

**Appendix A**  
**Section 106 Process**

## Appendix A-1

Historic Resources under 1000 ft.

Historic Resource #	Feet from Proposed Route	Historic Resource #	Feet from Alternative 1	Historic Resource #	Feet from Alternative 2	Historic Resource #	Feet from Alternative 3	Historic Resource #	Feet from Eastern Bypass Route	Historic Resource #	Feet from SGR's Modified Medina Dam Route	Historic Resource #	Feet from MCEAA Medina Dam Alternative
232	22	230	116	234	77	239	207	204	392	216	204	336	206
338	201	106	157	233	187	338	268	335	629	214	778	335	685
235	259	225	220	338	267	335	561	205	943	339	954	75	886
335	494	229	229	235	344	238	593			72	985		
231	847	338	263	231	497	328	658						
		39	324	230	544	240	934						
		310	381	335	554								
		228	402	328	650								
		105	467	229	956								
		335	558										
		107	612										
		328	664										
		40	761										
		235	765										
		110	816										
		102	817										
		309	831										
		234	849										
		38	853										
		109	915										
		103	919										
		233	920										
		227	944										
		101	950										

Notes:

Resource #s are those used in the Rural Historic Landscape Study.

List includes all historic resources determined eligible or potentially eligible for the National Register of Historic Places.

**Appendix A-2**

**Section 106 Related Correspondence**

**(Incoming and Outgoing)**

**Appendix A-2**  
**Section 106 Process Related Correspondence**  
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<b>Related Correspondence</b>	<b>Name of Sender or Preparer</b>	<b>Affiliation</b>	<b>Date of Document</b>	<b>Page Number</b>
<b>INCOMING</b>				
EI-2658	David Coburn	Steptoe & Johnson LLP	1/16/07	A2-1
EI-2668	F. Lawrence Oaks	Texas Historical Commission	1/19/07	A2-3
EI-2862	David F. Barton	The Gardner Law Firm	3//28/07	A2-5
EI-2868	Davis H. Coburn	Steptoe & Johnson LLP	4/05/07	A2-7
EI-2871	David F. Barton	The Gardner Law Firm	4/05/07	A2-11
EI-2888	Russell Hooten	Wildlife Habitat Assessment Program	4/5/07	A2-12
EI-2897	Davis H. Coburn	Steptoe & Johnson LLP	4/16/07	A2-13
EI-2906	Tap Pilam-Coahuiltecan Nation	Panam-a Payaya Tribe	4/17/07	A2-14
EI-2908	Cynthia Lindsey	Consulting Party	4/17/07	A2-15
EI-2911	David Barton	The Gardner Law Firm	4/20/07	A2-17
EI-2921	Charlene Dwin Vaughn	Advisory Council on Historic Preservation	4/27/07	A2-18
EI-2922	Richard C. Garay	Coahuiltecan Research Associates	No date on letter; rec'd by STB 5/7/07	A2-20
EI-2924	Dr. Bob Fitzgerald	Medina County Environmental Action Association, Inc.	5/06/07	A2-21
EI-2925	Julianne Fletcher	Preservation Texas	4/17/07	A2-22
EI-2927	Alyne Fitzgerald	Quihi & New Fountain Historical Society	4/25/07	A2-23
EI-2940	F. Lawrence Oaks	State Historic Preservation Officer Texas Historical Commission	3/15/07	A2-25
EI-2941	Ruth Toahty	NAGPRA Coordinator Comanche Tribe	5/6/07	A2-26
EI-2954	F. Lawrence Oaks	State Historic Preservation Officer Texas Historical Commission	5/14/07	A2-26
EI-3030	Linda McClelland	Keeper of the National Register	7/24/07	A2-27
EI-3034	F. Lawrence Oaks	State Historic Preservation Officer Texas Historical Commission	7/18/07	A2-30
EI-3146	Lester R. Landrum	Self	9/3/07	A2-31
EI-3147	Richard T. Fournier	Self	No date on letter	A2-31
EI-3149	Erna L. Balzen	Self and Husband	9/3/07	A2-32
EI-3152	Donato Rios, Jr.	Self	8/31/07	A2-32
EI-3159	Lynette Stewart	Self	Email transmitted 9/11/07	A2-33
EI-3160	Anthony Weiblen	Self	9/12/07	A2-33
EI-3176	Joseph and Vicki Solomon	1040 CR 343 Hondo, TX 78861	9/19/07	A2-34

**Appendix A-2**  
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Related Correspondence	Name of Sender or Preparer	Affiliation	Date of Document	Page Number
<b>INCOMING</b>				
EI-3177	Russell Mangold	Self 807 33 <sup>rd</sup> St. Hondo, TX 78861	No date on letter transmitted via email.	A2-35
EI-3178	David H. Coburn	Steptoe & Johnson	9/21/07	A2-37
EI-3185	Barbara H. Jones, Trustee	The Michael Churchill Jones Farm Trust	Email transmitted 9/27/07	A2-39
EI-3187	Curtis Saathoff	Self	9/5/07	A2-40
<b>OUTGOING</b>				
EO-431	Consulting Parties Proposed Agenda	Section 106 Consulting Party Meeting on Proposed Voluntary Mitigation Surface Transportation Board Finance Docket Number 34284	2/23/07	A2-41
EO-447	Harold Weiblen, President Weiblen Farms	560 County Road 461 Hondo, TX 78861	3/27/07	A2-45
EO-463	Meeting notes of the 3/26/07 Meeting	Section 106 Consulting Party Meeting on Proposed Voluntary Mitigation	3/26/07	A2-46
EO-465	Updated meeting notes of the 3/26/07 Meeting	Section 106 Consulting Party Meeting on Proposed Voluntary Mitigation	3/26/07	A2-51
EO-466	Section 106 Consulting Party	Individual addresses	4/9/07	A2-54
EO-485	Email(s) Catherine Glidden and Thomas R. Hester, Ph.D.	Glidden, Surface Transportation Board Hester, Professor of Anthropology, emeritus, The University of Texas at Austin	4/23/07 and 4/24/07	A2-59
EO-493	Meeting Notes Of 4/20/07 Meeting	Section 106 Consulting Party Teleconference on Proposed voluntary Mitigation	4/20/07	A2-60
EO-494	Richard c. Garay	Coahuiltecan Research Associates 1130 Mission Road San Antonio, TX 78210	5/8/07	A2-66
EO-517	J. Paul Loether	Keeper, National Register of Historic Places National Park Service Department of the Interior Washington, DC 20240	6/5/07	A2-67
EO-603	David Coburn, Esq.	Steptoe & Johnson 1330 Connecticut Avenue, NW Washington, DC 20036-1795	8/16/07	A2-71

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Related Correspondence	Name of Sender or Preparer	Affiliation	Date of Document	Page Number
<b>OUTGOING</b>				
EO-606	Linda McClelland,	Keeper, National Register National Park Service U.S. Department of the Interior 1201 Eye Street, NW 8 <sup>th</sup> Floor (MS 2280) Washington, DC 20005	8/17/07	A2-71
EO-625	Donato Rios, Jr.	6009 FM 2676 Hondo, TX 78861	9/7/07	A2-74
EO-626	Madelyn Schott	19903 Bandera Road Helotes, TX 78023	9/7/07	A2-74
EO-627	Lester R. Landrum	776 CR 354 Quihi, TX 78861	9/7/07	A2-75
EO-628	Joe H. and Erna L. Balzen	780 CR 354 Hondo, TX 78861	9/7/07	A2-76
EO-629	Richard Fournier	200 PR 3531 Hondo, TX 78861	9/7/07	A2-78
EO-633	Lynette Stewart	3619 FM 2676 Hondo, TX 78861	9/14/07	A2-78
EO-645	Joseph and Vicki Solomon	1040 CR 343 Hondo, TX 78861	9/21/07	A2-80
EO-648	Russell Mangold	807 33 <sup>rd</sup> St. Hondo, TX 78861	9/25/07	A2-81
EO-649	Barbara H. Jones, Trustee The Michael Churchill Jones Farm Trust	209 Newberry Terrace San Antonio, TX 78209	10/1/07	A2-85

EI-Environmental Incoming  
EO-Environmental Outgoing

#E1-2658  
R#

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January 16, 2007

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

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

Dear Mr. Oaks:

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

SGR hopes, however, that the THC also will give consideration to the proposal that SGR has made for additional mitigation with respect to the Proposed Route. That proposal is designed to build on the natural advantages of the Proposed Route by mitigating its impact on cultural resources. The benefits of the Proposed Route include (1) a shorter length (essentially a straight line) and, related to that, a smaller footprint in the area than any of the Eastern routes under consideration; (2) likely fewer impacts to irrigated farmland than the Eastern alternative routes; (3) less cut and fill than any of the Eastern routes and therefore less disturbance to the area in general; (4) an alignment that traverses as much as possible along property boundaries and thus that is generally less intrusive than the Eastern alternatives to agricultural and other land uses for the property being traversed; (5) many fewer affected

Mr. F. Lawrence Oaks  
January 16, 2007  
Page 2

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

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

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

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

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

3. By virtue of the construction cost savings that it would achieve were it able to construct the Proposed Route as opposed to any one of the Eastern alternatives, SGR would be in a position to provide a substantial contribution to the Texas Preservation Trust Fund for THC's discretionary use in supporting grants and loans designed to encourage preservation, rehabilitation, restoration or similar goals within the District. I have further discussed this contribution with my client and have been advised that the contribution would be in an amount of \$500,000. Further, SGR is prepared to work

Mr. F. Lawrence Oaks  
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with you and your staff to structure this contribution in a manner such that the amount of the contribution might be eligible, to the extent possible, for possible matching by government funds, or otherwise might prove as beneficial as possible to the advancement of the THC's goals in the area.

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

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

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

Respectfully,



David H. Coburn  
Attorney for Southwest Gulf Railroad

cc: Ms. Victoria Rutson, SEA  
Ms. Rini Ghosh, SEA  
Donald Klima, ACHP  
Honorable Ciro Rodriguez  
Mr. Robert Hancock, Medina County Historical Commission  
Mr. Jim Arterberry, Comanche Nation  
Mr. Archie Gerdes  
Dorla Goomby, Kiowa Tribe of Oklahoma  
Robert Fitzgerald, MD, MCEAA  
Holly Houghton, Mescalero Apache Tribe

Mr. F. Lawrence Oaks  
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Mrs. Cynthia Lindsey, Quihi & New Fountain Historical Society  
Carol Carpenter, Schweers Historical Foundation  
Raymond Hernandez, Tap Pilam Tribal Council  
Troy Johanntoberns, Wichita and Affiliated Tribes of Oklahoma

#E1-2668  
RJ



TEXAS  
HISTORICAL  
COMMISSION

The State Agency for Historic Preservation

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWRENCE OAKS, EXECUTIVE DIRECTOR

January 19, 2007

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

received  
1/22/07

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

Dear Ms Ghosh:

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

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

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

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

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

Yours truly,

F. Lawrence Oaks, State Historic Preservation Officer

cc: John Nau, III, Chair, Texas Historical Commission  
John Fowler, Advisory Council on Historic Preservation  
Albert Hausser, Texas Historical Commission  
David H. Coburn, Steptoe & Johnson, LLP.

## Surface Transportation Board Incoming Correspondence Record

#EI-2862

### Correspondence Information

Docket #:	FD 34284 0		
Name of Sender:	David F. Barton	Date Received:	03/28/2007
Group:	The Gardner Law Firm	Date of Letter:	03/28/2007

### Submitter's Comments

Enclosed please find our follow up on behalf of MCEAA to Monday's NHPA consultation meeting regarding the Proposed Route.

In addition, we note here for the record our comments at that meeting with respect to 44 C.F.R. 60.3 and specifically 60.3(d), which is the applicable federal requirement for NFIP-participant communities such as Medina County to abide by with respect to development of structures within floodplains. This requirement is federal law, is not discretionary for NFIP-participant communities and cannot be preempted. MCEAA reiterates that the applicant's suggestion on this point-- to modify mitigation conditions to make obtaining a permit from the floodplain administrator optional-- should be rejected.

### Image Attachment(s)

[I-Agency Consulting Parties 032807.pdf](#)



David F. Barton  
Wm. Richard Davis (Retired)  
Jay K. Farwell  
Dawn B. Finlayson  
Gregory M. Huber  
R. Wes Johnson†  
Mary Q. Kelly  
William W. Sommers  
J.P. Vogel  
Thomas J. Walthall, Jr.  
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Texas Board of Legal Specialization

March 28, 2007

Victoria Rutson  
Section of Environmental Analysis, Chief  
U.S. Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20423-0001

**VIA E- FILING**

Charlene Dwin Vaughn  
Assistant Director  
Federal Permitting, Licensing, and Assistance Section  
Advisory Council on Historic Preservation  
Old Post Office Building  
1100 Pennsylvania Avenue, NW, Suite 803  
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**VIA FAX (202) 606-8647  
AND REGULAR MAIL**

F. Lawrence Oaks  
Executive Director  
Texas Historic Commission  
P.O. Box 12276  
Austin, TX 78711-2276

**VIA FAX (512) 475-4872  
AND REGULAR MAIL**

Dear Agency Consulting Parties:

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

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

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

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## I Delay and “Support”

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

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

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

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

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

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

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

<sup>1</sup> Though, as made clear at the meeting, the Weiblen concerns can be resolved.

<sup>2</sup> The rail license is specifically excepted from the agreement, in part because Vulcan/SGR vigorously maintains that the quarry and rail line are not connected actions under the National Environmental Policy Act.

The issue is twofold: First, because the information is not adequate in its own right to result in a guarantee, MCEAA and the majority of non-agency consulting parties allied with it are going to apply the mitigation hierarchy of avoid, minimize, and mitigate and insist on avoidance given the existence of two eastern alternatives that have been deemed environmentally preferable in the SDEIS.<sup>3</sup> MCEAA and the allied consulting parties will essentially apply the precautionary principle.

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

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

In light of these facts, the more Vulcan/SGR insists on the Proposed Route, the more process and more delay there will be, regardless of any action taken by MCEAA. That result is compelled by where the process stands at this point, and, as we noted earlier,

<sup>3</sup> The record demonstrates that the two eastern alternatives are reasonable and feasible and the agency would easily be upheld in any challenge to the contrary.



the facts on the ground and the position of a majority of the non-agency consulting parties is not going to change.

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

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

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

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

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

The situation that the consulting agencies, particularly THC and ACHP, face now with their information requests is an intractable one. The issue we believe was correctly stated by THC at the meeting is whether the design features can be mitigated. Yet the consulting parties do not have, and the applicant does not intend to provide, design detail that could overcome the preference for avoidance in the mitigation hierarchy. The result is



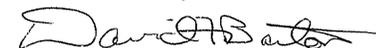
an endless spiral that ironically, Vulcan/SGR, the party that continues to push the Proposed Route, complained about. It seems to MCEAA that a guarantee of avoidance must be matched, as a practical matter, with a guarantee of similar certainty—not an estimate, not a back of the envelope, not a “trust us.” The danger is that any decision to form an agreement regarding the Proposed Route, which will not be supported by MCEAA or a majority of the non-agency consulting parties, will be taken on a standardless basis, because guarantees of similar certainty cannot be provided due to the assumptions and state of the information in the record.

