for 30 days.
5. Bulldozers would operate for 8 hours at any given location.
6. A bulldozer would only be at the minimum distance to a residence for one day out of 30.
7. Pile driving for bridge construction at Red Bluff Road and Space Center Boulevard, Taylor Bayou, Armand Bayou, Horsepen Bayou, Spring Gully, Big Island Slough, and Harris County Flood Control District ditches would occur for 8 hours per day for 30 days.
8. No construction would occur during the night.

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

October 15, 2002

Kathryn A. Kusske, Esq.
Mayer, Brown, Rowe & Maw
1909 K Street, NW
Washington, D.C. 20006

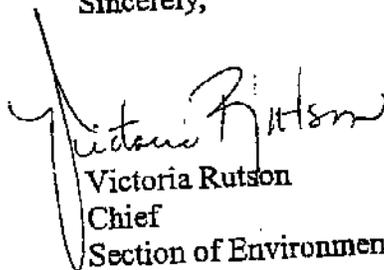
RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

Dear Ms. Kusske:

Consistent with 40 C.F.R. § 1506.5(a), we would like to request additional information needed for the purposes of the Section of Environmental Analysis' environmental review in connection with the above-referenced proceeding. We would like additional information to confirm that a grade separation of Alternative 2C and Space Center Boulevard would be infeasible.

I request that you send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor at 9300 Lee Highway, Fairfax, Virginia, 22031. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,


Victoria Rutson
Chief
Section of Environmental Analysis

MAYER, BROWN, ROWE & MAW

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October 17, 2002

Mr. Alan Summerville
Project Manager
ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct – And The Burlington Northern And Santa Fe Railway Company – Authority To Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Mr. Summerville:

Enclosed please find the Petitioners' response to SEA's October 2, 2002 letter request.

Please let me know if you have any questions.

Sincerely,



Kathryn A. Kusske

Enclosure

Information Request Related to Construction Noise
Finance Docket No. 34079
EIS for Bayport Loop Build-Out

This is the response of the The Burlington Northern and Santa Fe Railway Company (BNSF) and San Jacinto Rail Limited (SJRL) to SEA's October 2, 2002 request for confirmation of assumptions and additional information concerning construction equipment in the context of construction noise. It appears that the assumptions for noise analysis were generated in part from information submitted by BNSF and SJRL in response to SEA's previous request for construction information to calculate total air quality emissions. Noise analysis generally requires a more location-specific evaluation of equipment utilization on a much smaller timeframe, *i.e.* an hourly or daily basis. However, subject to the exceptions noted below, the assumptions appear to be reasonable.

Please note that the construction contractor has not been selected. Therefore, our responses to the stated assumptions set forth below are based upon typical construction practices and our best professional judgment. The specific means and methods of the construction will be left to the discretion of the contractor, which may deviate from some of these assumptions.

- 1. The two noisiest pieces of construction equipment used along most of the new rail line, would be heavy trucks and bulldozers.**

Response:

We believe that this assumption is correct with respect to the equipment that would be used along most of the new rail line.

- 2. The two noisiest pieces of construction equipment used in the area with the closest receptors, which is located along Genoa-Red Bluff Road, would also be heavy trucks and bulldozers.**

Response:

We believe that this assumption is correct.

- 3. Heavy trucks would operate 8 hours per day, but only be at full power for 15 minutes per hour at any given location.**

Response:

We believe that this assumption generally is correct with respect to the entire construction project. However, with respect to work that would be performed at certain locations, such as the detention pond and borrow sites, the truck activity may be more concentrated than the construction activity along the main line. See attached map.

- 4. Heavy trucks would be at the minimum distance to the nearest residential receptor for 10 minutes out of each hour for 8 hours per day for 30 days.**

Response:

We believe that this assumption generally is correct with respect to the entire project. However, with respect to work that would be performed at certain locations, such as the detention pond, bridge locations, grade separations, and borrow sites, work may be performed in a more concentrated manner and may exceed 30 days in duration.

- 5. Bulldozers would operate for 8 hours at any given location.**

Response:

We believe that this assumption generally is correct with respect to the entire construction project for normal operating hours generally observed by contractors in similar construction projects. However, differences in operating hours and practices may occur in circumstances such as delays in schedule caused by weather, extended daylight hours during the summer season, and other unanticipated events. We would anticipate that the contractor would have flexibility in dealing with such issues in his discretion, as is customary for similar construction projects.

- 6. A bulldozer would only be at the minimum distance to a residence for one day out of 30.**

Response:

We believe that this assumption generally is correct with respect to the entire project. However, with respect to work that would be performed at certain locations, such as the detention pond and borrow sites, equipment, potentially including a bulldozer, may be working at the site for a duration exceeding 30 days.

- 7. Pile driving for bridge construction at Red Bluff Road and Space Center Boulevard, Taylor Bayou, Armand Bayou, Horsepen Bayou, Spring Gully, Big Island Slough, and Harris County Flood Control District ditches would occur for 8 hours per day for 30 days.**

Response:

We believe that this assumption is correct with respect to construction of all bridges except those over Armand and Taylor Bayous, for which we have estimated the duration of pile driving activities to be 45 and 60 days, respectively. Differences in operating hours and practices may occur in circumstances such as delays in schedule caused by weather, extended daylight hours during the summer season, and other unanticipated events. We would anticipate that the contractor would have flexibility in dealing with such issues in his discretion, as is customary for similar construction projects.

8. No construction would occur during the night.

Response:

We believe that this assumption generally is correct with respect to the entire construction project for normal operating hours generally observed by contractors in similar construction projects. However, differences in operating hours and practices may occur in circumstances such as delays in schedule caused by weather, extended daylight hours during the summer season, and other unanticipated events. We would anticipate that the contractor would have flexibility in dealing with such issues in his discretion, as is customary for similar construction projects.

Alignment 1/1B
(Proposed)

Space Center Blvd

Potential Borrow Site
for Space Center Blvd.

Alterations to Existing Detention
Pond to Offset Railroad Embankment

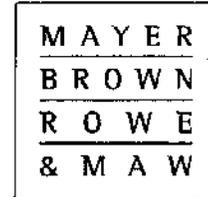
Detention Pond
(HCFCD)

Ellington
Field

San Jacinto Rail Limited
Bayport Loop Build-Out
Potential Borrow Site for Space center Blvd.

SAN JACINTO RAIL
LIMITED **HDR**

Prepared By	tttrimble	Date	OCT 2002	Exhibit	1
Scale	0 300 600 Feet		Plot File		09357-002-037



October 17, 2002

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TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

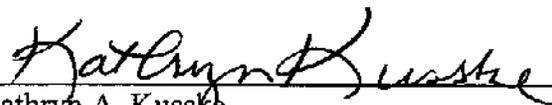
ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
1	Updated response to Item No. 10 of SEA's June 13, 2002 information request to Petitioners.

REMARKS: _____

Signed: 
Kathryn A. Kusske

**Jurisdictional Waters of the U.S. in ROW and Potential
Impacts of Fill, Proposed Bayport Industrial Build-Out
Alignment (1 – 1B), Harris County, Texas
USACE Galveston Regulatory Project #22823**

Jurisdictional Water Type	Area of Right-of-Way (acre)	Impacts	
		Fill Impacts (acre)	Linear Feet of Fill (ft)
Streams / Open water			
Horsepen Bayou	0.02	0	0
Intermittent Tributary 1	0.01	0.01	100
Intermittent Tributary 2 (Armand Bayou)	0.02	0.02	170
Armand Bayou	0.07	0	0
Spring Gully	0.04	0	0
Big Island Slough	0.17	0	0
HCFCD Bayport Channel (tidal)	0.24	*(279 ft ³)	0
Taylor Bayou (tidal)	0.88	*(1,444 ft ³)	0
Wetlands			
Armand Bayou Forested Gilgai	0.25	0.25	n/a
Armand Bayou Emergent Wetland	0.01	0.01	n/a
Big Island Slough Forested Gilgai	0.21	0.21	n/a
Big Island Slough Cleared Wetlands (Chinese tallow dominated)	1.96 [†]	1.96 [†]	n/a
Taylor Bayou (tidal wetlands)	0.34	0.23 [†]	n/a
Total	4.22	2.69	270

*Structural fill above existing substrate from bridge pier placement (approx. 1,444 cubic ft for Taylor Bayou, 279 cubic ft for HCFCD Bayport channel).

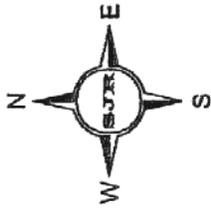
[†] Totals were revised on Oct. 14, 2002 to reflect impacts associated with the lead to serve the Equistar North plant and design refinements at Taylor Bayou.

**Aquatic Resources Within the Proposed Rights of Way of the Feasible Alternative Alignments
Bayport Industrial Build-Out, Harris County, Texas
USACE Galveston Regulatory Project #22823**

Water Resource Types (Jurisdictional and Non- Jurisdictional)	West of Merge						East of Merge	
	Alignment 1		Alignment 2			Alignment 1	Alignment 1B	
	1* (acres)	1C (acres)	2B (acres)	2C (acres)	2D (acres)	1 (acres)	1B* (acres)	
Jurisdictional								
Streams	0.02	0.02	0.00	0.00	0.00	0.33	0.31	
Tidal (Open Water)	0.00	0.00	0.00	0.00	0.00	1.22	0.88	
Tidal (Marsh / Shrub)	0.00	0.00	0.00	0.00	0.00	1.13	0.34	
HCFCD Bayport Channel (tidal)	0.00	0.00	0.00	0.00	0.00	0.24	0.24	
Freshwater Emergent Wetlands	0.00	0.00	0.00	0.00	0.00	0.01	0.01	
Forested Wetlands								
Willow Oak (gilgai)	0.00	0.00	0.00	0.00	0.00	0.64	0.46	
Disturbed Areas (Tallow)	0.00	0.00	0.00	0.00	0.00	1.96 [†]	1.96 [†]	
Non-Jurisdictional (isolated)								
Prairie (limited soil disturbance)	1.00	1.00	5.99	4.46	6.00	0.00	0.00	
Disturbed (excavated, drained)	2.66	1.96	0.00	0.00	0.00	0.59	0.56	
Total Non-Jurisdictional Waters	3.66	2.96	5.99	4.46	6.00	0.59	0.56	
Total Jurisdictional Waters	0.02*	0.02	0.00	0.00	0.00	5.53	4.20*	

*Proposed alignment segments.

[†] This total was revised on Oct. 14, 2002 to reflect the impacts associated with the industrial lead to serve the Equistar North plant.



**San Jacinto Rail Limited
Proposed Route**

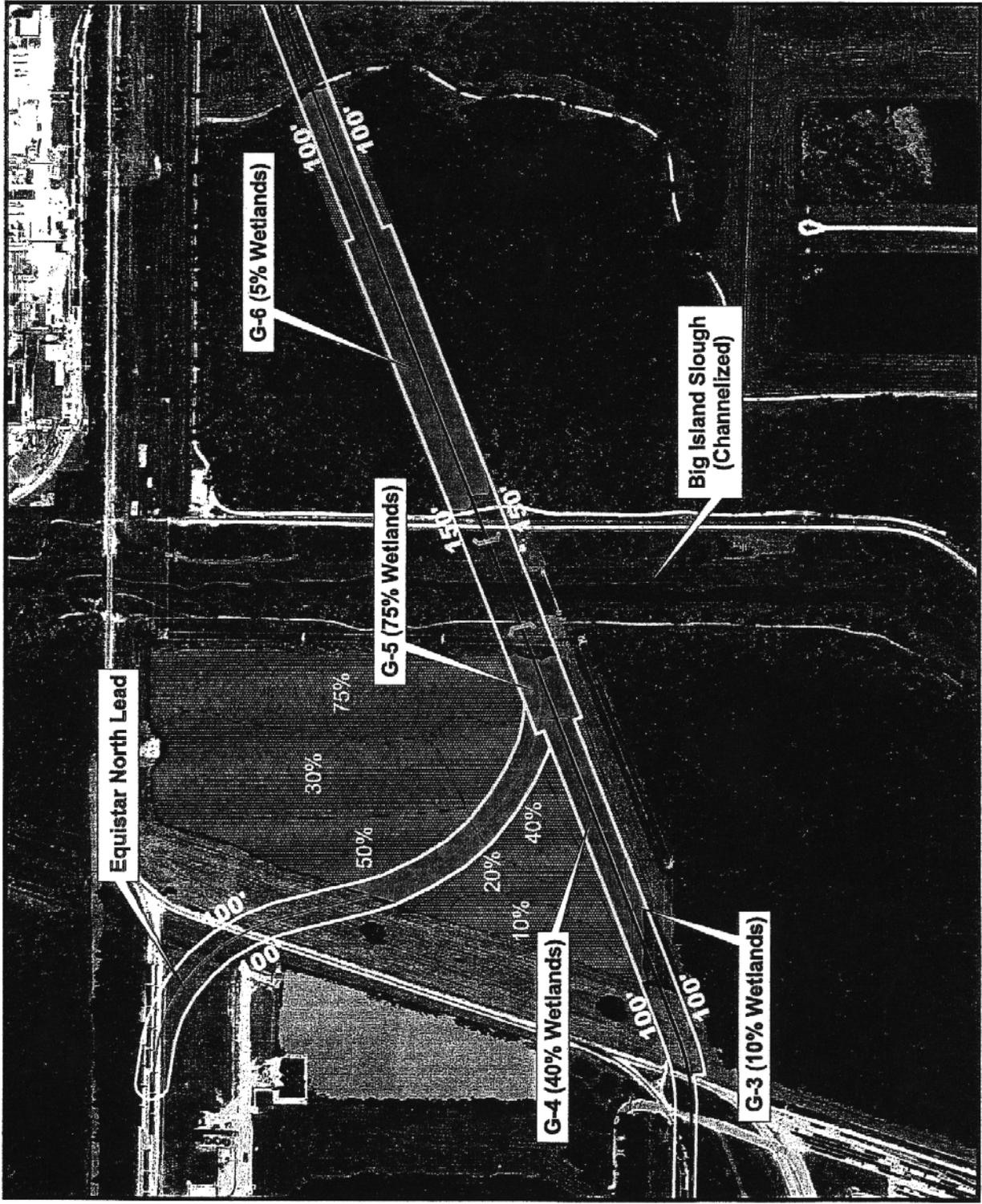
LEGEND

-  Waters of the U.S. (streams, open water)
-  Waters outside ROW
-  Wetlands in ROW
-  Wetlands outside ROW
-  Isolated Wetlands in ROW
-  Isolated Wetlands outside ROW
-  Cigital Depressions in ROW
-  Cigital Depressions outside ROW
-  Alternative Alignments
-  ROW of Alternative Alignments
-  Floodplain (Firm66)
-  Proposed Bridge Abutments

SAN JACINTO RAIL LIMITED 

**Jurisdictional Water Crossing
Big Island Slough**

Project No.	0CT 2002	Scale	6A
Drawn By	0	Scale	000 Feet
Sheet No.		Project No.	09357-002-037



MAYER, BROWN, ROWE & MAW

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October 28, 2002

Mr. Alan Summerville
Project Manager
ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

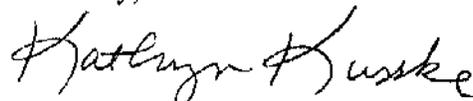
Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct – And The Burlington Northern And Santa Fe Railway Company – Authority To Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Mr. Summerville:

Enclosed please find an update to the April 17, 2002 response of Petitioners to SEA's November 14, 2001 request for construction and operation information.

Please let me know if you have any questions.

Sincerely,



Kathryn A. Kusske

cc: Dana G. White

BNSF



DAVID C. SEEP
Director Environmental Engineering and
Program Development

The Burlington Northern
and Santa Fe Railway Company

920 SE Quincy, P.O. Box 1738
Topeka, KS 66601-1738
Phone: (785) 435-2225
Fax: (785) 435-2202
E-mail: David.Seep@BNSF.com

Information Request Related to Air Quality
Finance Docket No. 34079
EIS for Bayport Loop Build-Out

October 28, 2002

This is an update to the April 17, 2002 response of The Burlington Northern and Santa Fe Railway Company (BNSF) and San Jacinto Rail Limited (SJRL) to SEA's November 14, 2001 request for construction and operation information. This update provides supplemental information only with respect to the construction of "land bridges" in response to Request No. 2 of SEA's Construction Phase Information Requests.

Construction Phase

2. *List of all materials (e.g., dirt, gravel, cement, etc.) brought into or removed during the construction phase (e.g., average of two tons of soil will be moved per day).*

In our earlier response, we indicated that there would be several "land bridges" required to cross pipeline corridors. We further stated that it was anticipated that the majority of bridges over water or low areas would be constructed from pre-cast concrete slabs, which would be brought into the site. Based on available information at the time, we anticipated that only the grade separation at Red Bluff Road and the land bridges over five major pipeline corridors would be constructed of cast-in-place concrete. Finally, we estimated the total quantity of concrete required for the grade separation and the land bridges to be approximately 14,000 cubic yards.

Based on our current planning and design projections, we would like to update our previous submission. We now estimate that approximately 22 land bridges would be needed and all of them would be constructed of cast-in-place concrete. The amount of concrete needed to construct these land bridges and the Red Bluff Road grade separation—the two primary items to be constructed of cast-in-place concrete—as well as miscellaneous facilities and contingencies is 15,000 cubic yards of concrete. This represents an increase of 1,000 cubic yards over the estimate that was provided in our

April 17, 2002 submission¹. Using the same set of assumptions that we provided in the April 17, 2002 submittal, this volume of concrete would equate to a total of 1,500 concrete trucks, with a round trip of 10 miles for a total of 15,000 truck miles.²

Please feel free to contact me at (785) 435-2225 or Ray Herman at (817) 352-2900 if you have any questions regarding the above information.

¹ Our previous estimate of the volume of concrete that would be needed for construction of the Red Bluff Road grade separation was very conservative, erring on estimating a significantly greater volume than we now believe would be required. This estimate assumes that the crossings of Space Center Boulevard will be a grade separated crossing with the rail line being taken over the road and does not account for additional concrete that might be required if the road is taken over the rail line.

² Attachment B of our April 17, 2002 contains the assumptions.

MAYER, BROWN, ROWE & MAW

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October 30, 2002

Mr. Alan Summerville
Project Manager
ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

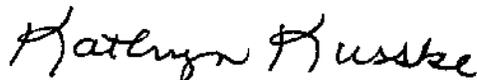
Re: Finance Docket No. 34079, San Jacinto Rail Limited - Authority To Construct - And The Burlington Northern And Santa Fe Railway Company - Authority To Operate - Petition For An Exemption From 49 U.S.C. §10901 - Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Mr. Summerville:

Enclosed please find Petitioners' response to SEA's October 15, 2002 letter request.

Please let me know if you have any questions.

Sincerely,



Kathryn A. Kusske

Enclosure

cc: Dana G. White

BNSF



F. RAY HERMAN
Manager, Engineering

The Burlington Northern
and Santa Fe Railway Company

5800 North Main Street
Ft. Worth, TX 76179
(817) 352-2900
Fax (817) 352-2912
E-mail Fredrick.Herman@BNSF.com

Information Request Related to Alternative 2C
Finance Docket No. 34079
EIS for Bayport Loop Build-Out

October 30, 2002

This is the response of The Burlington Northern and Santa Fe Railway Company (BNSF) and San Jacinto Rail Limited (SJRL) to SEA's October 15, 2002 request for confirmation that a grade separation of Alternative 2C and Space Center Boulevard would be infeasible.

Alternative 2C would require a grade separation at Space Center Boulevard. There are two methods to achieve this grade separation. One approach would be to take the railroad up and over the road. A second alternative would be to take the road up and over the railroad. Either option presents numerous engineering and design constraints, environmental impacts, and increased costs that collectively render Alternative 2C unreasonable and/or infeasible. These impediments, taken as a whole, are more substantial than those presented by Alternatives 2B and 2D, which attempt to minimize the potential environmental impacts and do not raise the same myriad of engineering, design and economic issues.

RAILROAD OVER SPACE CENTER BOULEVARD

- 1) A railroad overpass would require beginning the approach from the west approximately 2,450-2,650 feet¹ from the crossing of Space Center Boulevard, or between the City of Houston Southeast Water Treatment Facility and Genoa-Red Bluff Road. Existing constraints coupled with the planned widening of Genoa-Red

¹ Standard railroad design would restrict the railroad grade to 1% (one foot of raise per 100 linear feet). Assuming that the bridge would be constructed to accommodate the minimum Texas DOT clearance (*i.e.*, 16.5 feet from the top of the pavement to the bottom of the bridge), and further assuming that the bridge is 8 feet from the bottom stringer to the top of rail, this would result in a total height of 24.5 feet from top of pavement to top of rail. At a 1% grade, this would equate to 2,450 feet from beginning of grade to the end of bridge points. We used an estimate of 2,450 feet to 2,650 feet because we do not currently have the top of pavement elevation for Space Center Boulevard, nor do we have the natural ground elevation at the water treatment facility and a elevation difference of 2 feet could add 200 feet to the approach length.

Bluff Road already restrict the width of the railroad right of way (ROW) to 30-50 feet. Adding the required fill to construct the west approach would not permit staying within the available ROW. This problem may be mitigated by moving Genoa-Red Bluff Road further north to provide more ROW, but such a measure clearly would require the taking of homes. This substantial adverse impact on residences and project cost would not be associated with Alternatives 2B and 2D.

The only other solution would be to construct a costly retaining wall to contain property within available ROW and avoid encroaching upon the Water Treatment Facility. It is our preliminary view that the retaining wall solution would, however, create a drainage problem resulting in additional design and cost challenges.

- 2) Between the Water Treatment Facility and Space Center Boulevard, Alternative 2C would require reversing 7°30' curves. This means the bridge over Space Center Boulevard would be on a curve. The combination of these curvatures with the 1% grade at the same location would put more wear on the curves and would be a suboptimum configuration from a rail operations perspective where other more efficient design alternatives are presented.
- 3) The crossing angle combined with the railroad curve would require special steel spans over Space Center Boulevard at substantial additional project cost.
- 4) This bridge would require the placement of the center support column in the median of Space Center Boulevard. The most current plans that we have for the boulevard indicate a 30-foot median with a 5-foot by 2-foot concrete box storm drain in the center. Under this configuration, it appears that we have room for our column. However, we understand that Harris County intends to raise Space Center Boulevard by approximately 18 inches. This change will impact the drainage which may require larger storm drains which could present a conflict with this support column.
- 5) Soil stability issues will require 4:1 side slopes for the approaches. On the east side of Space Center Boulevard, the new embankment would destroy some of the endangered Texas Prairie Dawn habitat sites and additional wetlands. While the wetlands could be mitigated, protection of the Texas Prairie Dawn might be accomplished through construction of a retaining wall. Due to railroad loading and soil issues, MSE walls with tiebacks would not be feasible. Therefore, we would need a special, potentially cost-prohibitive wall design with cast-in-place columns for support.
- 6) On the west side of Space Center Boulevard, the embankment would impact additional wetland areas. Due to this impact, additional mitigation would be needed. This could include the construction of a retaining wall on both the east and west sides.

SPACE CENTER BOULEVARD OVER RAILROAD

- 1) Preliminary engineering study indicates a highway overpass would not match the existing grade of Space Center Boulevard prior to the intersection of Genoa-Red Bluff Road. County plans to widen Genoa Red-Bluff Road would exacerbate this condition.

- 2) As described above, this overpass also would require retaining walls to avoid known populations of the Texas Prairie Dawn.
- 3) Such an overpass would have to span not only the railroad, but also existing drainage channels and a major water line, increasing the length and cost of the overpass.
- 4) The crossing angle, combined with railroad curves and curves in Space Center Boulevard, would require special piers and spans.
- 5) The overpass would limit access to adjacent property owners who have frontage on Space Center Boulevard or, alternatively, the BNSF and SJRL would have to construct frontage roads, which would increase the impact on the environment and the cost of the project.
- 6) Space Center Boulevard would have to be closed during the construction or the additional cost for a temporary shoofly would have to be included in the cost of the grade separation.

Please feel free to contact me at (817) 352-2900 if you have any questions regarding the above information.

MAYER, BROWN, ROWE & MAW

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October 30, 2002

BY COURIER

Mr. Alan Summerville
Project Manager
ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

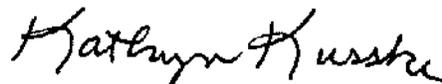
Re: Draft EIS Chapters 1 and 2 Fact Check

Dear Alan:

Enclosed please find a redline version of the portions of Chapters 1 and 2 of the Draft Environmental Impact Statement you forwarded to Petitioners for their review of factual assertions. The redline indicates the Petitioners' suggested corrections to clarify the descriptions of alternatives to more accurately reflect their physical orientation, to provide more fulsome narrative descriptions of the proposed action and alternatives, and to identify updated information regarding shipper facilities.