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

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

Very Truly Yours,

**THE GARDNER LAW FIRM**  
A Professional Corporation

  
David F. Barton

**COUNSEL FOR PARTY**  
**MEDINA COUNTY ENVIRONMENTAL**  
**ACTION ASSOCIATION**

**Surface Transportation Board**   
**Incoming Correspondence Record**

#EI-2868

**Correspondence Information**

Docket #:	<b>FD 34284 0</b>	Date Received:	04/05/2007
Name of Sender:	David H. Coburn	Date of Letter:	04/05/2007
Group:	Step toe & Johnson		

**Submitter's Comments**

This letter follows up on the march 26, 2007 consultation in San Antonio, TX concerning the line construction proposed by Southwest Gulf Railroad (SGR) Company in Medina County. At that meeting, it was agreed that SGR would present revisions to its proposed January 16, 2007 voluntary mitigation measures for the proposed route, as well as information about the bridge that will be used to cross Quihi Creek on that route.

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April 5, 2007

**VIA FACSIMILE AND COURIER**

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

Mr. F. Lawrence Oaks  
 Executive Director  
 Texas Historical Commission  
 P.O. Box 12276  
 Austin, TX 78711-2276

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

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

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

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

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Ms. Victoria Rutson  
Mr. F. Lawrence Oaks  
Ms. Charlene Dwin-Vaughn  
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Specifically, SGR proposes the following revised voluntary mitigation for the Proposed Route to address the concerns that have been raised about the impacts of that route on the Quihi Rural Historic District and to minimize those impacts:

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

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

2. SGR agrees to implement a conservation easement program in consultation with the Medina County Historical Commission and the THC on those properties that it or its affiliates own in the QRHD. Those properties constitute about one half of the length of the Proposed Route in the QRHD. The purpose of this program would be to control development within the QRHD. The easement would work hand in hand with the preservation plans put forward in the HPP. Further, SGR will use its best efforts to encourage other landowners within the boundaries of the QRHD from which it would need to acquire its right of way to establish a similar conservation easement. If those landowners

<sup>1</sup> It should be noted that SGR's original offer of a \$500,000 contribution to a state historic preservation fund did not appear to be embraced by the THC (or other consulting parties). SGR has thus restructured that contribution as set forth in this letter, but is prepared to restore a contribution to the fund if that is preferred by the THC.

Ms. Victoria Rutson  
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Page 3

concur, the entire length of the line within the QRHD would be protected by an easement. As a result, no rail-served businesses could locate along the SGR line within the QRHD.

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

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

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

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

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

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

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

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

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

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

Ms. Victoria Rutson  
Mr. F. Lawrence Oaks  
Ms. Charlene Dwin-Vaughn  
April 5, 2007  
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believes that any of the commenters have raised disqualifying issues or issues that cannot be addressed, but merely to note that satisfying one group of landowners in the Quihi area, such as Dr. Fitzgerald and his wife, by routing the line away from their properties will inevitably lead to the dissatisfaction of others landowners. Thus, no option is available that does not create some issues for some persons, as is typical in any rail construction proceeding.

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

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

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

Sincerely,



David H. Coburn  
Attorney for Southwest Gulf Railroad

cc: Ms. Diana Wood, SEA  
Ms. Jaya Zyman Ponebshek, URS



## Surface Transportation Board Incoming Correspondence Record

#EI-2871

### Correspondence Information

Docket #:	<b>FD 34284 0</b>	Date Received:	04/05/2007
Name of Sender:	David F. Barton	Date of Letter:	04/05/2007
Group:	The Gardner Law Firm		

### Submitter's Comments

There has been an important and urgent development regarding the NHPA consultation for the applicant's proposed route that is described in the attached letter.

### Image Attachment(s)

[I-Agency Consulting Parties 040507.pdf](#)



David F. Barton  
Wm. Richard Davis (Retired)  
Jay K. Farwell  
Dawn B. Finlayson  
Gregory M. Huber  
R. Wes Johnson†  
Mary Q. Kelly  
William W. Sammers  
J.P. Vogel  
Thomas J. Walthall, Jr.  
†Board Certified-Consumer & Commercial Law  
Texas Board of Legal Specialization

April 5, 2007

Victoria Rutson  
Section of Environmental Analysis, Chief  
U.S. Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20423-0001

*VIA E- FILING*

Charlene Dwin Vaughn  
Assistant Director  
Federal Permitting, Licensing, and Assistance Section  
Advisory Council on Historic Preservation  
Old Post Office Building  
1100 Pennsylvania Avenue, NW, Suite 803  
Washington, DC 20004

*VIA FAX (202) 606-8647  
AND REGULAR MAIL*

F. Lawrence Oaks  
Executive Director  
Texas Historic Commission  
P.O. Box 12276  
Austin, TX 78711-2276

*VIA FAX (512) 475-4872  
AND REGULAR MAIL*

Dear Agency Consulting Parties:

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

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

You may recall at the conference call on March 26th that one of our client's members, Medina County Environmental Action Association President Dr. Bob Fitzgerald, raised the issue of a proposed power line that would be constructed within the rail easement to provide electricity to the Vulcan Quarry.

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Upon raising the issue, Dr. Fitzgerald received in response the now-familiar contempt and character attack stereotypical of initiatives that have entered the "bunker mentality" death spiral. Counsel for the applicant all but referred to the man as a complete nutcase for suggesting that a power line to the quarry would be built within the rail easement.

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

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

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

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

Very Truly Yours,

THE GARDNER LAW FIRM  
A Professional Corporation

*David F. Barton*  
David F. Barton

COUNSEL FOR PARTY  
MEDINA COUNTY ENVIRONMENTAL  
ACTION ASSOCIATION

Received 4/11/07  
#E1-2888  
F234284  
DW



April 5, 2007

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

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

Dear Ms. Wood:

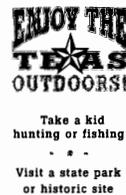
I was contacted by Thomas Ransdell, Vulcan Materials Company, on March 06, 2007 regarding the Surface Transportation Board's Section of Environmental Analysis' (SEA) recommended mitigation based on preliminary comments Texas Parks and Wildlife Department (TPWD) provided to URS Corporation in a letter dated May 28, 2003. The letter provided by TPWD included recommendations that graded embankments should not exceed a slope of 4:1. While the recommended slope is preferred to minimize erosion problems in many situations, it is not applicable in all situations and is provided as a general guideline in preliminary correspondence such as the May 28, 2003 letter from TPWD.

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

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

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

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Ms. Wood  
Page 2  
April 5, 2007

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

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

Sincerely,



Russell Hooten  
Wildlife Habitat Assessment Program  
Wildlife Division

/rh

cc: Thomas Ransdell, Vulcan Materials Company

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#E1-2897  
DHW

April 16, 2007

Ms. Victoria Rutson  
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Section of Environmental Analysis  
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395 E Street, SW  
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Mr. F. Lawrence Oaks  
Executive Director  
Texas Historical Commission  
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Austin, TX 78711-2276

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

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

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

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

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

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Ms. Victoria Rutson  
Mr. F. Lawrence Oaks  
Ms. Charlene Dwin-Vaughn  
April 16, 2007  
Page 2

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

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

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

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

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

Sincerely,



David H. Coburn  
Attorney for Southwest Gulf Railroad

cc: Ms. Diana Wood, SEA  
Ms. Jaya Zyman Ponebshek, URS

Panama Payaya  
Raymond Hernandez

Pampopa  
Mick Killian  
Venados  
Teodoso Herrera

Autaca Pakame  
Ramon Vasquez  
Y Sanchez

Pacoa  
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Section of Environmental Analysis, Chief  
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F. Lawrence Oaks  
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RE: U.S. STB Finance Docket No. 34284  
Southwest Gulf Railroad-Construction & Operation-Medina County, Texas  
NHPA Section 106 Consultation

Dear Consulting Parties

After reviewing Southwest Gulf Railroad attorneys April 5, 2007 letter, the Tap Pilam Nation Tribal Council (pronounce, Taap Pilamm) submits the following statements for consideration.

For the Record, Tap Pilam Coahuiltecan Nation is opposed to the SGR "Proposed route", and prefer the MCEAA Medina Dam Alternative route. This decision was made after much deliberation and discussion within our Tribal Council & Communities. The Proposed Route by Southwest Gulf Railroad including all it's mitigation measures is certain to be more disruptive and likely to destroy much of our ancestral cultural & history deposits. This Proposed route courses through the Quihi valley, and area known to us to have been inhabited by our Tribal ancestors. On January 27, 2007 our Historical researchers provided a small amount yet significant & conclusive historical documentation of our Historical, Cultural & Spiritual (Religious with regards to the "cenotes") evidence that clearly establishes our Tribal affiliation to this project area.

European Spanish Archival records along with past archeological excavations provide a clear pattern of how our ancestors inhabited much of the Hill County, from parts of East Texas into West Texas, Gulf, and South Texas. Our Ancestors may have been driven and displace from much of our homelands, but many of our Ancestors cultural & historical presence remains and they are buried near the very waters that their livelihood depended on for survival.



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## Tap Pilam – Coahuiltecan Nation

Tribe: Panam-a Payaya

273 Nicks Rd.  
Comfort, Texas 78013  
(830) 995-3356

E-Mail: coahntexo@hctc.net

HEI-1906  
HW

April 17, 2007



My experiences in the past 18 years in Texas with Federal, State Governmental agencies & Private industries have been disappointing to say the least. No matter how well intended this process is meant to be by well meaning people, the actions of those after they have obtain their permits usually fall way short of their responsibilities that they are bound to. We respectfully offer the following reasons for our objections to this propose route.

- (1) This proposed route with it's necessary excavations, cuts, fills and alteration of the terrains will surely destroy much those historical deposits.
- (2) State and Federal permitting processes in the past have been only pro-forma: no meaningful or with very little input and participation with Tribal communities that are most affected from this process.
- (3) Deadlines, cost factor, Political pressure & interference become the sole basis for disregarding & ignoring Federal, State Laws compliance at the expenses of Tribal communities.
- (4) Past excavations under these conditions have demonstrated it's of no or little benefit to our Communities.
- (5) Tribal communities in Texas have historically been omitted in the "scoping" and "monitoring" of the permitting process; with regards on projects that involve Indian cultural deposits, burials, ect...
- (6) It is clear to us who have had the difficult & burdensome experiences of having to rebury many of our ancestors in the past that the offer in allowing us that privilege is somewhat disingenuous and offensive. We do so only because we know the alternative of past abusive, and it is the only alternative that we have if we wish to protect our culture & historical past. We have a clear understanding between ignorance and stupidity. We would like to avoid that possibility or certainly minimize that possibility.
- (7) Our traditions, culture, & spirituality requires relevance to the sacredness of our past along with our responsibility to those ancestors whose sacrifices provided us with our very existence and hope for our future.

At the public hearing on 3-26-07 I commented on the high probability of encountering cultural deposits, and ancestral remains, these remarks were then supported by the Texas SHPO Mr. Larry Oaks. Therefore, the alternate routes proposed by the MCEAA would present the less likelihood of encountering ancestral remains & deposits.

In conclusion the Tap Pilam Coahuiltecan Nation respectfully requests that the STB, THC, and ACHP not approve the "Propose route" as made by Southwest Gulf Railroad Co.

Respectfully  
  
 Tap Pilam Nation  
 Tribal Council Representative  
 Historic & Cultural Preservationist  
 Raymond Hernandez

C.C. AITSCM

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

# E1-2908  
RW

April 17, 2007

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

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

Ms. Wood,

I would like to comment, in writing, to your letter of April 9, 2007 and the attached letter from Steptoe & Johnson, dated April 5, 2007, regarding the mitigation proposals made by the representatives of Southwest Gulf Railroad (SGR) at the meeting on March 26, 2007. It is my understanding that Vulcan Construction Materials and their subsidiary SGR are continuing to pursue the original proposed route through the Quihi Rural Historic District (QRHD). And, in spite of the conclusions and recommendations made by the Surface Transportation Board (STB) and the Board's Section of Environmental Analysis (SEA) in their Supplemental Draft Environmental Impact Statement (SDEIS) issued in December 8, 2006, Vulcan and the SGR continue to insist that the original Proposed Route should be approved, apparently only because of the additional cost. From my reading it appears the SEA has concluded in its report "that the Eastern Alternatives are environmentally preferable to the Proposed Route or any of the alternatives."<sup>1</sup> Therefore, I cannot understand why these meeting and any negotiations or mitigations are necessary; the original Proposed Route is definitely unacceptable.

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

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

<sup>1</sup> SDEIS, Dec. 8, 2006, Page ES-12

route, which, according to their letter would result in “no rail-served business could locate along the SGR line within the QRHD.”<sup>2</sup> This is NOT a “public railroad” and it definitely will not service the “public benefit.” They should NOT be allowed to acquire private land using eminent domain when there is NO “public benefit.” Vulcan never intended to have a “public railroad”, it is for their own private use and will profit only them. They are therefore making a mockery of our laws and the regulatory process of the STB and the SEA.

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

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

Finally, on a personal note, the letter writer states that “... the Proposed Route [is] preferable, including intrusions onto the properties of fewer private landowners and less impact to irrigated fields.”<sup>3</sup> Well, they apparently don’t have any problems impacting my irrigated fields. I have an Edwards Well and an extensive irrigation system and I irrigate my hay fields and pecan orchards. My hay fields are cut and baled sometimes as many as three times per year. The hay fields are the sole support of my farming operation; I use the hay to feed my cattle. I find it hard to understand why someone’s irrigated fields are more important than mine, and why the SGR uses the avoidance of one irrigated field as justification for their Proposed Route, but considers it okay to destroy my irrigation system and fields.

In summary, I object strongly to the Proposed Route or any other route that bisects the QRHD because it will have a definite negative impact on the Quihi Rural Historic District. The SEA should NOT designate the Proposed Route as a preferable

<sup>2</sup> Steptoe & Johnson letter, April 5, 2007, Page 3

<sup>3</sup> Steptoe & Johnson letter, April 5, 2007, Page 4

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

Sincerely,

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

## Surface Transportation Board Incoming Correspondence Record

#EI-2911

### Correspondence Information

Docket #:	<b>FD 34284 0</b>	Date Received:	04/20/2007
Name of Sender:	David Barton	Date of Letter:	04/20/2007
Group:	The Gardner Law Firm		

### Submitter's Comments

Attached please find a written version of MCEAA's Opening Statement for the 4/20 NHPA Consultation.

### Image Attachment(s)

[April 20 Opening Statement.pdf](#)



David F. Barton  
Wm. Richard Davis (Retired)  
Jay K. Farwell  
Dawn B. Finlayson  
Gregory M. Huber  
R. Wes Johnson†  
Mary Q. Kelly  
William W. Sommers  
J.P. Vogel  
Thomas J. Walthall, Jr.  
†Board Certified-Consumer & Commercial Law  
Texas Board of Legal Specialization

April 20, 2007

### MCEAA Section 106 Consultation Meeting Opening Statement

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

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

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

No.

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

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

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

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Telephone: (210) 733-8191 • Telecopier: (210) 733-5538 • E-Mail Address: [gardner@tgdf.com](mailto:gardner@tgdf.com)



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

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

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

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

## Surface Transportation Board Incoming Correspondence Record

#EI-2921

### Correspondence Information

Docket #:	<b>FD 34284 0</b>	Date Received:	05/01/2007
Name of Sender:	Charlene Dwin Vaughn	Date of Letter:	04/27/2007
Group:	ACHP		

### Submitter's Comments

"...As STB continues its evaluation of alternatives, we believe greater clarity is needed regarding the significance, defining characteristics, and integrity of the Quihi and Upper Quihi Rural Historic Districts, since each alternative has the potential to adversely affect one or both historic districts."



HEI-2924  
FD 34284  
KAW

April 27, 2007

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

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

Dear Ms. Rutson:

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

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

As STB continues its evaluation of alternatives, we believe greater clarity is needed regarding the significance, defining characteristics, and integrity of the Quihi and Upper Quihi Rural Historic Districts, since each alternative has the potential to adversely affect one or both historic districts. A clear identification of the contributing elements within the historic districts will assist the consulting parties in assessing which elements would warrant avoidance, preservation, or protection during project planning. Accordingly, we request, pursuant to 36 CFR § 800.4(c)(2) of the ACHP's regulations implementing Section 106, that STB obtain a determination of eligibility for these two historic districts from the Keeper of the National Register of Historic Places. A formal determination of eligibility from the Keeper, pursuant to 36 CFR § 63, will provide STB and all the consulting parties definitive baseline information.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 809 • Washington, DC 20004  
Phone: 202-606-8503 • Fax: 202-606-8647 • [achp@achp.gov](mailto:achp@achp.gov) • [www.achp.gov](http://www.achp.gov)

2

We suggest that STB request the following information from the Keeper in its request for a formal determination of eligibility:

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

We are particularly interested that the potential for adverse effects to known *cenotes* are evaluated and considered by STB because the Tap Pilam-Coahuiltecan Nation has indicated that it ascribes religious and cultural significance to these sites. We encourage STB to continue consultation with the Nation and the Texas SHPO to obtain any additional information regarding these *cenotes* if necessary to give these sites full consideration. In addition, STB should recognize that *cenotes*, or sink holes, may present engineering challenges for the design of the proposed railroad.

We appreciate the significant effort STB has expended in coordinating the Section 106 review for this undertaking. If you wish to discuss these or other issues further, please contact Katry Harris by phone at (202) 606-8520 or by e-mail at [kharris@achp.gov](mailto:kharris@achp.gov). Please feel free to circulate this letter to the consulting parties.

Sincerely,

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

**Surface Transportation Board**   
**Incoming Correspondence Record**

#EI-2922

**Correspondence Information**

Docket #:	FD 34284 0	Date Received:	05/07/2007
Name of Sender:	Richard C. Garay	Date of Letter:	05/01/2007
Group:	Coahuiltecan Research Associates		

**Submitter's Comments**

Request to become a Section 106 consulting party.

Received May 7, 2007  
#EI-2922

Richard C. Garay  
Coahuiltecan Research Associates  
1130 Mission Rd.  
San Antonio, Texas 78210-4522  
05-01-07

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

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

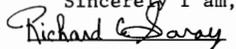
**Dear Ms. Wood,**

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

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

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

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

Sincerely I am,  
  
Richard C. Garay

cc file

**Surface Transportation Board**  
**Incoming Correspondence Record**



#EI-2924

**Correspondence Information**

Docket #:	FD 34284 0	Date Received:	05/07/2007
Name of Sender:	Dr. Bob Fitzgerald	Date of Letter:	05/06/2007
Group:	MCEAA		

**Submitter's Comments**

MCEAA Comments on Teleconference Meeting April 20, 2007.

PAGE1

#EI-2924  
DW

*To Medina County Environmental Action Association, Inc.*

202 CR 450, Hondo, TX 78861  
www.dontmesswithquihi.com  
2060  
Dr. Robert T. Fitzgerald, President  
Lester Landrum, Vice-President  
Archie Gordes, Director  
Joe Balzen, Director

Phone 830-741-5040  
Fax 830-428-

Jacque Conrad, Secretary  
Mary Waipole, Treasurer  
Ted Portenier, Director  
Alyne Fitzgerald, Communications  
Erna Balzen, Membership

May 6, 2007

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

Mr. F. Lawrence Oaks  
Executive Director  
Texas Historical Commission  
P.O. Box 12276  
Austin, TX 78711-2276  
FAX 512-475-4872

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

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

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

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

It is MCEAA's opinion that the Southwest Gulf Railroad's new relocation and mitigation measures for the Proposed Route (PR) still cannot compare with an eastern route because of the overall detrimental effects the very presence of this route has on the Quihi Rural Historic Landscape (QRHL). No matter how hard SGR tries to convince the Surface Transportation Board (STB), the fact remains that a railroad does not fit into Quihi's rural landscape. It is important to remember that this landscape must be preserved as much as possible in its original authentic condition. It must not be altered by the addition of SGR's proposed bridge needed for the crossing of the Quihi Creek, its flood plain and CR 365, regardless of the bridges length, height, and other trappings. All of the above detract from the aesthetic value and feeling of the rural landscape. None of the above belongs in this priceless, irreplaceable, one of a kind part of Texas and American History.





Received 4/30/07  
DFW  
FD 34284  
#E-2925

April 17, 2007

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**Executive Director**  
Julianne Fletcher

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

Dear Ms. Rutson::

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

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

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

Sincerely,

Julianne Fletcher  
Executive Director

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

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www.preservationtexas.org

**Surface Transportation Board**   
**Incoming Correspondence Record**

#EI-2927

**Correspondence Information**

Docket #: FD 34284 0  
Name of Sender: Alyne Fitzgerald Date Received: 04/27/2007  
Group: Quihi & New Fountain Historical Society Date of Letter: 04/25/2007

**Submitter's Comments**

Comments from the April 20, 2007 teleconference call.

- 202 CR 450
- Hondo, TX 78861
- (830) 741-5040

*Alyne Fitzgerald, President*  
*Joyce Landrum, Vice-President*  
*Nanette Portenier, Secretary*  
*Cynthia Lindsey, Treasurer*  
*Joe Manak, Joe Balzen, Archie Gerdes, Directors*

Received 4/27/07  
 DW

HEI-2927

## Quihi & New Fountain Historical Society

April 25, 2007

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

Mr. F. Lawrence Oaks  
 Executive Director  
 Texas Historical Commission  
 P.O. Box 12276  
 Austin, TX 78711-2276  
 FAX 512-475-4872

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

Re: STB Finance Docket 34284 Medina County TX  
 Proposed Rail Line

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

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

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

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

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

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

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

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

Consider, for instance, the Proposed rail route cutting through the historic old rock wall on the Lindsey property. Vulcan/SGR's original plan was to cut through the center of this wall with a 40 foot deep cut into the earth. Vulcan/SGR now proposes to move that route to the East end of the rock wall, with a 19 foot deep cut. That would not be any better. That would not be a solution. Avoiding the historic area is a solution, and that is possible and feasible, as already proven by the Sea's SDEIS.

There is also the matter of crossing historic CR 4512 (the Quihi-Bader Road, established August 13, 1888) north of the Lindsey property, by the Proposed route. SGR proposes to cross this road with a 5 foot deep cut. We strongly object to the defacing of this site. This area is particularly historically and archeologically sensitive.

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

A further example to the disruption of the landscape is Vulcan/SGR's new proposal to relocate a historic county road, CR 365, at the Quihi Creek crossing. This adversely affects the rural historic landscape district. Mr. Daniel Cassedy writes in his study submitted for the SDEIS, Vol II, Appendix F-1, page 28:

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

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

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

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

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

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

Sincerely,  
 Alyne Fitzgerald



TEXAS  
HISTORICAL  
COMMISSION

The State Agency for Historic Preservation

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWRENCE OAKS, EXECUTIVE DIRECTOR

March 15, 2007

#E1-2940

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

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

Dear Ms Wood:

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

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

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

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

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

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

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

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

Sincerely,

F. Lawrence Oaks, State Historic Preservation Officer

cc: John Nau, III, Chair, Texas Historical Commission  
John Fowler, Advisory Council on Historic Preservation  
Albert Hausser, Texas Historical Commission  
David H. Coburn, Steptoe & Johnson, LLP.  
Michael Weiblen



Received May 14, 2007  
Daw  
#E1-2941

May 6, 2007

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

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

Dear Ms. Rutson:

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

We are sorry that the Comanche Nation could not participate in the conference call of April 20, 2007, but since the tribe did not receive the April 5<sup>th</sup> letter from your office, we were not aware that a conference call had been set-up. After reading the plan which was provided with the April 9<sup>th</sup> letter, the Comanche Nation still has no immediate concerns or issues regarding this project; however, please continue to keep us informed as your planning proceeds. We look forward to receiving any further project reports or other information that is derived from the planning, preparation, and construction work.

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

We look forward to your reports as activities proceed.

Sincerely,

Ruth Toahty, NAGPRA Coordinator

P.O. Box 908 • Lawton, Oklahoma 73502 • PHONE: (580) 355-2250 • FAX: (580) 355-2270



TEXAS  
HISTORICAL  
COMMISSION

The State Agency for Historic Preservation

RICK PERRY, GOVERNOR  
JOHN L. NAU, III, CHAIRMAN  
F. LAWRENCE OAKS, EXECUTIVE DIRECTOR

May 14, 2007

Mr. Gary Balzen  
5527 Timber Trace  
San Antonio, Texas 78250-4208

Re: Response to letter concerning the potential routes for Southwest Gulf Railroad and the Surface Transportation Board's Draft Supplemental Environmental Impact Statement (DSEIS).

Dear Mr Balzen:

Thank you for contacting our office regarding your concerns about the potential routes of the Southwest Gulf Railroad and their impacts to your property. It is our understanding that the Surface Transportation Board (STB) has received a similar letter, however we have also passed along a copy of the one we received and copied them on this response. The STB is required by the National Historic Preservation Act of 1966 to consider the impact of its project on historic resources and to seek methods to avoid, minimize or mitigate any adverse effects on those resources. The Board is also required by this federal law to consult with the State Historic Preservation Office, which is the Texas Historical Commission. Selection of the route, if any, is the responsibility of the STB.

The home you reference is considered by our office and the STB as individually eligible for the National Register of Historic Places. It is Site # 204 in the DSEIS, a German- Alsatian house and farmstead. Like the other historic properties potentially effected by the construction of the rail line, the STB is required to seek methods to avoid or minimize adverse effects to this property. Our office agrees that this house and farmstead is worthy of preservation. All of the routes have the potential to impact historic structures and archeological sites. Unfortunately for this property, the eastern alternatives appear to be less disruptive overall to historic resources than the western routes. However, should the STB select one of the eastern alternatives that impacts your property, we will work with that agency and the railroad to avoid or minimize the adverse effects to the buildings and farmstead.

It is important to realize that the exact alignments shown in the DSEIS are approximations created by the railroad and STB. While the final constructed route is likely to adhere closely to the general alignments shown, it is expected that there will be opportunity, if not requirements from STB, to shift specific alignments to avoid damage to historic resources. Considerations such as property access, agricultural use, and irrigation systems will all need to be factored into the route selection and construction design. The combined alternative you have suggested is intriguing and it will be up to STB to determine its feasibility. We will point out that the route you propose would avoid impacting the structures on your property but would potentially impact resource #216 and/or #214 both resources eligible for the National Register as well.

P.O. BOX 12276 • AUSTIN, TX 78711-2276 • 512/463-6100 • FAX 512/475-4872 • TDD 1-800/735-2989  
www.the.state.tx.us

Received June 1, 2007  
FO #34284  
Daw  
#E1-2954

If you have not done so already, we suggest that you formally request that STB grant you or your family, consulting party status under Section 106 of the National Historic Preservation Act. This will allow you to formally participate in the discussions throughout the remainder of the process, including aspects of the actual design should STB approve any of the alternatives.

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

Sincerely,



F. Lawrence Oaks, State Historic Preservation Officer

FLO/BP

Cc: Diana Wood, Surface Transportation Board



United States Department of the Interior

NATIONAL PARK SERVICE  
1849 C Street, N.W.  
Washington, D.C. 20240

#E1-3030  
DfW  
#PD-34284

IN REPLY REFER TO:

**DETERMINATION OF ELIGIBILITY NOTIFICATION**  
**National Register of Historic Places**  
**National Park Service**

**Project Name:** STB Finance Docket No. 34284, Southwest Gulf Railroad Company

**Location:** Medina County

**State:** TX

**Request submitted by:** Victoria Rutson, Chief, Section of Environmental Analysis, STB Federal Preservation

**Date received:** 06/08/07

**Additional information received:** 07/24/07

Name of property	SHPO opinion	Eligibility	
		Secretary of the Interior's opinion	Criteria
Quihi /Upper Quihi Rural Historic District	Eligible	Additional documentation requested (see attached comments)	

*James R. McMillan*  
Keeper of the National Register  
Date: 7/24/07

The United States Department of the Interior  
National Park Service

National Register of Historic Places

Determination of Eligibility Comment Sheet

Property Name: Quihi/Upper Quihi Rural Historic District  
Medina County, Texas

Secretary of the Interior Findings: Additional Documentation Requested

The Surface Transportation Board (STB) has submitted a formal determination of eligibility (DOE) request to the National Register, pursuant to federal regulations 36 CFR, Part 63, based upon recommendations by the Advisory Council for Historic Preservation (ACHP). The STB is seeking specific guidance from the National Register with regard to: 1) whether or not the Quihi and the Upper Quihi Rural Historic Districts are eligible for the National Register as separate districts or as a single district; 2) appropriate boundaries; 3) clarification of contributing and non-contributing elements; and 4) the significance of cenotés.

Our review to date has verified that what has been proposed by the STB as two separate and contiguous districts, the Quihi and Upper Quihi Rural Historic Districts, represent a single rural historic district focused on the settlement and subsequent development of the area emanating from the original town site at the confluence of the Elm, Cherry and Quihi Creeks. Although the documentation the STB submitted to the National Register supports the significance of this area under National Register Criteria A and C, it does not provide enough information to make a definitive finding of significance of the area – which appears to have additional significance for its archeological resources-- or to assess the proposed boundaries, classification of contributing and non-contributing resources, or the significance of cenotés. Specifically, the information submitted with the STB's request does not 1) provide an evaluation of the precontact and historical archeological resources under Criterion D, 2) consider the full historical and archeological value of the area within an appropriate period of significance and relevant areas of significance, and 3) provide enough information to determine the presence and eligibility of cenotés or other potential sacred, religious, or traditional properties that may be eligible as a Traditional Cultural Properties (TCPs). Additionally, any updated documentation provided to the National Register should include U.S.G.S. quadrant maps with UTM coordinates marking the boundaries of the proposed rural historic district.

We recognize that the STB has made a substantial effort to document the eligibility of this property as a rural historic landscape, and appreciate the time and attention the agency has given to this project. We encourage the STB to work with any interested Tribes and/or parties to provide the additional documentation described below so that we may complete this DOE.