I believe most of these edits are self-explanatory, but if you have any questions, please do not hesitate to contact me for clarification. Thank you for the opportunity to make these suggested factual changes.

Best regards,



Kathryn A. Kusske

Enclosures

cc: Dana White

MAYER, BROWN, ROWE & MAW

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WASHINGTON, D.C. 20006-1101

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November 4, 2002

Mr. Alan Summerville
Project Manager
ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

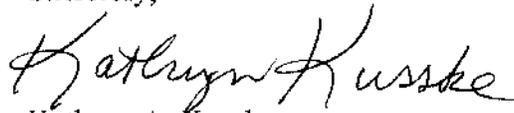
Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct – And The Burlington Northern And Santa Fe Railway Company – Authority To Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Mr. Summerville:

Enclosed please find the Petitioners' updated responses to the your letter dated June 20, 2002 requesting information.

Please let me know if you have any questions.

Sincerely,


Kathryn A. Kusske

Enclosure

cc: Dana G. White

Update to Petitioners' Response to SEA's June 20, 2002 Information Request Concerning Bayport Rail Terminal

This update provides supplemental information with respect to Bayport Rail Terminal (BRT)'s 600 car spots described in the August 5, 2002 response of The Burlington Northern and Santa Fe Railway Company (BNSF) and San Jacinto Rail Limited (SJRL) to SEA's June 20, 2002 information request.

The 200 car spots for operational exchange/transfer tracks (approximately 12,800 feet of track) will provide the capacity needed for receiving the inbound trains and for departing the outbound trains from the Bayport Rail Terminal. This amount of space would provide the capacity for one inbound and one outbound train to occupy the terminal at the same time. This is necessary because the same crew and locomotives are expected to be used for both the train coming into BRT and the train departing BRT each day. The crews will unhook the locomotives from the inbound train, move over to the outbound train, hook the locomotives to that train and depart the BRT. These tracks will also provide a limited amount of space for other maneuvers of the cars in those trains as may be needed, such as taking cars out of trains or adding cars to trains for linehaul movement.

The additional 400 car spots (approximately 25,600 feet of track) will provide the track capacity necessary for a number of functions. The two primary needs are short-term storage and performance of switching/operational services that may be required. BRT may perform pre-staging of cars that BNSF will deliver to the shippers located along the Bayport Loop. BRT may also provide minimal switching necessary to make up BNSF trains departing BRT by grouping cars with similar destinations.

These tracks will also be used for short-term storage in variety of ways. Generally, we expect to store a minimum of two days of empty car supply at BRT. In addition, we expect to temporarily store some loaded cars at BRT. A common practice with the plastic pellet shippers is to use railcars as part of their inventory control management process. To take advantage of volume efficiencies in production, plants may often make more of a certain type of plastic pellet than is currently on order from their customers. The shipper may release these cars to get them out of their plant but not indicate an immediate destination. These cars may temporarily be held at BRT until the shipper confirms a final destination for the car or informs BNSF that the car should be moved to long-term storage.

In addition, these tracks will provide the capacity to temporarily hold cars that cannot be delivered when a shipper is unable to receive rail cars at its plant, to temporarily store cars that need minor repairs and to provide space to perform light repair work.

In all of this it is important to note that rail yard capacity does not function like a parking lot for vehicles. Only one train can be on the lead track into a yard at a given time. Therefore, for short periods of time, cars that need to depart the yard and the cars

coming into a yard may both be in the yard at the same time. In addition, when switching activities are being performed, the capacity of some tracks cannot be maximized. For example, if a switching crew is pre-staging a train to deliver to seven different customers, they most likely will need to dedicate seven tracks during the switching operation because track is only accessible from the ending point. Unlike a vehicle, a rail car cannot be placed in the middle of an existing line of cars. It must go at the end.

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

November 6, 2002

Kathryn A. Kusske, Esq.
Mayer, Brown, Rowe & Maw
1909 K Street, NW
Washington, D.C. 20006

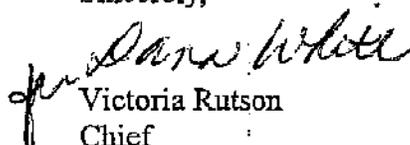
RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

Dear Ms. Kusske:

Consistent with 40 CFR §1506.5(a), we would like to request additional information needed for the purposes of the Section of Environmental Analysis' (SEA) environmental review in connection with the above-referenced proceeding. SEA requests that you confirm the information on The Burlington Northern and Santa Fe Railway Company (BNSF) traffic data that was submitted to SEA via a fax from Joe Adams, of the Union Pacific Railroad Company (UP), dated October 30, 2002, a copy of which is attached. We also request that you provide information on BNSF traffic that UP was not able to provide.

Please send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor, at 9300 Lee Highway, Fairfax, Virginia, 22031. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

UP fax attached

MAYER, BROWN, ROWE & MAW

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November 7, 2002

Mr. Alan Summerville
Project Manager
ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

Re: Finance Docket No. 34079, San Jacinto Rail Limited – Authority To Construct – And The Burlington Northern And Santa Fe Railway Company – Authority To Operate – Petition For An Exemption From 49 U.S.C. §10901 – Build-In To The Bayport Industrial Loop Area Near Houston, Harris County, Texas

Dear Mr. Summerville:

Enclosed please find the Petitioners' response to the your letter dated November 6, 2002 requesting information.

Please let me know if you have any questions.

Sincerely,



Kathryn A. Kusske

Enclosure

cc: Dana G. White

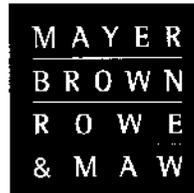
**Petitioners' Response to SEA's November 6, 2002
Information Request Concerning Traffic Data**

This is the response of The Burlington Northern and Santa Fe Railway Company (BNSF) and San Jacinto Rail Limited (SJRL) to SEA's November 6, 2002 request for information pertaining to, and confirmation of, certain traffic data.

We have reviewed the data supplied by Union Pacific Railroad (UP) in its October 30, 2002 submission to SEA. With respect to the average number of trains per day provided for BNSF trains on certain rail line segments (Strang Subdivision from Strang Yard to Tower 30, East Belt from Tower 85 to Tower 87, Terminal Subdivision from Tower 87 to Dawes, and Baytown Subdivision from Dayton Junction to CMC Plastic Storage Yard), the information provided by UP appears to be reasonable. In addition, BNSF runs 0.9 trains per day on the GH&H Line from Tower 30 to Tower 85.

With respect to the average number of rail cars per train, UP provided information pertaining only to BNSF's trains on the Strang Subdivision from Strang Yard to Tower 30 and Terminal Subdivision from Tower 87 to Dawes. These numbers also appear to be reasonable. In addition, BNSF trains are generally comprised of approximately 45-60 cars per train on the East Belt from Tower 85 to Tower 87 and of approximately 70 cars per train on the GH&H Line from Tower 30 to Tower 85.

Regarding hazardous materials traffic handled on the Strang Subdivision, based on data from the third quarter 2002, approximately 21% of traffic interchanged was hazardous material cars, including plastics and intermodal traffic. Of that amount, approximately 58% were empty cars. Approximately 8% of the intermodal traffic handled at Barbours Cut was hazardous. We estimate that, as a general matter, the approximate percentage of hazardous material cars over the Strang Subdivision (21%) is consistent for all cars, loaded and empty, moving on the remaining rail line segments of the no action alternative and proposed action and alternatives listed in UP's submission.



November 12, 2002

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kkuska@mayerbrownrowe.com

TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

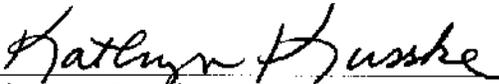
ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
1	CD – Wetlands “GIS Layers Revision” in response to Request No. 6 of SEA’s June 13, 2002 information request.

REMARKS: _____

Signed: 
Kathryn A. Kusske

Enclosures

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

November 19, 2002

Kathryn A. Kusske, Esq.
Mayer, Brown, Rowe & Maw
1909 K Street, NW
Washington, D.C. 20006

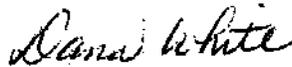
RE: Finance Docket No. 34079 - San Jacinto Rail Limited -
Construction Exemption - And The Burlington Northern and Santa
Fe Railway Company - Operation Exemption - Build-Out to the
Bayport Loop Near Houston, Harris County, Texas

Dear Ms. Kusske:

Consistent with 40 C.F.R. § 1506.5(a), we would like to request additional information needed for the purposes of the Section of Environmental Analysis' environmental review in connection with the above-referenced proceeding. We would like an updated map of Alternative 1C based on the latest preliminary engineering and a map indicating the property lines that the alignment would cross.

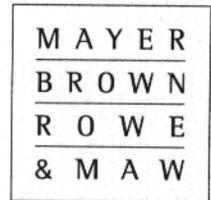
I request that you send this material to Mr. Alan Summerville of ICF Consulting, our independent third-party contractor at 9300 Lee Highway, Fairfax, Virginia, 22031. Please feel free to contact me or Dana White of my staff at (202) 565-1552 if you have any questions.

Sincerely,



Victoria Rutson
Chief

Section of Environmental Analysis



November 20, 2002

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TO: ICF Consulting Group, Inc.
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Fairfax, VA 22031

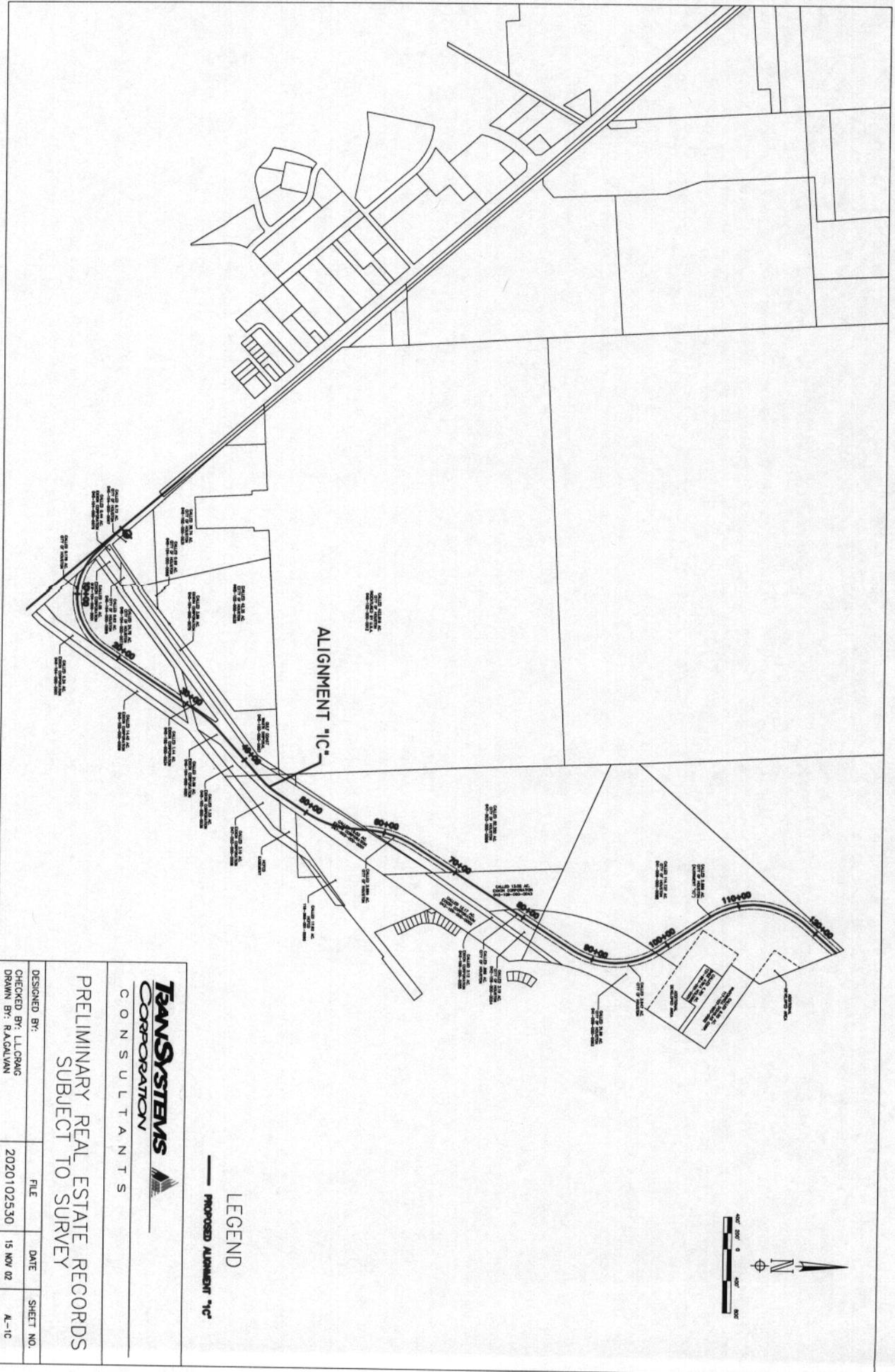
ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
1 CD	Updated shape file of Alternative 1C in response to SEA's November 19, 2002 request for information.
1	Map indicating property lines for Alternative 1C in response to SEA's November 19, 2002 request for information.