*Archeological Resources and Additional Areas of Significance Under Criterion D*

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

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

*Periods of Significance/Natural Resources*

The archeological record predates 1846, the date of Euro-American settlement (chosen as the beginning date for the Quihi districts period of significance), and likely extends to periods in prehistory as well as the occupation of Native American groups before, during, and after the region's influential Mission era. For these reasons, the period of significance should be expanded appropriately and rural landscape characteristics, such as land uses and activities, response to the natural environment, and circulation networks, be considered for the expanded period(s) of time. For example, the context should be expanded to discuss the exceptionally important natural water features of the area and explain the use, meaning, and value they had to the various cultural groups who became closely associated with this area in various periods of prehistory and history. These features include the creeks, lakes, springs, and sinkholes (also called cenotés) characteristic of the region's karst topography. You should discuss the importance of the natural features, such as Quihi Lake and any naturally occurring ponds (perhaps adapted for use as stock ponds), in the study area and explain the ways in which these features were used modified by Euro-American settlers or had been used by various aboriginal groups who previously occupied the land. Similarly, the changing agricultural patterns that shaped the proposed district should be discussed, including the relationship of water resources to

raising crops or livestock, the region's reliance on the Edwards Aquifer, the presence of irrigation features (canals, impoundments, etc.), and technological advances (e.g. rural electrification) of the 20th century.

#### *Maps and Boundaries*

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

#### *Cenotés and Other TCPs*

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

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

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

If you find that a property does not meet the National Register characteristics as a TCP, you may evaluate the property as an historic or precontact site under the National Register Criteria.

Thank you for your cooperation and assistance in providing information on this matter. Please note that a copy of this comment sheet will be retained in the permanent National Register file for the STB Finance Docket No. 34284, Southwest Gulf Railroad Company Determination of Eligibility Request. If you have other questions regarding this matter, please contact Erika Martin Seibert at (202) 354-2217 or [Erika\\_Seibert@nps.gov](mailto:Erika_Seibert@nps.gov), or Linda McClelland at (202) 354-2258 or [Linda\\_McClelland@nps.gov](mailto:Linda_McClelland@nps.gov).

#### References

Parker, Patricia L. and Thomas F. King, 1998 [revised; 1990, 1992] *The National Register Bulletin, Guidelines for Evaluating and Documenting Traditional Cultural Properties*. U.S. Department of the Interior, National Park Service.

cc: Texas SHPO (Larry Oaks)  
 ACHP (Katty Harris, Charlene Dwin-Vaughn)  
 Tap Pilam-Coahuiltecan Nation (Mr. Raymond Hernandez)  
 Anthony Weiblen  
 Mr. Troy Johanntoberns, Wichita & Affiliated Tribe  
 Ms. Doria Goombi, Kiowa Tribe of Oklahoma  
 Ms. Lynn Schonchin, Comanche Nation of Oklahoma  
 Ms. Holly Houghten, Mescalero Apache Tribe



**TEXAS  
HISTORICAL  
COMMISSION**

*The State Agency for Historic Preservation*

#EL-3034  
FD-34284  
Daw

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWRENCE OAKS, EXECUTIVE DIRECTOR

Quihi and New Fountain Historic Districts, Medina County, Texas  
July 18, 2007  
Page 2 of 2

July 18, 2007

Linda McClelland  
National Register of Historic Places  
National Park Service  
1201 Eye St., NW  
8th Floor (MS 2280)  
Washington, DC 20005

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

Dear Ms. McClelland:

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

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

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

Since both districts share a historic context with Castroville and Henri Castro's successful efforts to establish German/Alsatian settlements in Texas, and both retain contributing properties dating to this early period of Texas settlement, they should be nominated to the National Register at the

state level of significance, under Criterion A in the areas of Settlement and Ethnic Heritage/European, and Criterion C, in the area of Architecture.

If you have any questions concerning this review or if we can be of further assistance, please contact Gregory Smith at (512) 463-6013. Thank you for your interest in preserving the rich heritage of Texas.

Sincerely,

F. Lawrence Oaks  
Executive Director



September 3, 2007

#21-3149  
BFW

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

Dear Ms. Rutson;

Joe and I request to be made consulting parties to the programmatic agreement for Southwest Gulf Railroad, Finance Docket 34284.

We are descendants of the original settlers of Quibi. Our home, built in 1911, is eligible for listing as a historical home. We are listed on a Texas Family Land Heritage Ranch. Our ranch has been in our family since 1881.

It is of great concern to us what is being planned for our historical community.

We sincerely hope you will grant our request. Our home is located near both Eastern Route.

Respectfully,  
Linda D. Balson  
3\*#\*&~  
780-CP354  
Hondo, Tex. 78861

ttfl -315Z  
BFW  
FD 34284

Aug 31, 2007

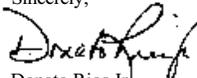
Donato Rios Jr  
6009 FM2676  
Hondo (Quihi) Tx  
78861

Surface Transportation Board  
Attn: Ms Victoria Rutson

Ms Rutson, I purchased some property four (4) years ago seeking the serenity of the country style living in the Quihi, Tx area which is very sacred with old historical buildings and Indian grounds. On our property we have an historical landmark that would be either razed or destroyed of its history should the proposed railroad route be layed out thru our property. This is not to mention our only source of drinking water, our windmill, of which the rail would run very close to its proximity. Should this rail line come thru our property our new home would also be in jeopardy as it would be approximately 1000ft from our dwelling.

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

Sincerely;

  
Donato Rios Jr

Los Papalotes Ranch.

#E1-3159  
Dfw

Lynette Stewart  
3619 FM 2676  
Hondo, Texas 78861  
830-741-4836  
830-931-4849  
jimmy@mecwb.com

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

FAX#: 202-245-0454  
RE: Finance Docket 34284

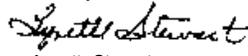
Question on Home and Farm Location

Dear Ms. Rutson:

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

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

Sincerely,

  
Lynette Stewart

#E1-3160  
Dfw

September 12, 2007

Anthony Weiblen  
2918 Darlington Drive  
Highland Village, TX 75077

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

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

Dear Ms. Wood:

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

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

Upon completion of SGR's assessment of the Weiblen Modification, SGR met with the Weiblen Family on September 7, 2007 and stated that they could work with the Weiblen Modification.

The Weiblen Family then received SGR's letter to the Section of Environmental Analysis (SEA) of the Surface Transportation Board (STB) on September 10, 2007. In this letter, SGR states "SGR has not identified any fatal flaws with the Weiblen Modification," but "SGR has not undertaken an intensive engineering analysis of the proposed Weiblen Modification to make a definitive judgment in that regard." In the same letter, SGR is requesting softer language in the 5A mitigation measure, which was created to help protect the private property and business owners, by replacing the word "ensure" with "to the extent feasible."

The Weiblen Family disagrees with the change to the 5A mitigation measure and requests that the SEA add stronger language to the mitigation measure requiring SGR work with the private property and business owners since they have not definitively stated that the Weiblen Modification is an acceptable alternative.

The Weiblen Family again offers SGR access to their property to perform an intensive engineering analysis to determine if the Weiblen Modification is acceptable. If you have any questions, please contact me at 972-897-8640.

Sincerely,

Anthony Weiblen

Cc:  
Tom Ransdell  
Vulcan Construction Materials, LP  
P.O. Box 791550  
San Antonio, TX 78279-1550

#EJ: 3176  
BAW  
FD 34284

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

September 19, 2007

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

Joseph & Vicki Salomon  
1040 CR 353  
Hondo, Texas 78861-6425

(830)-741-8352



Joseph Salomon

#E1-3177  
DLW  
FO 34284

4-5

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

Dear Mr. Burton:

Please Consider my Request to be made Consulting  
Parties To The Programmatic Agreement For  
Southwest Gulf Railroad, Finance Docket # 74284

We are descendants from The Original Settlers of  
The Quihi Area. Our Ranch has been in The Family  
Over 100 years.

Also Be Advised that for The Past 10 years it  
has been an interest to Early Archaeological studies  
By Thomas R Hester Ph.D, Professor of Anthropology,  
Emeritus University of Texas at Austin.

I Have Taken The liberty to Copy a Portion  
of A letter sent to you on Nov 6, 2003 From  
Prof. Hester, After Reviewing This Please note  
that The Proposed S.G.R. Eastern Bypass will come  
Very Close To, State of Texas Right # 41ME132 and  
that The Revised Weiblen's Route would probably go  
Over This Right.

Russell Mangold  
207-23rd St  
Hondo, TX 78861

Respectfully:  
Russell Mangold  
207-23rd St  
Hondo, TX 78861

4-5

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

mailing address:  
PO Box 625  
Utopia, TX 78884

email: secocreek@ricc.net

b) Personal scientific research in the prehistory of the area

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

One of the sites, 41ME132 [official State of Texas site number], the Gap Site, is directly beneath or at least closely adjacent to Alternative 3 of the proposed railroad route southeast of Quihi. This site has just been barely studied. However, a test pit dug by the

late Buddy Mangold, found a zone of Frio points just below the surface. Further exploration could (1) expand our knowledge of the Late (Transitional) Archaic by better defining this Frio-age campsite or (2) could find earlier, stratified deposit below Frio. This site is on a terrace of Quihi creek, and while no geoarchaeological studies have yet been done at the site, it appears that Quihi creek has shafted its channel repeatedly in this zone (of. 41ME34). This site alone points out the errors of the statements re: she occurrence found in the subject report.

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

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

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

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

**2) Implications for Surveys and Excavations Related to the Subject Project**

While archaeologists know very little about the archaeology of the project area (that in itself is cause for intensive investigation), what we do know provides hard evidence that it lies in an area of extreme archaeological significance. It is surrounded by important sites, many of which I have listed and some of which are in similar if not identical environmental contexts. We know from 41ME132 and 41ME133, in the midst of the project area, that extensive prehistoric remains are predictable, and will likely extend back almost 11,000 years at some sites. However, the whole chronological range of human prehistory in the area is likely to be found in various forms at any number of sites (e.g., 41ME34, and even closer, 41ME53). Because of the nature of the formation processes in the local geology, any archaeological survey that is worth its salt will have to employ an experienced geoarchaeologist or geomorphologist to identify likely site areas, changes that are more recent in time, etc., and there will be a pressing need for an extensive program of backhoe trenching to reconstruct the Holocene geology and to develop a model of site location. It can be predicted that any number of sites will lie in the path of the subject railroad or its alternatives. In order for NEPA, Sec. 106, or any number of other permitting processes to go forward, hundreds of thousands of dollars will have to be spent on archaeological survey and geomorphology. The mitigation of only two or three sites would likely cost into the millions of dollars based on modern archaeological standards at the Federal and State level.

**3) Implications for Historic Archaeology**

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

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

5-7

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

**4) Closing Observations**

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

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

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

Sincerely yours,

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

mailing address:  
PO Box 625  
Utopia, TX 78884

email: secocreek@ricc.net

**STEPTOE & JOHNSON LLP**  
ATTORNEYS AT LAW

HEI-3178  
011

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Tel 202.429.0000  
Fax 202.429.3902  
steptoe.com

September 21, 2007

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

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

Dear Ms. Rutson:

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

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

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

Ms. Victoria Rutson  
September 21, 2007  
Page 2

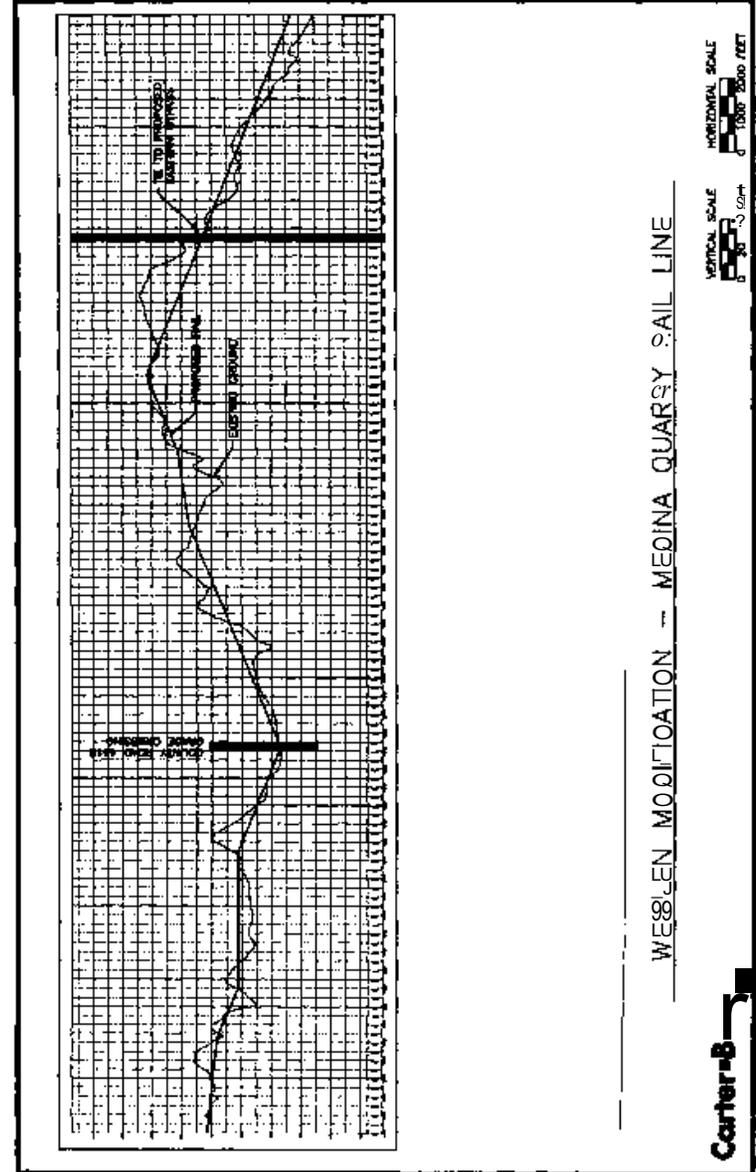
We would be pleased to answer any questions that you might have about these materials.

Respectfully,

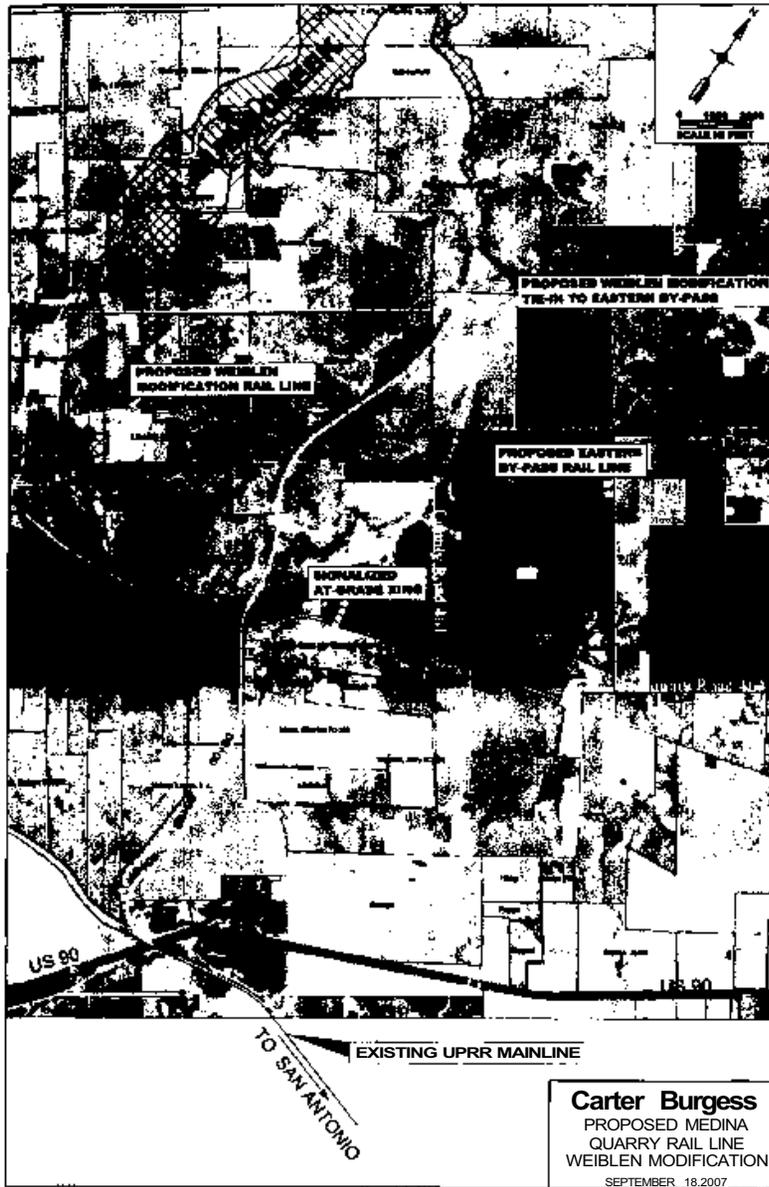


David H. Cobum  
Attorney for Southwest Gulf Railroad

cc: Ms. Diana Wood  
Ms. Jaya Zyman-Ponebshek  
Mr. Harold Weiblen



HEB-3185  
D7W



The Michael Churchill Jones Ranch Trust  
Barbara H. Jones, Trustee  
209 Newbury Terrace  
San Antonio, TX 78209  
September 27, 2007

Re: Finance Docket 34284

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

Dear Ms. Ruston:

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

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

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

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

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

Very truly yours,

*Barbara H. Jones, Trustee*

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

HEI-3187  
Dtw

September 5<sup>th</sup> 2007

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

FAX# 202-245-0454

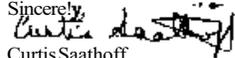
RE: Finance Docket 34284  
Question on Home and Farm Location  
6710 FM 2676, Hondo TX 78661

Dear Madam:

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

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

Sincerely,



Curtis Saathoff  
7506 Pipers Run  
San Antonio, TX 78251  
210-684-4989  
210-326-1556

#EO-431  
BAW

**Surface Transportation Board**   
**Outgoing Correspondence Record**

#EO-431

Correspondence Information			
* Required Fields		Recorded by: Diana Wood on 02/23/2007	
*Docket #:	FD 34284 0	*Name of Sender:	Victoria Rutson
*Letter Recipient:	Section 106 Consulting Parties	Date of Letter:	02/23/2007
Group:		In Public Docket?	<input checked="" type="radio"/> Yes <input type="radio"/> No
Affiliation:			
Letter Type:	Letter w/ Attachments		

**Comments:**  
 Letter inviting all Section 106 consulting parties to a 3-26-07 meeting in San Antonio, TX. List of consulting parties attached.



**SURFACE TRANSPORTATION BOARD**  
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

February 23, 2007

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

Dear Section 106 Consulting Party:

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

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

**The meeting will be held at 1:30 p.m. CDT on March 26, 2007 at the Embassy Suites Hotel – San Antonio Northwest in San Antonio, TX. Directions to the hotel can be found on its website at:**  
<http://embassysuites.hilton.com/en/es/hotels/index.jhtml;jsessionid=4Y4VU4ZXPMLWC5GBIWM22QKIYFC5UUC?ctyhocn=SATBRES&ctyhocn=SATBRES><sup>1</sup>.

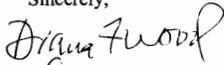
<sup>1</sup> The above web address can be copied and pasted into your search engine. You may also go to [www.embassysuites.hilton.com](http://www.embassysuites.hilton.com) then search for Embassy Suites Hotel San Antonio Northwest/I-10. The room will be accessible to persons with disabilities.

The purpose of this meeting is to allow for a free and open discussion regarding SGR's proposed mitigation measures of the proposed route. All of the Section 106 consulting parties will have an opportunity to provide their opinion on SGR's proposal. If space permits, those individuals in attendance who are currently not Section 106 consulting parties may sit in on the discussion. Priority for attendance in the discussion must be given to the project's current official Section 106 consulting parties due to limited seating at the proposed meeting site.

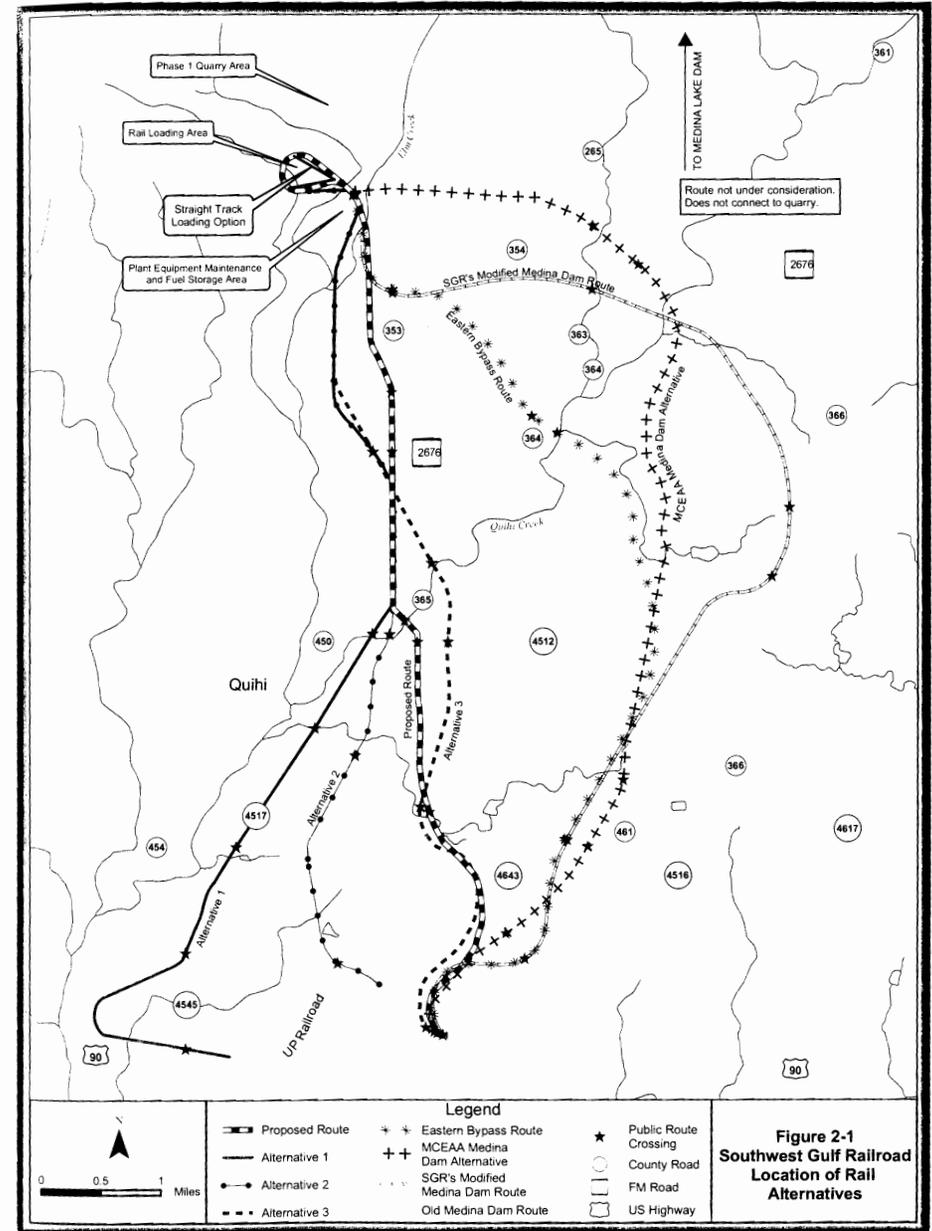
A representative of SEA's third party consulting firm, URS, will be present to take notes during the meeting. The meeting notes will be scanned onto the Board's website and will be publicly available a few days after the meeting. Because of limited travel funds, SEA will not be present at the meeting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

If you have questions, please feel free to contact Diana F. Wood, Environmental Protection Specialist by telephone at (202) 565-1552 or by email at [woodd@stb.dot.gov](mailto:woodd@stb.dot.gov). As of March 5, 2007, the STB's new address will be 395 E Street, SW, Washington, D.C. 20423-0001 and Ms. Wood's telephone number will be (202) 245-0302.

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

Sincerely,  
  
 for  
 Victoria Rutson  
 Chief, Section of  
 Environmental Analysis

Enclosures (2)



#E1-2658  
RJ

STEPTOE & JOHNSON LLP  
ATTORNEYS AT LAW

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Tel 202.429.3000  
Fax 202.429.3902  
step toe.com

January 16, 2007

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

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

Dear Mr. Oaks:

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

SGR hopes, however, that the THC also will give consideration to the proposal that SGR has made for additional mitigation with respect to the Proposed Route. That proposal is designed to build on the natural advantages of the Proposed Route by mitigating its impact on cultural resources. The benefits of the Proposed Route include (1) a shorter length (essentially a straight line) and, related to that, a smaller footprint in the area than any of the Eastern routes under consideration; (2) likely fewer impacts to irrigated farmland than the Eastern alternative routes; (3) less cut and fill than any of the Eastern routes and therefore less disturbance to the area in general; (4) an alignment that traverses as much as possible along property boundaries and thus that is generally less intrusive than the Eastern alternatives to agricultural and other land uses for the property being traversed; (5) many fewer affected

Mr. F. Lawrence Oaks  
January 16, 2007  
Page 2

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

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

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

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

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

3. By virtue of the construction cost savings that it would achieve were it able to construct the Proposed Route as opposed to any one of the Eastern alternatives, SGR would be in a position to provide a substantial contribution to the Texas Preservation Trust Fund for THC's discretionary use in supporting grants and loans designed to encourage preservation, rehabilitation, restoration or similar goals within the District. I have further discussed this contribution with my client and have been advised that the contribution would be in an amount of \$500,000. Further, SGR is prepared to work

Mr. F. Lawrence Oaks  
January 16, 2007  
Page 3

with you and your staff to structure this contribution in a manner such that the amount of the contribution might be eligible, to the extent possible, for possible matching by government funds, or otherwise might prove as beneficial as possible to the advancement of the THC's goals in the area.

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

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

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

Respectfully,



David H. Coburn  
Attorney for Southwest Gulf Railroad

cc: Ms. Victoria Rutson, SEA  
Ms. Rini Ghosh, SEA  
Donald Klima, ACHP  
Honorable Ciro Rodriguez  
Mr. Robert Hancock, Medina County Historical Commission  
Mr. Jim Arterberry, Comanche Nation  
Mr. Archie Gerdes  
Dorla Goomby, Kiowa Tribe of Oklahoma  
Robert Fitzgerald, MD, MCEAA  
Holly Houghton, Mescalero Apache Tribe

Mr. F. Lawrence Oaks  
January 16, 2007  
Page 4

Mrs. Cynthia Lindsey, Quihi & New Fountain Historical Society  
Carol Carpenter, Schweers Historical Foundation  
Raymond Hernandez, Tap Pilam Tribal Council  
Troy Johanntoberns, Wichita and Affiliated Tribes of Oklahoma

Ruth Toahty  
c/o Comanche Nation  
Nagpra Coordinator  
P.O. Box 908  
Lawton, OK 73505

Dorla Goomby  
Environmental Department  
Kiowa Tribe  
P.O. Box 30  
Carnegie, OK 73051

Holly Houghton  
Tribal Historic Preservation Officer  
Mescalero Apache Tribe  
P.O. Box 227  
Mescalero, NM 88340

Carol Carpenter  
President  
Schweers Historical Foundation  
500 Dresden Wood Drive  
Boerne, TX 78006

Troy Johantobers  
Director, Environmental Department  
Wichita & Affiliated Tribes  
P.O. Box 729  
Anadarko, OK 73005

Katry Harris  
Advisory Council on Historic  
Preservation  
1100 Pennsylvania Avenue, N.W.  
Suite 809  
Washington, DC 20004

Donald Klima  
Advisory Council on Historic  
Preservation  
1100 Pennsylvania Avenue, N.W.  
Suite 809  
Washington, DC 20004  
F. Lawrence Oaks, State Historic  
Preservation Officer  
P.O. Box 12276  
Austin, TX 78711-2276

Mr. Archie Gerdes  
450 CR 351  
Hondo, TX 78861

Robert Fitzgerald, MD  
President  
Medina County Environmental  
Action Association  
202 CR 450  
Hondo, TX 78861  
Mrs. Cynthia Lindsey  
Quihi & New Fountain Historical  
Society  
P.O. Box 93  
190 CR 4512  
Hondo, TX 78861

Raymond Hernandez  
Tap Pilam Tribal Council  
Tap Pilam Coahuiltecan Nation  
273 Nicks Road  
Comfort, TX 78013

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

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

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

David Coburn  
Steptoe & Johnson, LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036-1795



**SURFACE TRANSPORTATION BOARD**  
**Washington, DC 20423**

*Office of Economics, Environmental Analysis and Administration*

#EO-447  
DAN

March 27, 2007

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

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

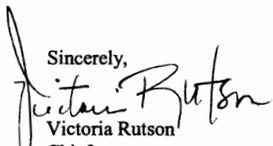
Dear Mr. Weiblen:

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

We appreciate your interest in our environmental review process and your request to become a consulting party in the NHPA section 106 process. Although your property has not been deemed culturally or historically significant under the NHPA, the large landholdings in your family's possession enable such participation in the NHPA process under the governing regulations. Accordingly, you qualify under 36 CFR 800.2 (c)(5), which states: "Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties interest."

We are pleased to include you in your capacity as a private landowner as a section 106 consulting party for this proceeding and will ensure that you receive all information regarding the

ongoing section 106 process. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.

Sincerely,  
  
Victoria Rutson  
Chief  
Section of Environmental Analysis

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

#EO-463  
D7W

**Section 106 Consulting Party Meeting on  
Proposed Voluntary Mitigation  
Surface Transportation Board FD 34284  
Southwest Gulf Railroad Company  
March 26, 2007  
San Antonio, Texas**

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

**Attendees:** Charlene Dwin Vaughn (Advisory Council on Historic Preservation)  
Katrly Harris (Advisory Council on Historic Preservation)

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

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

Lawrence (Larry) Oaks (Texas Historical Commission)

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

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

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

Harold Weiblen (Weiblen Brothers Farm)  
Fred Weiblen (Weiblen Bros. Farms)  
Glenn Weiblen (Weiblen Bros. Farms)  
Jordan Tannenbaum, Esq. (Landowner)  
Tomas Larralde (Landowner)

**Joined via phone**

Victoria Rutson – STB/SEA  
Diana Wood – STB/SEA  
Cathy Glidden – STB/SEA  
Evelyn Kitay – STB Office of General Counsel  
Danielle Gosselin – STB/SEA  
Julianne Fletcher – Preservation Texas

**Introduction**

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

Purpose of Meeting and Ground Rules

Synopsis of Proposed Voluntary Historic Resources Mitigation

Discussion of Proposed Historic Resources Mitigation - Section 106 Consulting Parties

Summary of Discussions

Next Steps

**Purpose of Meeting and Historical Project Overview by Victoria Rutson and Katry Harris**

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

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

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

**Ground Rules by Ms. Katry Harris (ACHP)**

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

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

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

1. SGR shall establish a Conservation Easement along the area that crosses the Quihi Rural Historic Landscape within the property that Vulcan owns.
2. SGR shall adjust the Route to avoid direct impacts to cultural resources (such as the historic wall) by moving the line to the east paralleling an existing pipeline easement and also paralleling it a bit more with CR 353 to run along property

boundaries. These realignments have not been discussed with property owners yet.