Signed: Kathryn A. Kusske
Kathryn A. Kusske

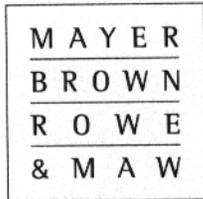


LEGEND
 — PROPOSED ALIGNMENT 1C

TRANSYSTEMS CORPORATION
 CONSULTANTS

PRELIMINARY REAL ESTATE RECORDS
 SUBJECT TO SURVEY

DESIGNED BY:	FILE	DATE	SHEET NO.
CHECKED BY: LL CRAIG	2020102530	15 NOV 02	A-1C
DRAWN BY: RA GALVAN			



November 20, 2002

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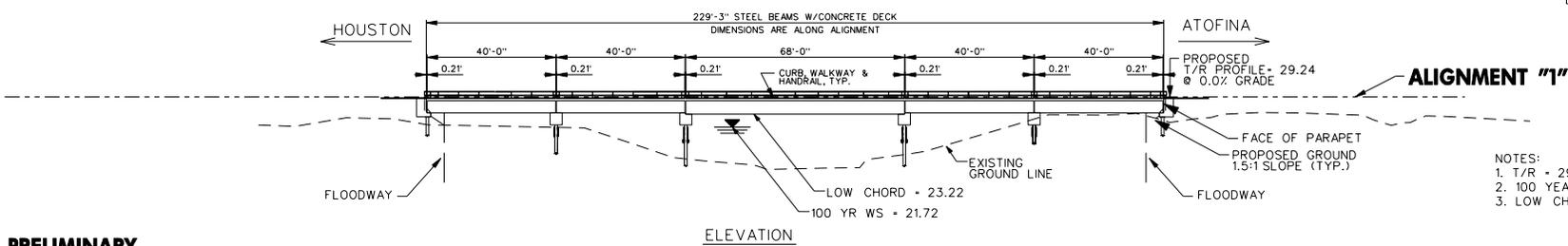
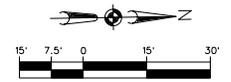
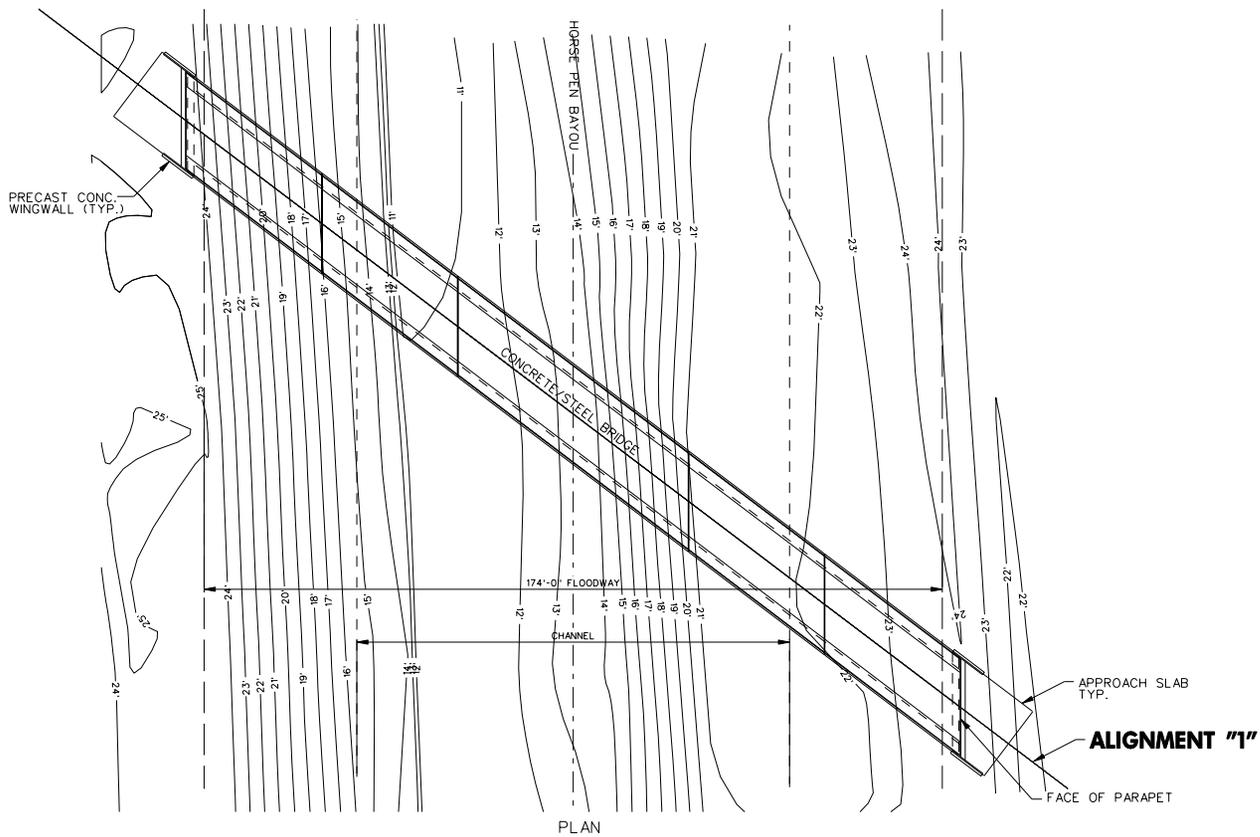
ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
1 Set	Updated bridge drawings in response to SEA's November 7, 2002 request for information.

Signed: Kathryn A. Kusske
Kathryn A. Kusske



- NOTES:
 1. T/R = 29.24
 2. 100 YEAR WATER SURFACE = 21.72
 3. LOW CHORD BNSF BRIDGE = 23.22

PRELIMINARY

No.	REVISION	DATE	BY

SAN JACINTO RAIL LIMITED



**GRAHAM TO BAYPORT INDUSTRIAL BUILD-IN
 HARRIS COUNTY, TEXAS**

**VOLUME ONE:
 RAILROAD CONSTRUCTION PACKAGE**

**JURISDICTIONAL WATER CROSSING
 HORSE PEN BAYOU**

TRANSYSTEMS CORPORATION



HANSON WILSON CONSULTANTS



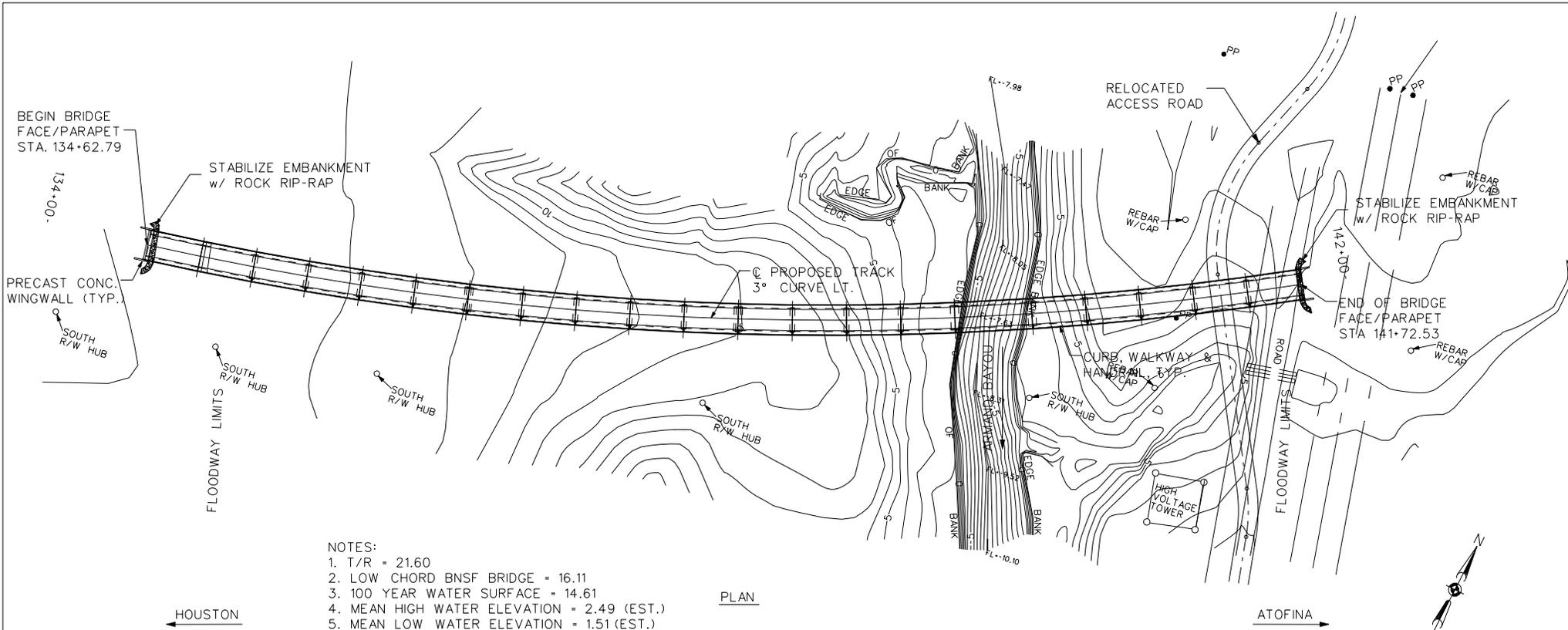
DESIGNED BY: L.L. CRAIG
 DRAWN BY: E. LANG
 REVIEWED BY: B.A. LINDAMOOD

This document is incomplete and is released for the purpose of interim review only under the authority of BRIAN A. LINDAMOOD, P.E. #88252 on November 19, 2002. It is not to be used for construction purposes.

HORSE PEN BAYOU

DATE: 11/19/02
 JOB No.: 202012640
 FILE: HORSE PEN 1

EX-1

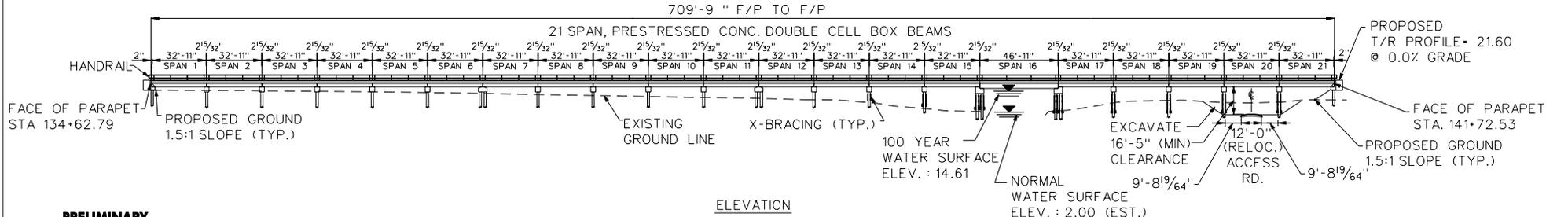
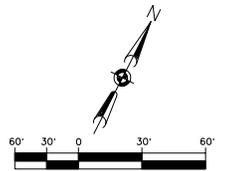


- NOTES:
1. T/R = 21.60
 2. LOW CHORD BNSF BRIDGE = 16.11
 3. 100 YEAR WATER SURFACE = 14.61
 4. MEAN HIGH WATER ELEVATION = 2.49 (EST.)
 5. MEAN LOW WATER ELEVATION = 1.51 (EST.)

PLAN

HOUSTON ←

→ ATOFINA



ELEVATION

PRELIMINARY

No.	REVISION	DATE	BY

SAN JACINTO RAIL LIMITED



GRAHAM TO BAYPORT INDUSTRIAL BUILD-IN
HARRIS COUNTY, TEXAS

VOLUME ONE:
RAILROAD CONSTRUCTION PACKAGE

JURISDICTIONAL WATER CROSSING
ARMAND BAYOU

TRANSYSTEMS CORPORATION
CONSULTANTS

HANSON WILSON
CORPORATION

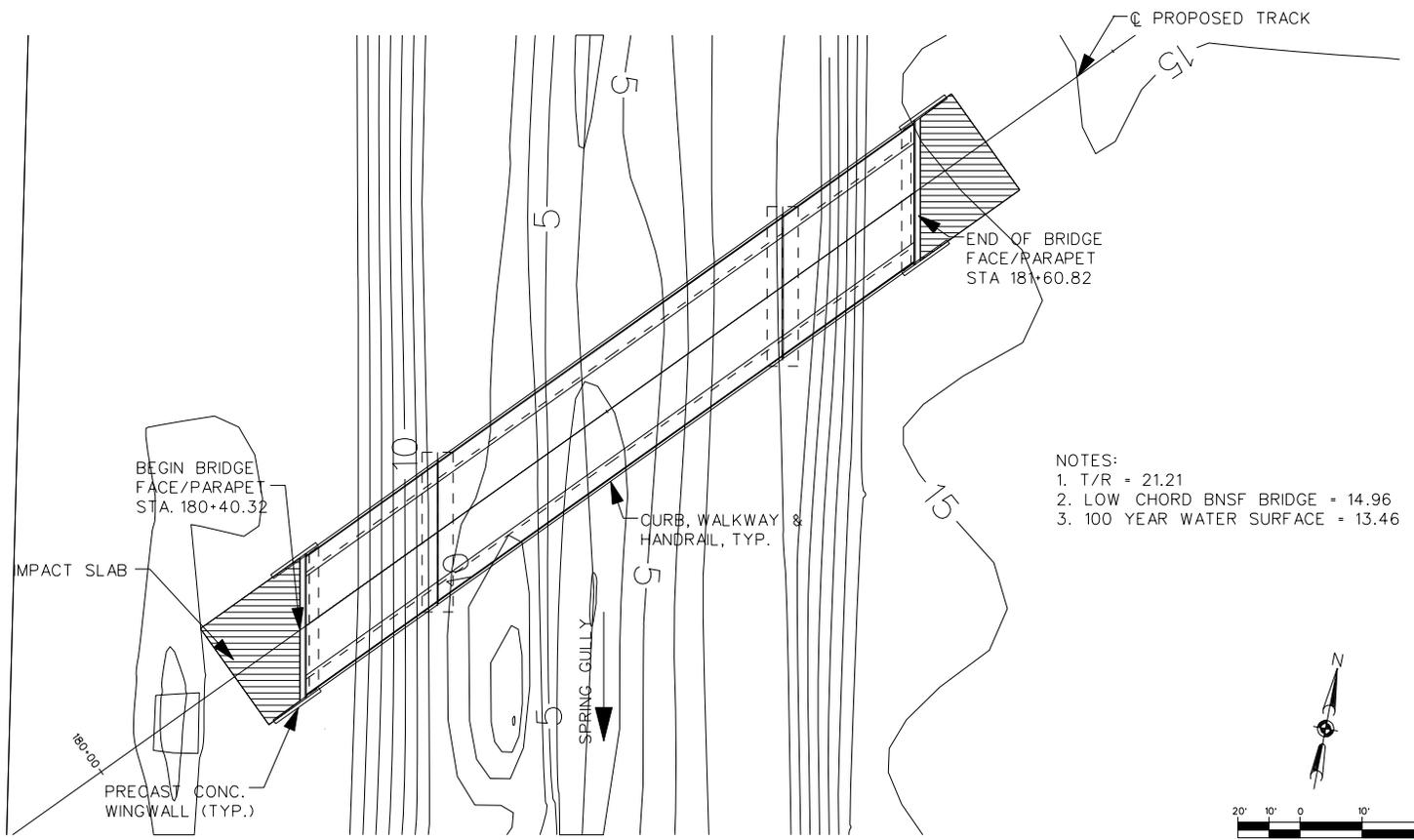
DESIGNED BY: L.L. CRAG
 DRAWN BY: T.G. GODWIN
 REVIEWED BY: B.A. LINDAMOOD

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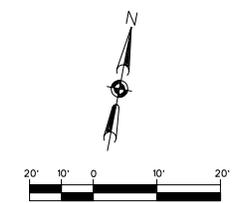
ARMAND BAYOU

DATE: 11/19/02
 JOB No.: 202012640
 FILE: ARMAND

EX-4

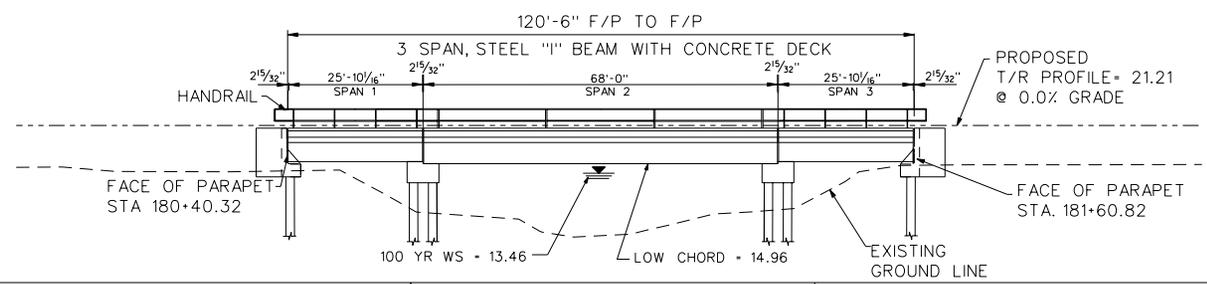


- NOTES:
1. T/R = 21.21
 2. LOW CHORD BNSF BRIDGE = 14.96
 3. 100 YEAR WATER SURFACE = 13.46



HOUSTON ←

→ ATOFINA



PRELIMINARY

No.	REVISION	DATE	BY

SAN JACINTO RAIL LIMITED



GRAHAM TO BAYPORT INDUSTRIAL BUILD-IN
HARRIS COUNTY, TEXAS

VOLUME ONE:
RAILROAD CONSTRUCTION PACKAGE

JURISDICTIONAL WATER CROSSING
SPRING GULLY

TRANSYSTEMS CORPORATION CONSULTANTS



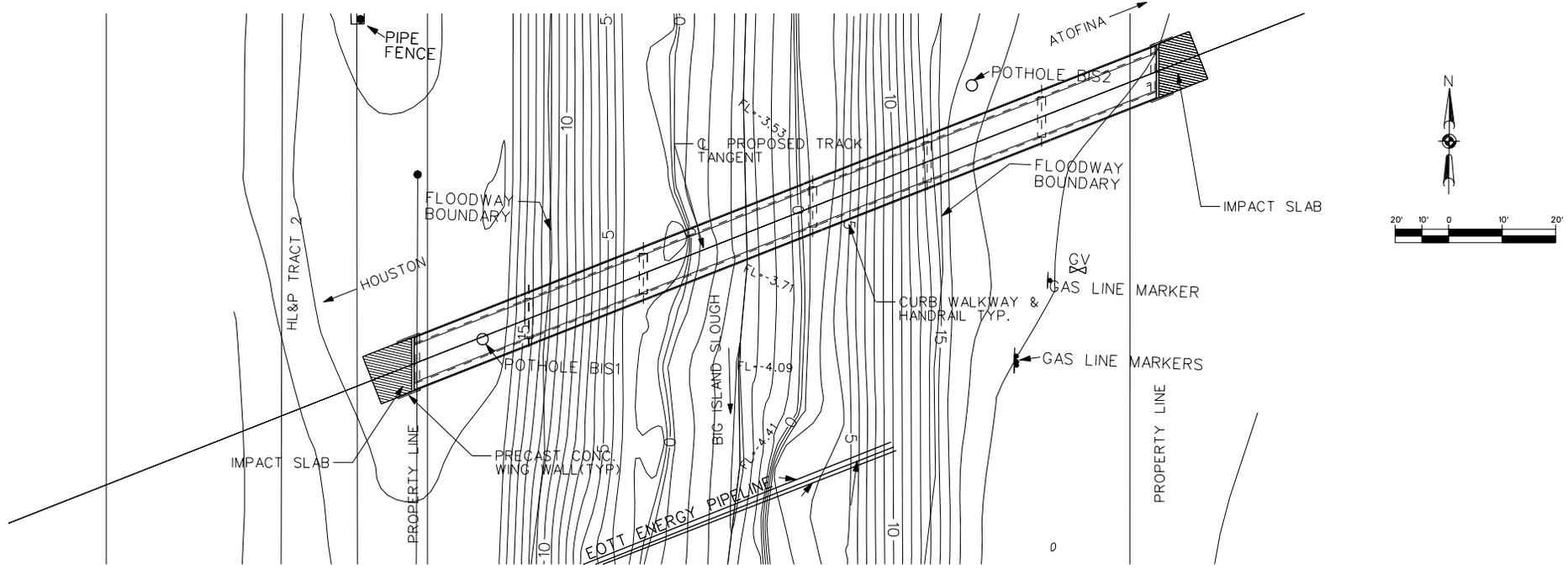
DESIGNED BY: L.L. CRAIG
 DRAWN BY: T.G. GODWIN
 REVIEWED BY: B.A. LINDAMOOD

This document is incomplete and is released for the purpose of interim review only under the authority of BRIAN A. LINDAMOOD, P.E. #88252 on November 19, 2002. It is not to be used for construction purposes.

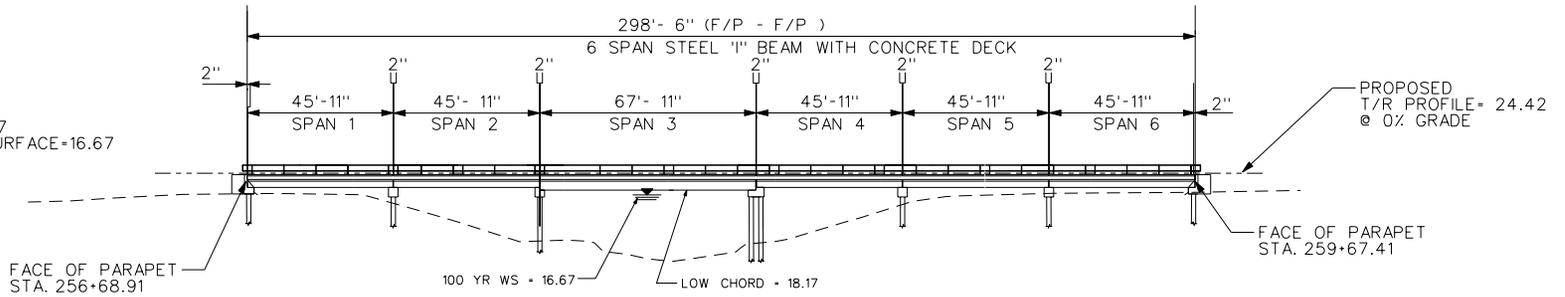
DATE: 11/19/02
 JOB No.: 202012640
 FILE: SPRING GULLY