3. SGR shall donate \$500,000 to the Texas Historical Commission (THC).
4. SGR shall support THC and Medina County in National Register of Historic Places (NRHP) listings and overall preservation of the rural and historic character of the area.

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

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

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

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

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

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

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

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

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

next step is to reach an agreement. A design review provision could be added to discuss the bridges design at that time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

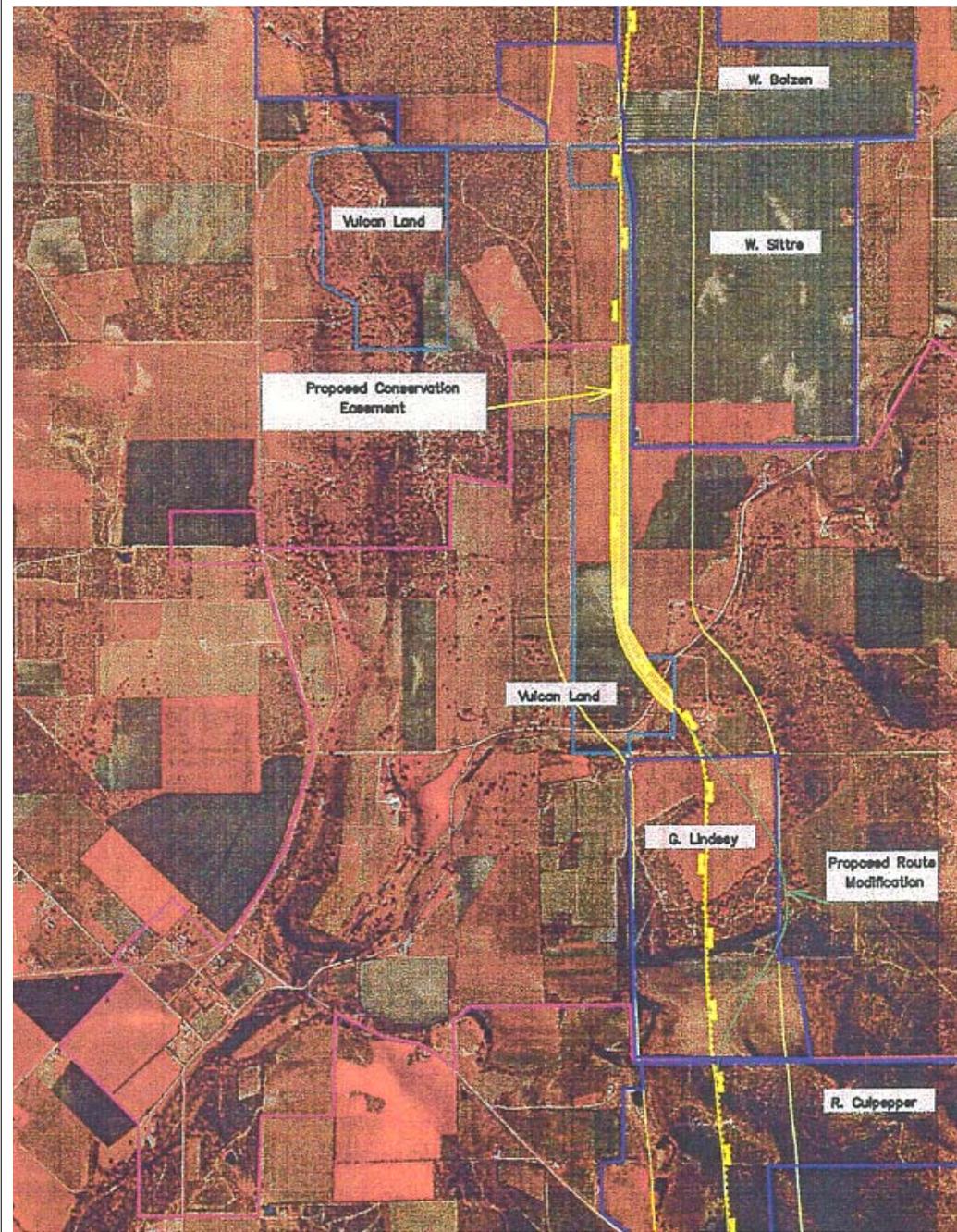
Ms. Dwin Vaughn agreed with Mr. Oakes, citing that it's not the ACHP's intent to stop the project.

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

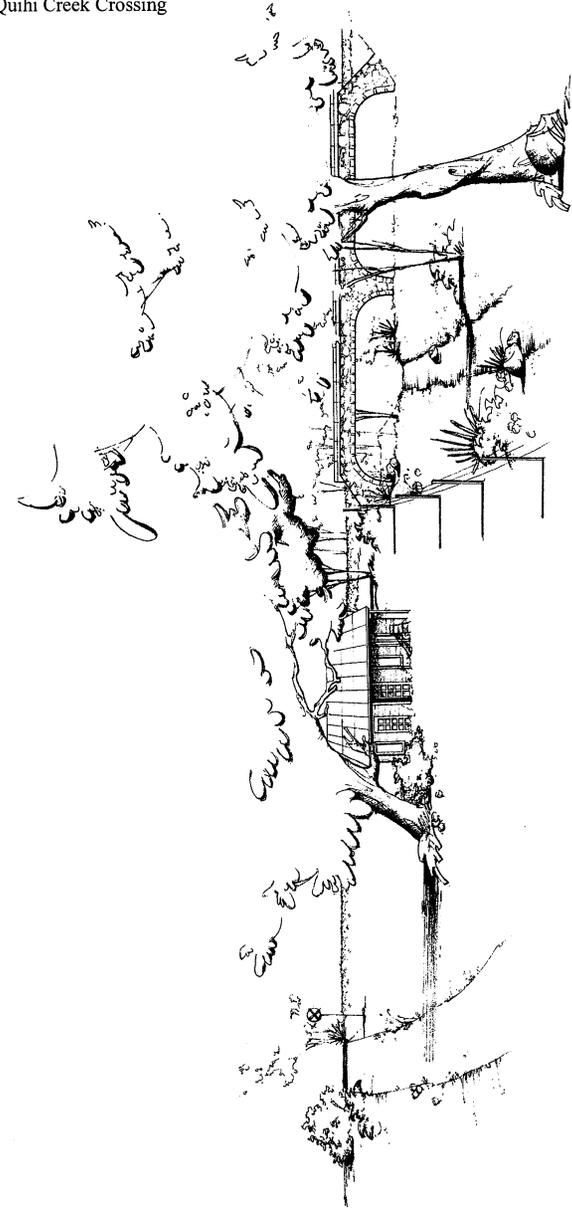
SGR will modify its proposal to address the issues raised brought forth and submit a revised proposal to STB within 10 days. STB would then send the revision to all Section 106

consulting parties for review. A subsequent consultation conference call will be scheduled to allow for consultation on the revised proposal.

SGR will do the following: modify its mitigation proposal and integrate some of the issues raised during today's consultation into the mitigation proposal. SGR will then submit the modified proposal to SEA, who will distribute it to the meeting attendees and official Section 106 consulting parties. SEA will set up a day and time for a conference call for the consulting parties to discuss SGR's modified proposed mitigation plan.



Artist's Rendering of Quihi Creek Crossing



#EO-465  
DW

**Section 106 Consulting Party Meeting on  
Proposed Voluntary Mitigation  
Surface Transportation Board FD 34284  
Southwest Gulf Railroad Company  
March 26, 2007  
San Antonio, Texas**

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

**Attendees:** Charlene Dwin Vaughn (Advisory Council on Historic Preservation)  
Katy Harris (Advisory Council on Historic Preservation)

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

Tom Ransdell (Southwest Gulf Railroad or "SGR")  
Clay Upchurch (Vulcan Construction Materials, LP)  
David Coburn (Step toe & Johnson, LLP representing SGR)  
Sergio A. Iruegas, R.P.A. (GTI Environmental, Inc.)

Lawrence (Larry) Oaks (Texas Historic Commission)

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

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

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

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

SGR will do the following: modify its mitigation proposal and integrate some of the issues raised during today's consultation into the mitigation proposal. SGR will then submit the modified proposal to SEA, who will distribute it to the meeting attendees and official Section

106 consulting parties. SEA will set up a day and time for a conference call for the consulting parties to discuss SGR's modified proposed mitigation plan.



*SURFACE TRANSPORTATION BOARD*  
*Washington, DC 20423*

#EO-466  
DHW

*Office of Economics, Environmental Analysis and Administration*

April 9, 2007

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

Dear Section 106 Consulting Party:

At our meeting in San Antonio, Texas, on March 26, 2007, representatives of Southwest Gulf Railroad (SGR) and Vulcan Construction Materials, Inc. presented a voluntary mitigation plan intended to minimize impacts on rural historic landscapes caused by construction and operation of SGR's proposed rail route through Quihi, Texas.<sup>1</sup> At the conclusion of that meeting, Ms. Charlene Dwin Vaughn of the Advisory Council on Historic Preservation suggested that SGR be given an opportunity to integrate into its voluntary mitigation plan some of the new information heard during the meeting.

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

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

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

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<sup>1</sup> The minutes from the March 26, 2007 meeting are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Correspondence," then "Environmental", then selecting "Outgoing by Docket Number", then conducting a search for FD 34284, and finally selecting "#EO-463."

free to contact Diana F. Wood, Project Manager, by telephone at 202-245-0302 or by email at [woodd@stb.dot.gov](mailto:woodd@stb.dot.gov).

Sincerely,



Victoria Rutson  
Chief, Section of  
Environmental Analysis

Enclosure

STEPTOE & JOHNSON LLP  
ATTORNEYS AT LAW

David H. Coburn  
202.429.8063  
dcoburn@steptoe.com

1330 Connecticut Avenue, NW  
Washington, DC 20036-1795  
Tel 202.429.3000  
Fax 202.429.3902  
steptoe.com

April 5, 2007

VIA FACSIMILE AND COURIER

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

Mr. F. Lawrence Oaks  
Executive Director  
Texas Historical Commission  
P.O. Box 12276  
Austin, TX 78711-2276

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

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

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

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

WASHINGTON • NEW YORK • PHOENIX • LOS ANGELES • LONDON • BRUSSELS

Ms. Victoria Rutson  
Mr. F. Lawrence Oaks  
Ms. Charlene Dwin-Vaughn  
April 5, 2007  
Page 2

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

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

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

2. SGR agrees to implement a conservation easement program in consultation with the Medina County Historical Commission and the THC on those properties that it or its affiliates own in the QRHD. Those properties constitute about one half of the length of the Proposed Route in the QRHD. The purpose of this program would be to control development within the QRHD. The easement would work hand in hand with the preservation plans put forward in the HPP. Further, SGR will use its best efforts to encourage other landowners within the boundaries of the QRHD from which it would need to acquire its right of way to establish a similar conservation easement. If those landowners

<sup>1</sup> It should be noted that SGR's original offer of a \$500,000 contribution to a state historic preservation fund did not appear to be embraced by the THC (or other consulting parties). SGR has thus restructured that contribution as set forth in this letter, but is prepared to restore a contribution to the fund if that is preferred by the THC.

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concur, the entire length of the line within the QRHD would be protected by an easement. As a result, no rail-served businesses could locate along the SGR line within the QRHD.

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

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

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

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

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

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

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

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

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

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

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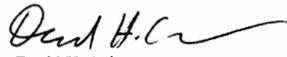
believes that any of the commenters have raised disqualifying issues or issues that cannot be addressed, but merely to note that satisfying one group of landowners in the Quihi area, such as Dr. Fitzgerald and his wife, by routing the line away from their properties will inevitably lead to the dissatisfaction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

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

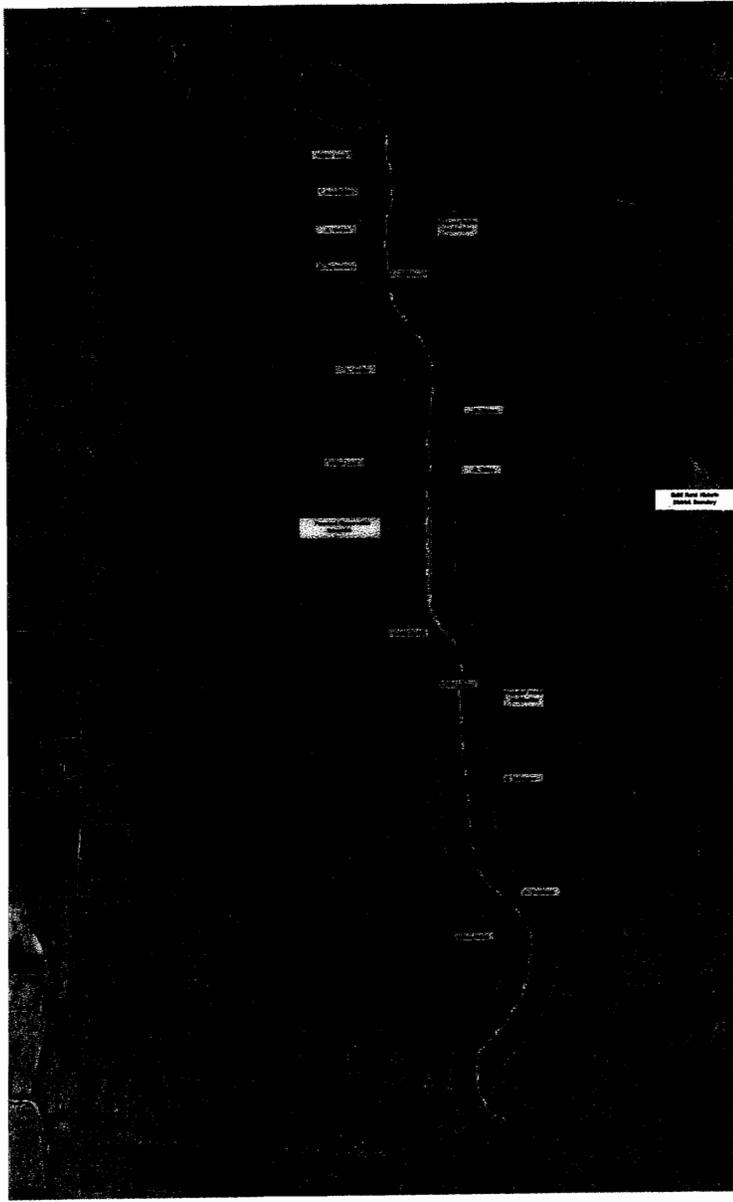
Finally, SGR urges the parties to consider that its offer constitutes the best opportunity to protect the Quihi area against future intrusions and suburban growth, which is otherwise inevitable and not subject to any controls. The funding of the historic preservation plan, coupled with the easement,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

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

Sincerely,

  
David H. Coburn  
Attorney for Southwest Gulf Railroad

cc: Ms. Diana Wood, SEA  
Ms. Jaya Zyman Ponebshek, URS



Artist's Rendering of Quihi Creek Crossing





"hester"  
 <secocreek@swtexas.net>  
 04/24/2007 10:32 AM

To <Catherine.Glidden@stb.dot.gov>  
 cc  
 bcc

Subject Re: Section 106 consulting party status for Dr. H

16  
 ED-485

History: This message has been replied to.