SPRING GULLY

EX-5



- NOTES:
 1. T/R = 24.42
 2. LOW CHORD = 18.17
 3. 100-YR WATER SURFACE = 16.67



PRELIMINARY

No.	REVISION	DATE	BY

SAN JACINTO RAIL LIMITED



GRAHAM TO BAYPORT INDUSTRIAL BUILD-IN
 HARRIS COUNTY, TEXAS

**VOLUME ONE:
RAILROAD CONSTRUCTION PACKAGE**

**JURISDICTIONAL WATER CROSSING
BIG ISLAND SLOUGH**

TRANSYSTEMS CORPORATION
CONSULTANTS

HANSON WILSON
CORPORATION

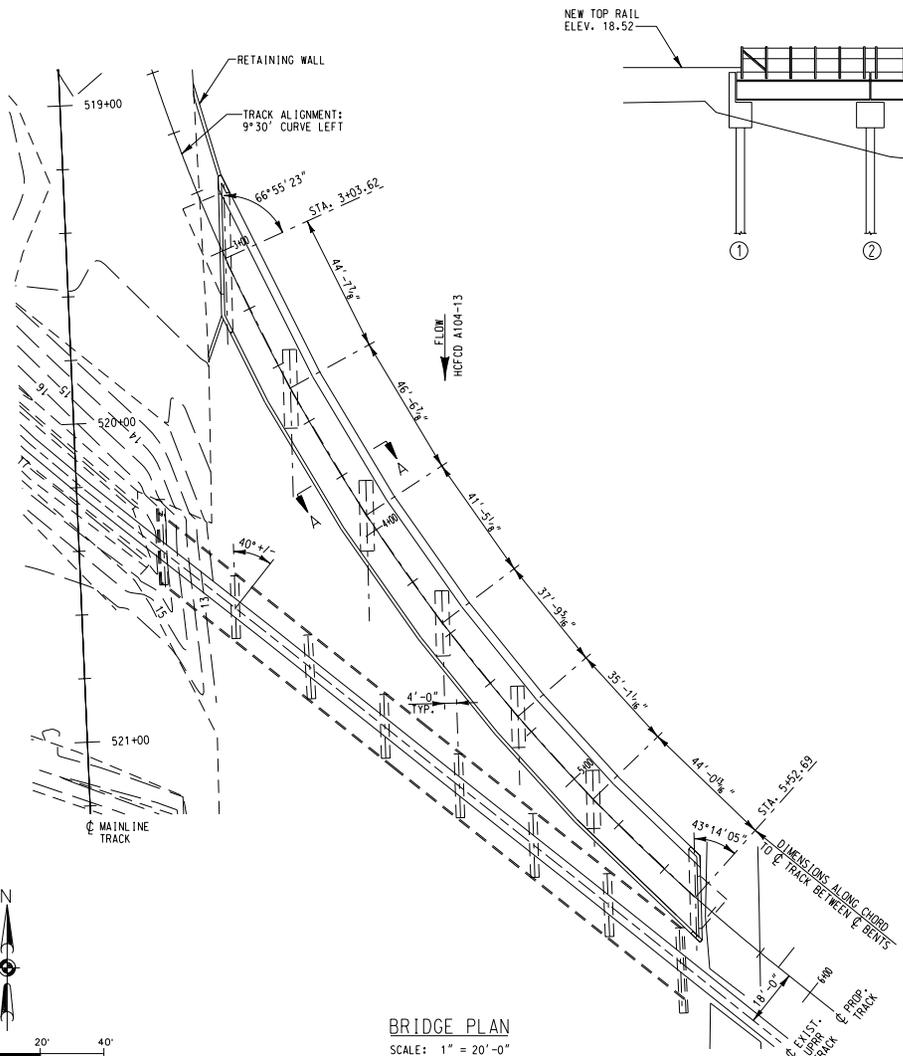
DESIGNED BY: L.L. CRAIG
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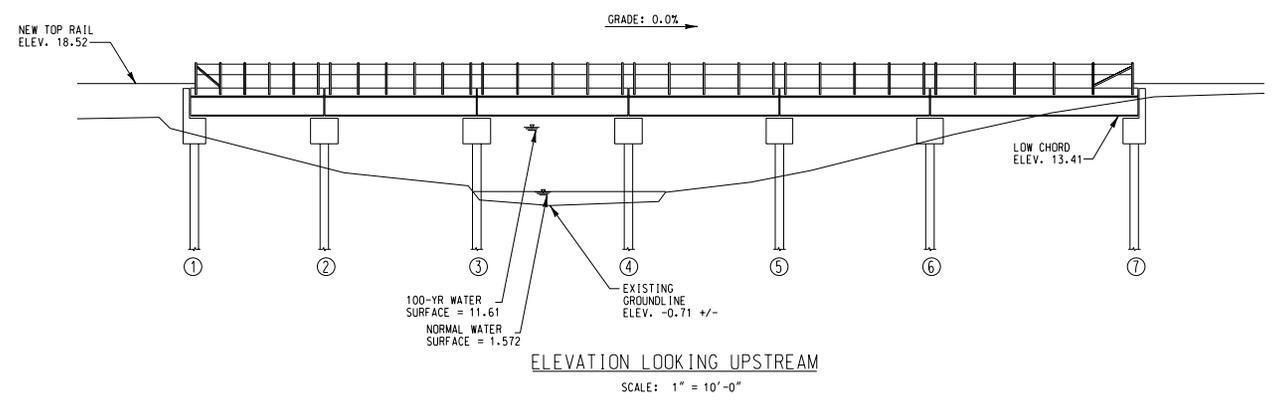
BIG ISLAND SLOUGH

DATE: 11/19/02
 JOB No.: 202012640
 FILE:BIG ISLAND SLOUGH

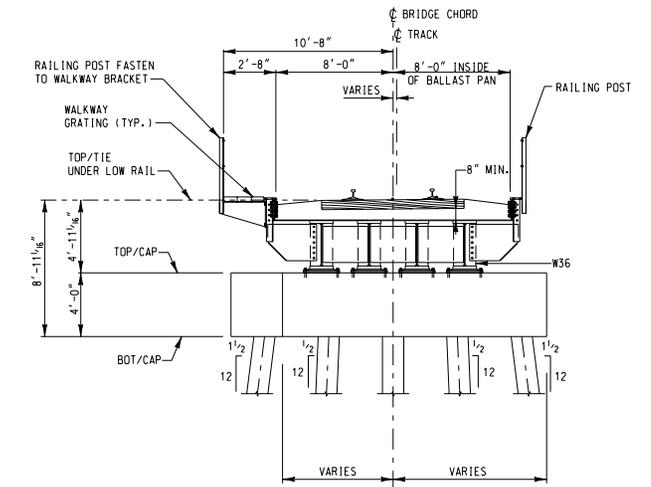
EX-6



BRIDGE PLAN
SCALE: 1" = 20'-0"



ELEVATION LOOKING UPSTREAM
SCALE: 1" = 10'-0"



SECTION A-A

GENERAL NOTES:
 DESIGN LOADING: COOPER E80 WITH DIESEL IMPACT FOR BALLASTED DECK
 DESIGN SPEED: 10 MPH
 SUPER ELEVATION: 3/4"
 PROPOSED LOW CHORD EQUALS OR EXCEEDS THE LOW CHORD ELEVATION OF THE DOWNSTREAM BRIDGE.

No.	REVISION	DATE	BY

SAN JACINTO RAIL LIMITED

GRAHAM TO BAYPORT INDUSTRIAL BUILD-OUT
HARRIS COUNTY, TEXAS

VOLUME ONE:
RAILROAD CONSTRUCTION PACKAGE

BASELL BRIDGE

TRANSYSTEMS CORPORATION CONSULTANTS

HANSON WILSON CORPORATION

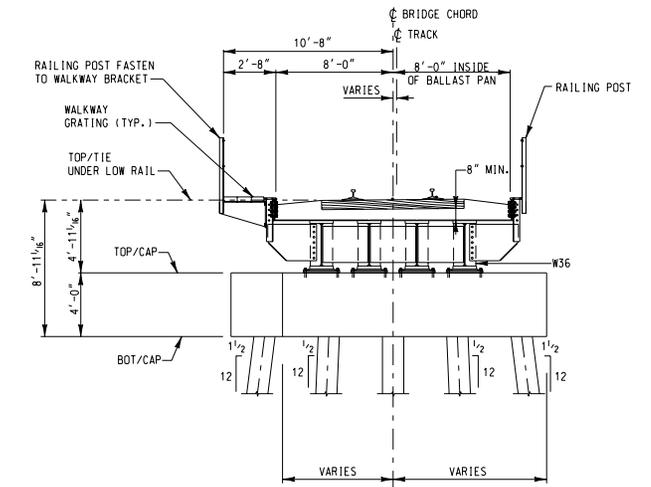
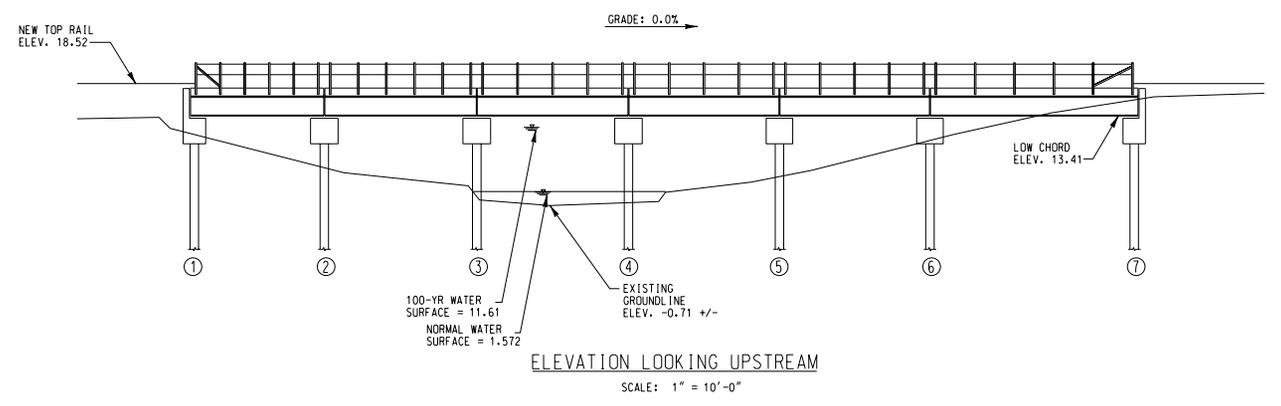
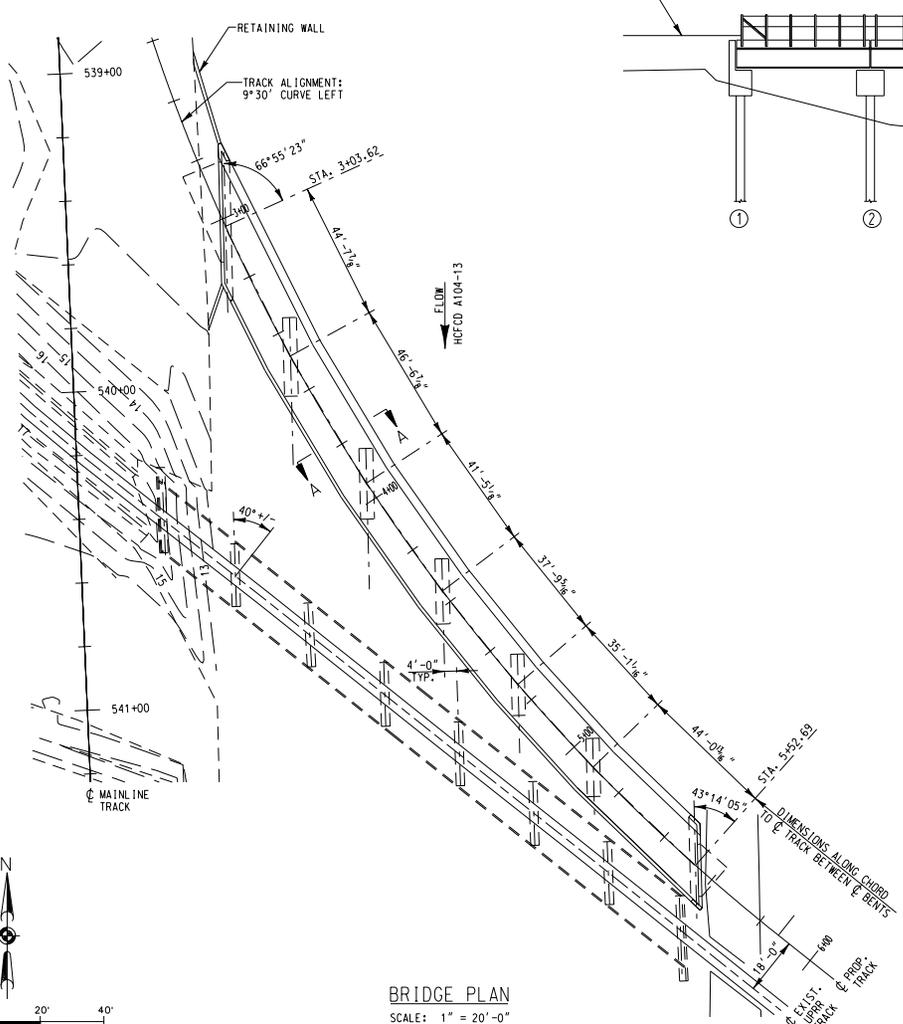
DESIGNED BY: _____
 DRAWN BY: _____
 REVIEWED BY: _____

This document is incomplete and is released for the purpose of interim review only under the authority of BRIAN A. LINDAMOOD, P.E. #88252 on November 19, 2002. It is not to be used for construction purposes.