Thank you very much for your help.

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

**From:** Catherine.Glidden@stb.dot.gov

**To:** secocreek@swtexas.net

**Cc:** l.oaks@thc.state.tx.us ; Brad.Patterson@thc.state.tx.us ;

Diana.Wood@stb.dot.gov

**Sent:** Tuesday, April 24, 2007 9:31 AM

**Subject:** Section 106 consulting party status for Dr. Hester

Dear Dr. Hester:

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

Best Regards,

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

"hester" <secocreek@swtexas.net>

04/23/2007 05:32 PM

To <Catherine.Glidden@stb.dot.gov>  
 cc  
 Subject Re: Section 106 consulting party status

Dear Cathy:

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

Thank you very much.

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

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

**From:** Catherine.Glidden@stb.dot.gov

**To:** secocreek@swtexas.net

**Cc:** Diana.Wood@stb.dot.gov

**Sent:** Monday, April 23, 2007 11:29 AM

**Subject:** Section 106 consulting party status

Dear Dr. Hester,

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

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

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

-Cathy

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

Fax: (202) 245-0454

#EO-493  
dfw

**Section 106 Consulting Party Teleconference on  
Proposed Voluntary Mitigation  
Surface Transportation Board FD 34284  
Southwest Gulf Railroad Company  
April 20, 2007**

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

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

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

Tom Ransdell (Southwest Gulf Railroad or "SGR")  
Clay Upchurch (Vulcan Construction Materials, LP)  
David Coburn (Steptoe & Johnson, LLP representing SGR)  
Jordan Tannenbaum, Esq. (Section 106 Consultant)

Lawerence (Larry) Oaks (Texas Historical Commission)  
Terry Colley (Texas Historical Commission)  
Bradford Patterson (Texas Historical Commission)

Richard Garay (Tap Pilam Coahuiltecan Nation Member)  
Raymond Hernandez (Tap Pilam Coahuiltecan Nation Member)

Bob Fitzgerald, MD (Medina County Environmental Action Association or  
"MCEAA")  
Mary Walpole (MCEAA Treasurer)  
Archie Gerdes (MCEAA)  
Lester R. Landrum (MCEAA)  
Tom Walpole (MCEAA)  
David Barton (The Gardner Law Firm)  
Brian Pietruszowski (The Gardner Law Firm)

Ray Schoch (Schweers Historical Foundation)

Alyne Fitzgerald (Quihi and New Fountain Historical Society)  
Cynthia Lindsey (Quihi & New Fountain Historical Society)

Andy Weiblen (Weiblen Bros. Farms)  
Michael Weiblen (Weiblen Bros. Farms)

Victoria Rutson (STB/SEA)  
Diana Wood (STB/SEA)

Meeting notes: 4-20-07

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Cathy Glidden (STB/SEA)  
Evelyn Kitay (STB Office of General Counsel)  
Danielle Gosselin (STB/SEA)

**Other Interested Parties (Not Official Section 106 Consulting Parties):**

Ronda McNew (Martin Family - Landowner)  
Alvin Saathoff (Saathoff Family - Landowner)  
Lynette Stewart (Landowner)  
Julianne Fletcher (Preservation Texas)  
Thomas Hester (Archeologist)  
Courtney Eisenhower (Landowner)

**Introduction**

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

Purpose of Meeting, Brief Chronology and Ground Rules

Synopsis of Proposed Voluntary Historic Mitigation Measures as Outlined in Southwest Gulf Railroad's (SGR's) April 5<sup>th</sup> Letter

Initial Remarks Focusing on Four Questions Below - Section 106 Consulting Parties:

- 1) What is your overall reaction to SGR's modified proposal?
- 2) Does the modified proposal address the issues that you raised during the meeting held Monday, March 26, 2007?
- 3) If not, why not? Where specifically does the mitigation fall short?
- 4) What would be needed for you to find the Proposed Route acceptable?

Additional Remarks/Open Discussion

Next Steps

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

Victoria Rutson provided background information on the proposed railroad construction and operation proceeding. She noted the purpose of the meeting was to give the Section 106 consulting parties an opportunity to provide comments on SGR's voluntary mitigation plan for the Proposed Route. Ms. Rutson detailed the past events of the project, from SGR's initial 2003 filing for construction authority before the Surface Transportation Board (STB) to the issuance of the Supplemental Draft Environmental Impact Statement (SDEIS) in December 2006. In the SDEIS, she explained, the STB's Section of Environmental Analysis (SEA) had identified both

the MCEAA and Eastern Bypass Routes as the environmentally preferred routes because these routes would avoid the Quihi Rural Historic District (QRHD).

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

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

Clay Upchurch provided an overview of the following key points of SGR's proposed mitigation measures as outlined in SGR's April 5<sup>th</sup> letter:

1. SGR will fund the preparation by a competent historic resources consultant of an Historic Preservation Plan (HPP) for the QRHD. The purpose of the HPP will be to establish a plan for the current and long-range preservation, maintenance and use of the QRHD.
2. SGR agrees to implement a conservation easement program in consultation with the Medina County Historical Commission and the Texas Historical Commission (THC) on those properties that it or its affiliates own in the QRHD. The purpose of this program would be to control development within the QRHD.
3. Should the Proposed Route be constructed, SGR would take steps (through rate incentives and other means) to incentivize any businesses desiring to locate on its line to do so outside of the QRHD, an instead, in the area near the southern terminus of its line, well outside the QRHD and near the UP line and U.S. 90. If any business locates along a portion of the line that is not protected through an easement, SGR would contribute a fixed sum to either the Medina County Historical Commission or the THC to fund historic preservation within the QRHD. The size of the contribution would be commensurate with the size of the area consumed by the rail-served business that locates in the QRHD under a formula that SGR would discuss with the relevant preservation agencies, but would not be less than \$75,000.
4. SGR will ensure that the Proposed Route avoids the historic stone wall as well as any other structures that are contributing elements to the QRHD.
5. SGR will avoid bisecting the Gerdes farm, designated as a heritage property, by re-routing the Proposed Route along the edge of that property, adjacent to County Road 353 currently marking the edge of the property.
6. SGR will consult with the Tap-Pilam Tribal Council to develop a plan to ensure that any Tap-Pilam human remains and grave associated artifacts encountered during the construction phase of the project are reburied within 30 days and in a

location where their subsequent disturbance is unlikely and in a manner consistent with Tap-Pilam Tribal custom and tradition.

7. To the extent that the STB approves the proposed route, SGR will submit final engineering plans and specifications for that Route to the Medina County Historical Commission and the THC for advance review and comment.
8. SGR will take steps to use natural vegetation and other available means to make the rail line, including stream crossings, as unobtrusive as possible.
9. SGR commits to adhering to the terms of the Programmatic Agreement as a means of addressing any archeological resources that may be located along the Proposed Route.

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

#### **Initial Remarks Focusing on Four Questions – By Section 106 Consulting Parties**

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

Ms. Cynthia Lindsey made the following initial comments:

I would like to comment, in writing, to your letter of April 9, 2007 and the attached letter from Steptoe & Johnson, dated April 5, 2007, regarding the mitigation proposals made by the representatives of Southwest Gulf Railroad (SGR) at the meeting on March 26, 2007. It is my understanding that Vulcan Construction Materials and their subsidiary SGR are continuing to pursue the original proposed route through the Quihi Rural Historic District (QRHD). And, in spite of the conclusions and recommendations made by the Surface Transportation Board (STB) and the Board's Section of Environmental Analysis (SEA) in their Supplemental Draft Environmental Impact Statement (SDEIS) issued in December 8, 2006, Vulcan and the SGR continue to insist that the original Proposed Route should be approved, apparently only because of the additional cost. From my reading it appears the SEA has concluded in its report "that the Eastern Alternatives are environmentally preferable to the Proposed Route or any of the alternatives."<sup>1</sup> Therefore, I cannot understand why these meeting and any negotiations or mitigations are necessary; the original Proposed Route is definitely unacceptable.

The representatives of the SGR make several offers of mitigation in their letter and I have to question several of their offers. They offer to procure the services of consultants to assist in the preservation of the QRHD, but it must be understood that these services would not be

<sup>1</sup> SDEIS, Dec. 8, 2006, Page ES-12.

necessary if there were there was no railroad in the QRHD. The SGR also emphasizes the importance of cost in the construction of one route versus another, but they do not stress the "cost" of the permanent loss or destruction of a historic heritage and culture which cannot be replaced, and the "cost" to hundreds of families whose lives will be adversely impacted by their project. No amount of money or mitigation can recoup that "cost."

Then SGR offers to establish a conservation easement along the portion of property that it or its affiliates own and encourages the other landowners to do the same, thereby preventing any further commercial development along the rail route. This presents a major quandary, the SGR has applied for a permit from the government to operate a "public railroad" for the "public benefit," and they have indicated that they will use the power of land condemnation provided to public railroads to acquire land for the "public benefit." But, then they propose to establish a conservation easement along the route, which, according to their letter would result in "no rail-served business could locate along the SGR line within the QRHD."<sup>2</sup> This is NOT a "public railroad" and it definitely will not service the "public benefit." They should NOT be allowed to acquire private land using eminent domain when there is NO "public benefit." Vulcan never intended to have a "public railroad," it is for their own private use and will profit only them. They are therefore making a mockery of our laws and the regulatory process of the STB and the SEA.

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

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

Finally, on a personal note, the letter writer states that "... the Proposed Route [is] preferable, including intrusions onto the properties of fewer private landowners and less impact to irrigated fields."<sup>3</sup> Well, they apparently don't have any problems impacting my irrigated

<sup>2</sup> Steptoe & Johnson letter, April 5, 2007, Page 3.

<sup>3</sup> Steptoe & Johnson letter, April 5, 2007, Page 4.

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

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

Mr. David Barton made the following initial comments:

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

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

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

No.

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

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

The focus must be on the impact of this proposal, which is not complete. The shell game with the power line to the quarry is ludicrous. They have been undertaking planning for the connected action all along and it is obvious that the most convenient location for the power line, from their perspective, will be the rail easement. But now they are claiming the right to solely

determine when their plans ripen into proposals. That is not for them to decide. At the very least, the power line is a reasonably foreseeable future action whose adverse effects have not been accounted for. Texas law regarding proprietary service areas of electric co-ops requires the Medina Electric Co-Op (MECO) to be the service provider for the Vulcan quarry. The shading that negotiations between Vulcan/SGR and MECO are somehow "preliminary" is insufficient to overcome the requirement to designate the power line as a reasonably foreseeable future action, particularly given that the quarry has completed the state permitting process.

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

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

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

Ms. Alyne Fitzgerald stated that there were no solutions presented in SGR's April 5<sup>th</sup> letter. She believes that SGR did not acknowledge the real effect of the Proposed Route on the cultural landscape of the QRHD. She stated that she does not think that the modified proposal addresses the issues raised during the March 26<sup>th</sup> meeting. She thinks that the modified proposal only brought up more unanswered questions. She stated that mitigation is not possible because of the effect that moving earth would have on the Quihi landscape. She stated that there are a number of impacts that will adversely affect the landscape including realignment of the roadway, changes in land use for non-historic purposes, new buildings etc. She stated that these changes would leave the QRHD ineligible for the National Register of Historic Places. She stated that nothing can be done to make the Proposed Route acceptable.

Mr. Tom Walpole stated that Vulcan's resistance to build is ludicrous when they have a viable option. He said that he can't believe that cost is the only reason for not considering the eastern routes. He stated that he does not believe that the modified proposal addresses the issues that were raised at the March 26<sup>th</sup> meeting. He believes that the artist's rendition of the bridge attached to SGR's April 5<sup>th</sup> letter is a joke. He stated that he would not accept the Proposed Route under any circumstances.

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

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

Mr. Andy Weiblen made the following initial comments:

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

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

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

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

Mr. Brad Patterson indicated that avoidance of cultural resources remains viable. He stated that a preservation plan can be a useful tool. However, he also believes that easements may not be successful on land that the railroad does not own. He stated that it might be difficult

to get other property owners to comply. He also noted that the artist's rendition of the bridge is not to scale.

Ms. Katry Harris reminded everyone that the Eastern Bypass Route and the MCEAA Route both pass through an identified cultural historic district. She mentioned that the no build alternative might also have adverse effects on historic properties because of trucks running through the district and road improvements.

#### **Additional Remarks/Open Discussion - by Meeting Participants**

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

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

Ms. Ronda McNew made the following initial comments:

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

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

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

The Martin Family requests that the Section of Environmental Analysis of the Surface Transportation Board and Texas Historical Commission decide to allow Southwest Gulf Railway to move forward with the construction of the Proposed Route with modified enhancements from

the Vulcan Construction Materials, LP limestone quarry to the Union Pacific Railroad Company rail line near Dunlay. This decision will not be regretted.

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

Ms. Ronda McNew also made the following additional comments:

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

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

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

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

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

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

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

We listened in part to the conference call on Friday, April 20, 2007 regarding the \*STB Finance Docket No. 34284 – Southwest Gulf Railroad Company –Construction and Operation Exemption – Medina County, TX\* and would like to clarify statements made by Ronda McNew (sister) regarding the section of our family land, the Martin land which pertains to me, Nelson Martin. When she stated that we have a historical house, we believe the majority participating in the conversation were not sure of the location of this house. This house is on the land we own in Quihi off of FM 2676 west of the Quihi Lutheran church and not on the family land off of County Road 366.

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Next Steps - by Vicki Rutson**

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

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

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

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



**SURFACE TRANSPORTATION BOARD**  
Washington, DC 20423

*Office of Economics, Environmental Analysis and Administration*

HEO-494  
Dw

May 8, 2007

Richard C. Garay  
Coahuiltecan Research Associates  
1130 Mission Road  
San Antonio, TX 78210

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

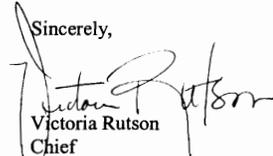
Dear Mr. Garay:

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is in receipt of your May 7, 2007 written request, provided on behalf of Coahuiltecan Research Associates, to act as a consulting party for the above referenced project pursuant to Section 36 CFR 800.2(c)(5) of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA). As you know, SEA is conducting an environmental review, as required by the National Environmental Policy Act (NEPA) and NHPA, of the Southwest Gulf Railroad Company's proposed rail line construction and operation in Medina County, Texas. Section 106 of NHPA requires that the Board consult with Federal, tribal, state and local agencies, and additional consulting parties with an interest in the project area, to identify, assess and resolve any adverse effects to significant historic properties that may be caused by the proposed undertaking.

We believe your involvement as a Section 106 consulting party is appropriate given your aboriginal connections to Texas and your expertise regarding the possible location of any properties of tribal traditional religious significance within the project area. We are therefore pleased to include your organization as a Section 106 consulting party for this proceeding and will ensure that you receive all relevant information to assist you in your reviews.