DATE: 11/19/02
 JOB No.: 202012640
 FILE: BASELL

EX-7A

BNSF LINE SEGMENT #1289



GENERAL NOTES:
 DESIGN LOADING: COOPER E80 WITH DIESEL IMPACT FOR BALLASTED DECK
 DESIGN SPEED: 10 MPH
 SUPER ELEVATION: 3/4"
 PROPOSED LOW CHORD EQUALS OR EXCEEDS THE LOW CHORD ELEVATION OF THE DOWNSTREAM BRIDGE.

No.	REVISION	DATE	BY

SAN JACINTO RAIL LIMITED

GRAHAM TO BAYPORT INDUSTRIAL BUILD-OUT
HARRIS COUNTY, TEXAS

VOLUME ONE:
RAILROAD CONSTRUCTION PACKAGE

JURISDICTIONAL WATER CROSSING
LYONDELL BRIDGE

TRANSYSTEMS CORPORATION
CONSULTANTS

HANSON WILSON
CORPORATION

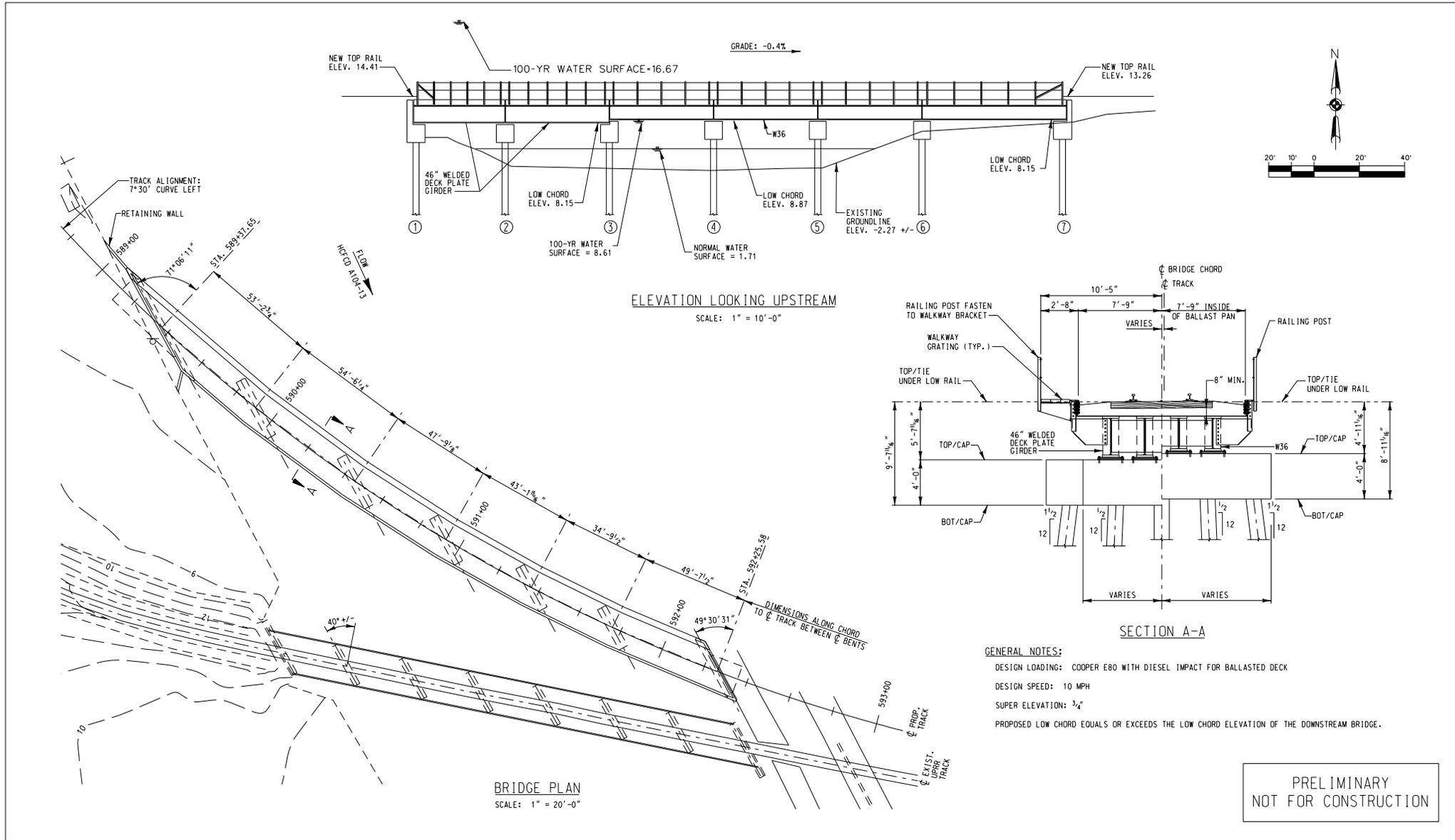
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 DRAWN BY: _____
 REVIEWED BY: _____

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DATE: 11/19/02
 JOB No.: 202012640
 FILE: LYONDELL

EX-7 B

BNSF LINE SEGMENT #1289



PRELIMINARY
NOT FOR CONSTRUCTION

No.	REVISION	DATE	BY

SAN JACINTO RAIL LIMITED

GRAHAM TO BAYPORT INDUSTRIAL BUILD-OUT
HARRIS COUNTY, TEXAS

VOLUME ONE:
RAILROAD CONSTRUCTION PACKAGE

JURISDICTIONAL WATER CROSSING
DIXIE CHEM BRIDGE

TRANSYSTEMS CORPORATION CONSULTANTS

HANSON WILSON CORPORATION

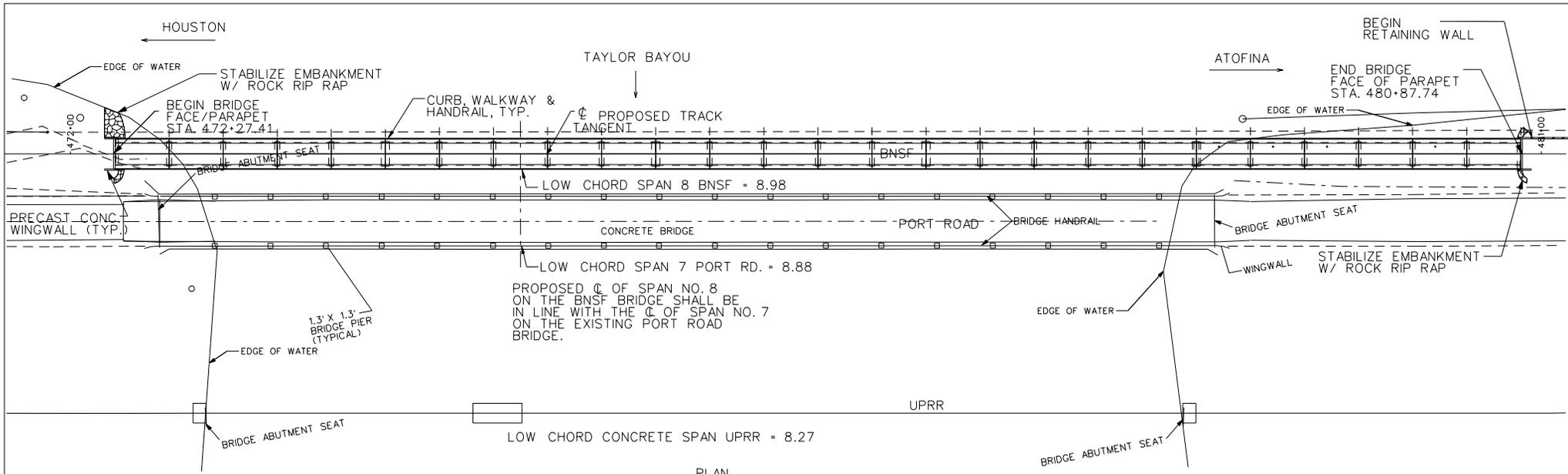
DESIGNED BY: _____
 DRAWN BY: _____
 REVIEWED BY: _____

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DATE: 11/19/02
 JOB No.: 202012640
 FILE: EXHIBIT 10

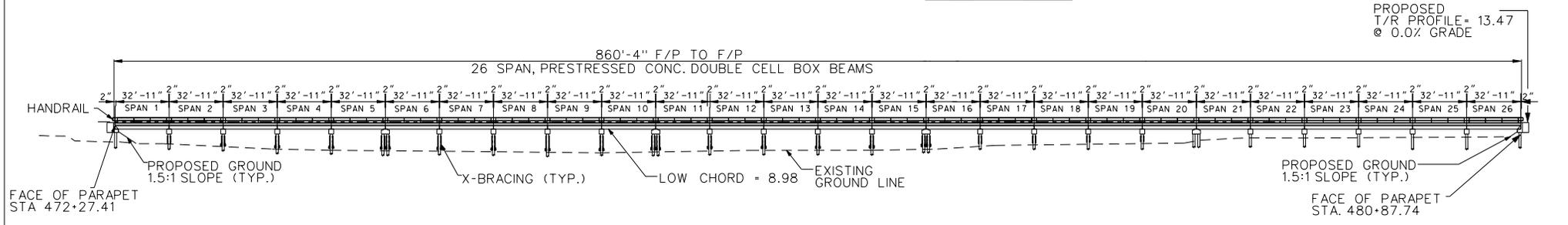
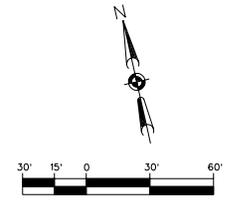
EX-7C

BNSF LINE SEGMENT #1289



PLAN

- NOTES:
1. T/R = 13.47
 2. 100 YEAR WATER SURFACE = 10.51
 3. LOW CHORD BNSF BRIDGE = 8.98
 4. MEAN HIGH TIDE WATER SURFACE = 2.709
 5. MEAN LOW TIDE WATER SURFACE = 1.787



ELEVATION

PRELIMINARY

No.	REVISION	DATE	BY

SAN JACINTO RAIL LIMITED



GRAHAM TO BAYPORT INDUSTRIAL BUILD-IN
HARRIS COUNTY, TEXAS

VOLUME ONE:
RAILROAD CONSTRUCTION PACKAGE

JURISDICTIONAL WATER CROSSING
TAYLOR BAYOU

TRANSYSTEMS CORPORATION



HANSON WILSON CORPORATION



CONSULTANTS

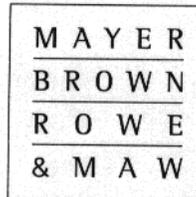
DESIGNED BY: L.L. CRAIG
DRAWN BY: E. LANG
REVIEWED BY: B.A. LINDAMOOD

This document is incomplete and is released for the purpose of interim review only under the authority of BRIAN A. LINDAMOOD, P.E. #88252 on November 19, 2002. It is not to be used for construction purposes.

TAYLOR BAYOU

DATE: 11/19/02
JOB No.: 202012640
FILE: TAYLOR

EX-8



November 21, 2002

1909 K Street, N.W.
Washington, D.C. 20006-1101

Main Tel (202) 263-3000
Main Fax (202) 263-3300
www.mayerbrownrowe.com

Kathryn A. Kusske
Direct Tel (202) 263-3223
Direct Fax (202) 263-5223
kkusske@mayerbrownrowe.com

TO: ICF Consulting Group, Inc.
9300 Lee Highway
Fairfax, VA 22031

ATTENTION: Alan Summerville
Project Manager

Re: Finance Docket No. 34079

Enclosed please find the following:

#Copies	Description
1	Petitioners' updated response to Request No. 8 of SEA's June 13, 2002 Information Request.

REMARKS: _____

Signed: Kathryn A. Kusske / [Signature]
Kathryn A. Kusske

**Jurisdictional Waters of the U.S. in ROW and Potential
Impacts of Fill, Proposed Bayport Industrial Build-Out
Alignment (1 – 1B), Harris County, Texas
USACE Galveston Regulatory Project #22823**

Jurisdictional Water Type	Area of Right-of-Way (acre)	Impacts	
		Fill Impacts (acre)	Linear Feet of Fill (ft)
Streams / Open water			
Horsepen Bayou	0.02	0	0
Intermittent Tributary 1	0.01	0.01	100
Intermittent Tributary 2 (west of Armand)	0.02	0.02	170
Armand Bayou	0.07	0	0
Spring Gully (emergents within OHWM)	0.04	0	0
Big Island Slough	0.17	0	0
HCFCB Bayport Channel (tidal)	0.24	*(279 ft ³)	0
Taylor Bayou (tidal)	0.88	*(1,444 ft ³)	0
Wetlands	0		
Intermittent Tributary 1 Emergent Fringe	0.02 [†]	0.02 [†]	n/a
Armand Bayou Forested Gilgai	0.25	0.25	n/a
Armand Bayou Emergent Wetland	0.01	0.01	n/a
Big Island Slough Forested Gilgai	0.32 [†]	0.32 [†]	n/a
Big Island Slough Cleared Wetlands (Chinese tallow dominated)	1.88 [†]	1.88 [†]	n/a
Taylor Bayou (tidal wetlands)	0.36 [†]	0.25 [†]	n/a
Total	4.29	2.76	270

*Structural fill above existing substrate from bridge pier placement (approx. 1,444 cubic ft for Taylor Bayou, 279 cubic ft for HCFCB Bayport channel).

[†] Totals revised on Nov. 5, 2002 to reflect comments of the USACE field verification.

**Aquatic Resources Within the Proposed Rights of Way of the Feasible Alternative Alignments
Bayport Industrial Build-Out, Harris County, Texas
USACE Galveston Regulatory Project #22823**

Water Resource Types (Jurisdictional and Non- Jurisdictional)	West of Merge						East of Merge	
	Alignment 1		Alignment 2		Alignment 1 1 (acres)	Alignment 1B 1B* (acres)		
	1* (acres)	1C (acres)	2B (acres)	2C (acres)				
Jurisdictional								
Streams	0.02	0.02	0.00	0.00	0.00	0.33	0.31	
Tidal (Open Water)	0.00	0.00	0.00	0.00	0.00	1.22	0.88	
Tidal (Marsh / Shrub)	0.00	0.00	0.00	0.00	0.00	1.13	0.36 [†]	
HCFCD Bayport Channel (tidal)	0.00	0.00	0.00	0.00	0.00	0.24	0.24	
Freshwater Emergent Wetlands	0.00	0.32 [‡]	0.00	0.00	0.00	0.03 [†]	0.03 [†]	
Forested Wetlands								
Willow Oak (gilgai)	0.00	0.00	0.00	0.00	0.00	0.75 [†]	0.57 [†]	
Disturbed Areas (Tallow)	0.00	0.00	0.00	0.00	0.00	1.88 [†]	1.88 [†]	
Non-Jurisdictional (isolated)								
Prairie (limited soil disturbance)	1.00	1.00	5.99	4.46	6.00	0.00	0.00	
Disturbed (excavated, drained, pipeline corridor)	2.66	1.92 [‡]	0.00	0.00	0.00	0.59	0.56	
Total Non-Jurisdictional Waters	3.66	2.92[‡]	5.99	4.46	6.00	0.59	0.56	
Total Jurisdictional Waters	0.02*	0.34[‡]	0.00	0.00	0.00	5.58	4.27*	

*Proposed alignment segments.

[†] Total revised on Nov. 5, 2002 to reflect the comments of the USACE field verification.

[‡] Totals revised based on field assessment of revised alignment 1C ROW on Nov. 19, 2002.



This Certificate is issued for environmental and preliminary engineering services.
 Date issued by Robert P. Armstrong, License No. 87107, State of Texas.
 State of Texas, License No. 87107, Robert P. Armstrong, P.E.

**San Jacinto Rail Limited
 Alternative Alignments**

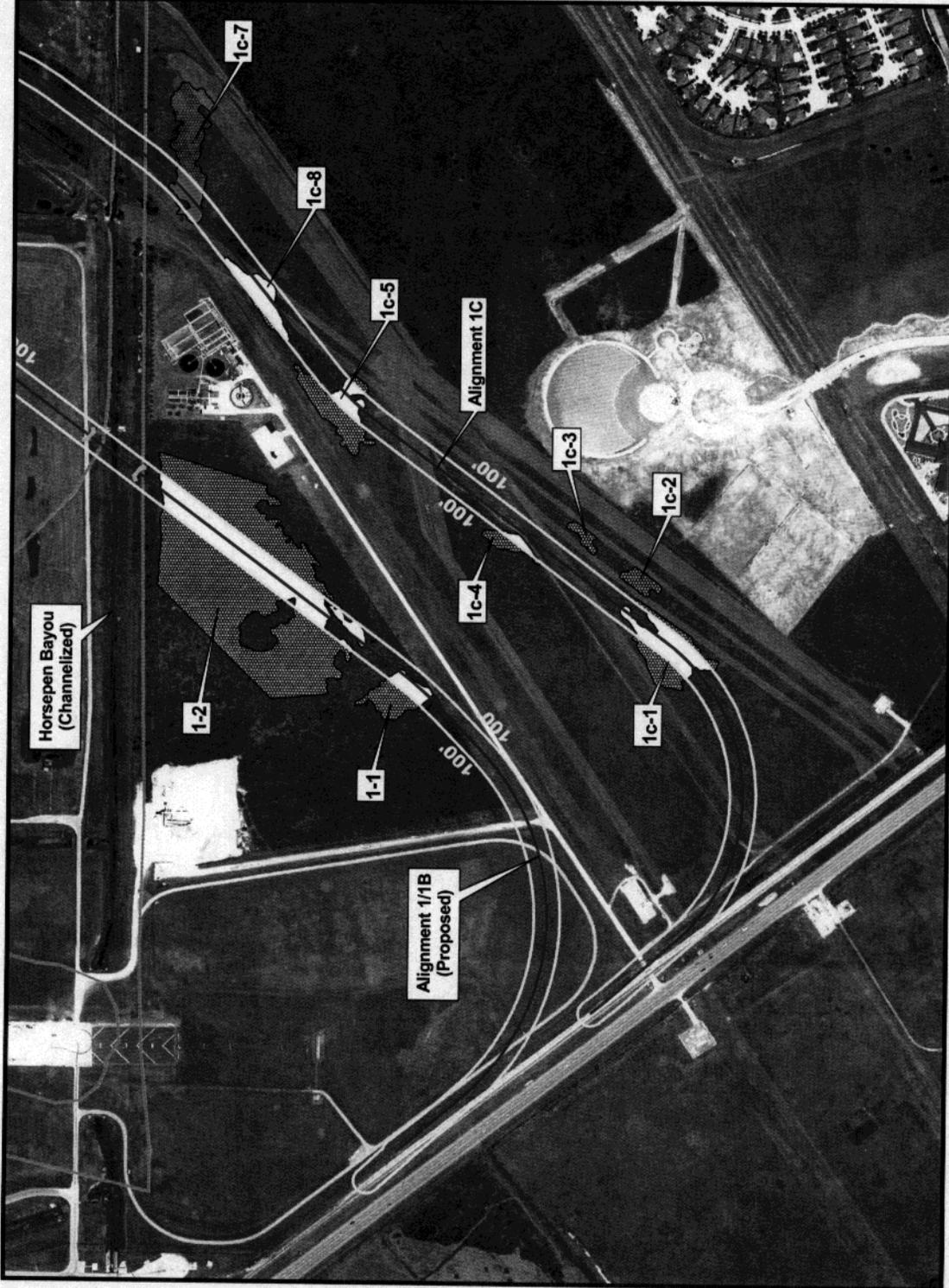
LEGEND

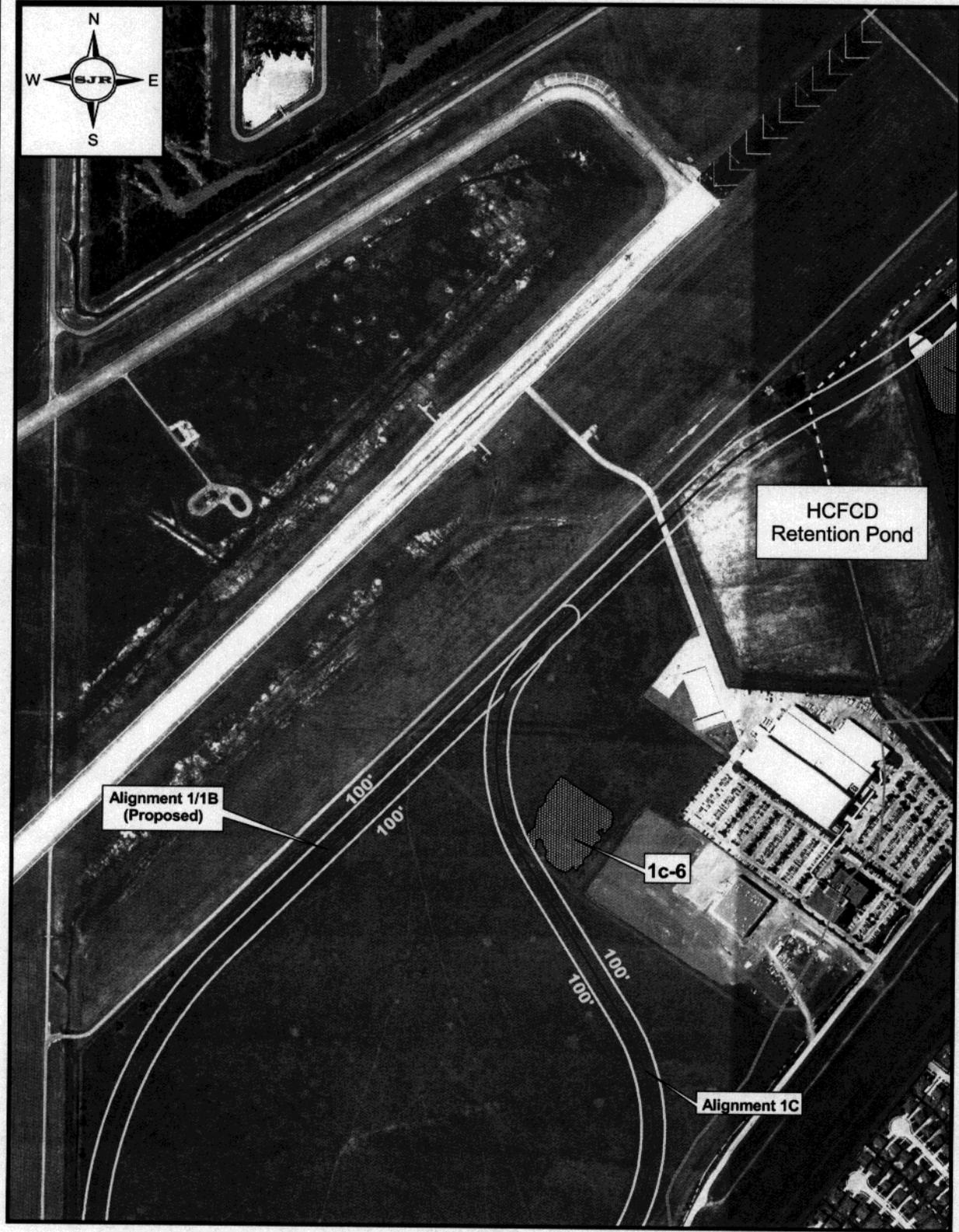
- Waters of the U.S. (streams, open water)
- Waters outside ROW
- Wetlands in ROW
- Wetlands outside ROW
- Isolated Wetlands in ROW
- Isolated Wetlands outside ROW
- Gligal Depressions in ROW
- Gligal Depressions outside ROW
- Alternative Alignments
- ROW of Alternative Alignments
- Texas Prairie Dawn Site Locations
- Floodplain (Firm96)
- Upland Drainage Ditches

SAN JACINTO RAIL LIMITED HRR

**Delineation Map of Jurisdictional
 Waters of the U.S.**

Drawn By	tttrimble	Date	11/04/2002	Map No.	1
Scale	0 200 400 Feet	Project No.	09357-002-037	Sheet No.	1





* This Delineation Report is intended for environmental and preliminary engineering planning purposes, and for identification.
Data collected by James A. Thomas, PWS, and Tim Tardus.
Reviewed by Robert P. Armstrong, P.E.

LEGEND	
	Waters of the U.S. (streams, open water)
	Waters outside ROW
	Wetlands in ROW
	Wetlands outside ROW
	Isolated Wetlands in ROW
	Isolated Wetlands outside ROW
	Gilgai Depressions in ROW
	Gilgai Depressions outside ROW
	Alternative Alignments
	ROW of Alternative Alignments
	Texas Prairie Dawn Site Locations
	Floodplain (Firm96)
	Upland Drainage Ditch

**San Jacinto Rail Limited
Alternative Alignments**

SAN JACINTO RAIL LIMITED

**Delineation Map of Jurisdictional
Waters of the U.S.**

Plot Title	San Jacinto Rail Limited Alternative Alignments	
Plot By	ttrimble	Date
		11/04/2002
Map No	3	
Scale	0 200 400 Feet	
Plot File	09357-002-037	