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

Sincerely,



Victoria Rutson  
Chief  
Section of Environmental Analysis

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

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**SURFACE TRANSPORTATION BOARD**  
Washington, DC 20423

*Office of Economics, Environmental Analysis and Administration*

June 5, 2007

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

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

Dear Mr. Loether:

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

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

Following SEA's determination, SGR requested further consideration of its Proposed Route by developing a mitigation plan that it believes would adequately minimize impacts of constructing and operating the Proposed Route on the Quihi Rural Historic District. The Texas Historical Commission (THC)(the State Historic Preservation Office for Texas), on the other hand, has stated its support of either of the Eastern Alternatives identified by SEA as

environmentally preferable because those alternatives would completely avoid the Quihi Rural Historic District and have less impact on the Upper Quihi Rural Historic District. In response to these diverse views on what alternative or alternatives should be considered environmentally preferable, the Advisory Council on Historic Preservation (ACHP) wrote to SEA recommending that the agency seek a determination from the Keeper of the National Register to (among other things) provide greater clarity on the significance, defining characteristics, and integrity of the Quihi and Upper Quihi Rural Historic Districts. Such a determination, asserted ACHP, would assist STB and the Section 106 consulting parties in better assessing appropriate measures to avoid adverse effects to significant historic properties.

Consequently, I am making this request under 36 CFR Section 63.2(d) pursuant to 36 CFR Section 800.4(c)(2) of its regulations implementing Section 106 of the National Historic Preservation Act (NHPA). Below, I describe the project in more detail, provide a summary of the agency's environmental review to date, and describe more fully the request for clarification from the ACHP. I have also enclosed all the information that I believe you will need to make your determination.

#### Description of the Undertaking

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

#### Agency's Environmental Review

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

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

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

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

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

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

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

The SDEIS included a reconnaissance survey of each of the Eastern Alternatives comparable to the studies completed for the original alternatives.<sup>4</sup> In addition, SEA also completed an extensive landscape study,<sup>5</sup> in which it examined, in detail, the entire area encompassed by all seven of the proposed alternatives (see Map Sheet 1).

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

<sup>5</sup> The Rural Historic Landscape Analysis, Quihi Vicinity, Medina County, Texas is included in Volume II, Appendix F-2 of the SDEIS.

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

Views of SGR, THC and ACHP

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

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

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

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

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

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

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

Conclusion

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

Sincerely,

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

Enclosures:

- Letter from David H. Coburn, representing Southwest Gulf Railroad, to F. Lawrence Oaks, State Historic Preservation Officer, Texas Historical Commission (and cc'ing Section 106 consulting parties), dated January 16, 2007.
- Letter from David H. Coburn, representing Southwest Gulf Railroad, to F. Lawrence Oaks, State Historic Preservation Officer, Texas Historical Commission (and cc'ing Section 106 consulting parties), dated April 5, 2007.
- Letter from F. Lawrence Oaks, State Historic Preservation Officer, Texas Historical Commission, to Ms. Rini Ghosh, Section of Environmental Analysis, Surface Transportation Board, dated January 19, 2007.
- Letter from F. Lawrence Oaks, State Historic Preservation Officer, Texas Historical Commission, to Ms. Diana Wood, Section of Environmental Analysis, Surface Transportation Board, dated March 15, 2007.
  - Letter from Charlene Dwin Vaughn, Assistant Director, Federal Permitting, Licensing, and Assistance Section, Office of Federal Agency Programs, the Advisory Council on Historic Preservation, to Ms. Victoria Rutson, Chief, Section of Environmental Analysis, Surface Transportation Board, dated April 27, 2007.
- Surface Transportation Board, Section of Environmental Analysis. 2004. Draft Environmental Impact Statement, Finance Docket No. 34284, Southwest Gulf Railroad Company Construction and Operation Exemption, Medina County Texas. Washington, D.C. (Volumes I, II and III of the DEIS are included in CD format). Included in the DEIS are the following supplemental documents:
  - Preliminary Cultural Resources Assessment; and Technical Memorandum: Supplement to the Preliminary Cultural Resources Assessment (see Appendix I, Volume III).
- Surface Transportation Board, Section of Environmental Analysis. 2006. Supplemental Draft Environmental Impact Statement, Finance Docket No. 34284, Southwest Gulf Railroad Company Construction and Operation Exemption, Medina County Texas. Washington, D.C. (Volumes I and II of the SDEIS are included in CD format). Included in the SDEIS are the following supplemental documents:
  - Technical Memorandum: Cultural Resources Assessment of the Three Eastern Alternatives (see Volume II, Appendix F-1).

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

Cc: (Without Enclosures):

Honorable Ciro Rodriguez, U.S. House of Representatives  
 Ms. Charlene Dwin-Vaughn, ACHP  
 Ms. Katry Harris, ACHP  
 Mr. F. Lawrence Oaks, THC  
 Mr. Brad Patterson, THC  
 Mr. David Coburn, SGR  
 Ms. Jaya Zyman-Ponebshek, URS  
 Mr. Raymond Hernandez, Tap Pilam Coahuiltecan Nation  
 Mr. Richard C. Garay, Coahuiltecan Research Associates  
 Mr. Troy Johanntoberns, Wichita & Affiliated Tribe  
 Ms. Dorla Goombi, Kiowa Tribe of Oklahoma  
 Ms. Lynn Schonchin, Comanche Nation of Oklahoma  
 Ms. Holly Houghten, Mescalero Apache Tribe  
 Mr. Robert Hancock, Medina County Historical Commission  
 Mrs. Cynthia Lindsey, Quihi and New Fountain Historical Society  
 Mr. C. Ray Schoch, Schweers Historical Foundation  
 Mr. Harold Weiblen, Weiblen Farms  
 Mr. Archie Gerdes  
 Dr. Robert Hester  
 Dr. Robert Fitzgerald, MCEAA  
 Mr. Brian R. Pietruszewski, Gardner Law Firm

**SURFACE TRANSPORTATION BOARD  
Washington, DC 20423**

#EO-603  
DW

Office of Economics, Environmental Analysis, and Administration

August 16, 2007

David Coburn, Esq.  
Steptoe & Johnson  
1330 Connecticut Avenue, NW  
Washington, DC 20036-1795

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

Dear Mr. Coburn:

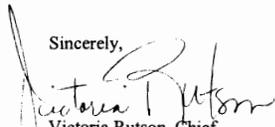
This letter acknowledges that the Board's Section of Environmental Analysis (SEA) has received your letter of August 3, 2007, indicating that the Southwest Gulf Railroad (SGR) has decided to support the Eastern Bypass alternative for the rail line that it prefers in Medina County, rather than its original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

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

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

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

Sincerely,



Victoria Rutson, Chief  
Section of Environmental Analysis

**SURFACE TRANSPORTATION BOARD  
Washington, DC 20423**

#EO-606  
DW

Office of Economics, Environmental Analysis, and Administration

August 17, 2007

Linda McClelland, Keeper of the National Register  
National Park Service  
U.S. Department of the Interior  
1201 Eye Street, NW  
8th Floor (MS 2280)  
Washington, DC 20005

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

Dear Ms. McClelland:

Thank you for providing the Surface Transportation Board's Section of Environmental Analysis (SEA) with your comments in response to our request of June 8, 2007, for a determination of eligibility regarding the Quihi/Upper Quihi Rural Historic District. In your letter dated July 24, 2007, you ask for additional documentation from SEA regarding the Quihi/Upper Quihi Rural Historic District to complete your eligibility determination. Below, I summarize some recent developments in this proceeding that I believe render moot our prior request, and the need for any additional analysis during the environmental review process in the above-mentioned rail construction case.

SEA asked for your determination to assist us in resolving a dispute among some of the parties involved in this proceeding. At that time, the applicant, Southwest Gulf Railroad (SGR), strongly favored the "Proposed Route," which largely bisects the Rural Historic District, while others favored the eastern routes, two of which SEA had identified as environmentally preferable in its Supplemental Draft Environmental Impact Statement (EIS). However, circumstances have since changed. After we received your comments, we received a letter dated August 3, 2007 from SGR in which it indicates that SGR now supports the Eastern Bypass Route as the applicant's preferred route. SGR asks SEA to move forward with preparation of the Final EIS with a focus on the eastern routes and, in particular, the Eastern Bypass Route. On August 16, 2007, SEA wrote back to SGR to explain that SGR's change of position regarding its preferred route would be reflected in the Final EIS that is now being prepared. I have enclosed SGR's August 3rd letter and SEA's response for your reference.

On August 9, 2007, SEA participated in a conference call with Charlene Dwin Vaughan and Katry Harris of the Advisory Council on Historic Preservation and Lawrence Oaks, Executive Director of the Texas Historical Commission. The purpose of the call was to discuss appropriate next steps for SEA to take to complete the Section 106 process of the National Historic Preservation Act. The group agreed that SGR's

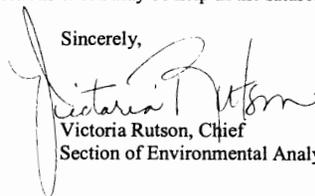
letter constitutes a substantial change to the circumstances presented when SEA wrote to the Keeper, and you responded. The group further agreed that SGR's rejection of the Proposed Route through the Quihi/Upper Quihi Rural Historic District in favor of a route to the east of this area renders moot SEA's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

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

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

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

Sincerely,

  
Victoria Rutson, Chief  
Section of Environmental Analysis

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

Enclosures

STEPTOE & JOHNSON  
ATTORNEYS AT LAW

David H. Coburn  
202.429.8063  
dcoburn@steptoe.com

1330 Connecticut Avenue, NW  
Washington, DC 20036-1795  
Tel 202.429.3000  
Fax 202.429.3902  
steptoe.com

#E1-3040  
DHW  
Received 8/3/07

August 3, 2007

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

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

Dear Ms. Rutson:

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

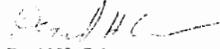
SGR recognizes that awaiting any future eligibility determination by the Keeper would result in potentially extensive further delay of the STB's environmental review of SGR's rail proposal. SGR has made its decision concerning the Eastern Bypass in anticipation that the consequence of that decision will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

Ms. Victoria Rutson  
August 3, 2007  
Page 2

As it has stated in the past, and as the SHPO has favored, SGR is prepared to work with the Weiblen family to address its concerns about the Eastern Bypass route. SGR's preliminary review indicates that there are no serious obstacles to constructing its line along the alternative routing suggested by the Weiblens, although further engineering work would need to be done to confirm this preliminary view. SGR believes that SEA's recommended mitigation measure No. 5A is sufficient to address the concerns raised by the Weiblens and SGR will work in good faith with them in an effort to reach a satisfactory solution to their concerns.

With respect to cultural resources issues, SGR reiterates its support for the Draft Programmatic Agreement, which SEA has identified in the Draft Supplemental EA (at recommended mitigation measure No. 45) as the appropriate mitigation for any cultural resources impacts of the Eastern Alternative routes. SGR looks forward to working with SEA, the SHPO and the Advisory Council on promptly finalizing that PA.

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

Respectfully,  
  
David H. Coburn  
Attorney for Southwest Gulf Railroad

- cc: Ms. Diana Wood
- Ms. Catherine Glidden
- Ms. Jaya Zyman-Poncbshek
- Mr. Larry Oaks
- Ms. Charlene Dwin-Vaughn

**SURFACE TRANSPORTATION BOARD**  
**Washington, DC 20423**

#EO-603  
RAW

Office of Economics, Environmental Analysis, and Administration

August 16, 2007

David Coburn, Esq.  
Stephoe & Johnson  
1330 Connecticut Avenue, NW  
Washington, DC 20036-1795

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

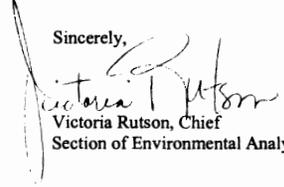
Dear Mr. Coburn:

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

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

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

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

Sincerely,  
  
Victoria Rutson, Chief  
Section of Environmental Analysis

#EO-625  
D7W



**SURFACE TRANSPORTATION BOARD**  
**Washington, DC 20423**

*Office of Economics, Environmental Analysis and Administration*

September 7, 2007

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

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

Dear Mr. Rios:

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

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

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

#EO-626  
D7W



**SURFACE TRANSPORTATION BOARD**  
**Washington, DC 20423**

*Office of Economics, Environmental Analysis and Administration*

September 7, 2007

Madelyn Schott  
19903 Bandera Road  
Helotes, TX 78023

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

Dear Ms. Schott:

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

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

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



SURFACE TRANSPORTATION BOARD  
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

September 7, 2007

Lester R. Landrum  
776 CR 354  
Quihi, TX 78861

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

Dear Mr. Landrum:

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

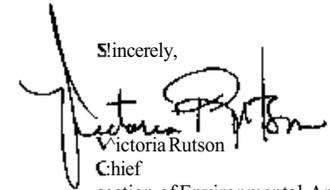
We believe your involvement as a Section 106 consulting party is appropriate given your close connections to the area. We are therefore pleased to include your organization as a Section 106 consulting party for this proceeding and will ensure that you receive all relevant information to assist you in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

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

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JTW

complete the Section 106 and NEPA processes. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.

Sincerely,



Victoria Rutson  
Chief

section of Environmental Analysis

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

#E7-51-10  
0/10

Victoria R-tson  
Chief, Section of Environmental Analysis  
Surface Transportation Board  
395 E. Street S.W. Rm. 1110  
Washington, DC 20423  
(202)245-302  
(202)245-0454 (fex)

September 3, 2007

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

Dear Ms. Rutoon:

I request to be listed as a Section 106 Consulting Party as my family has deep ties to the Upper Quint area and has interest, history, and knowledge of the rural historic landscape of this area. Our family has owned and operated a few hundred acres north of the proposed rail line.

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

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

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

Sincerely,

Lester R. Landrum  
776 CR 354  
Quilhi, TX 78861  
(830)426-8295

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JRW



SURFACE TRANSPORTATION BOARD  
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

September 7, 2007

Joe H. and Erna L. Balzen  
780 CR 354  
Hondo, TX 78861

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

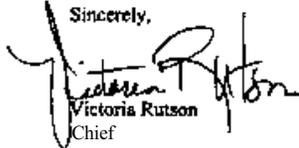
Dear Mr. and Mrs. Balzen:

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

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

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

complete the Section 106 and NEPA processes. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.

Sincerely,  
  
Victoria Rutson  
Chief  
Section of Environmental Analysis

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

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September 3, 2007

HEI-31417  
BTW

Ms. Victoria Rutson  
Chief  
Section of Environmental Analysis  
Surface Transportation Board  
395 E. Street, S.W.  
~~~~~2^,^ ;z\*VA,3

Dear Ms. Rutson;

Joe and I request to be made consulting parties to the programmatic agreement for Southwest Gulf Railroad, Finance dktel 34284.

We OM, descendants of the original settlers of Zieba. Our home, built in 1911, is eligible for listing as a historical home. We are listed Ox, A Susan Family Land Heritage Ranch. Our ranch has been in our family since 1981.

It is of great concern to us what is being planned for our historical community.

We sincerely hope you will grant our request. Our home is located near both Eastern Routes.

Respectfully,  
Lana H. Balson

^8\$~  
-7#d-CR354  
Hondo, Tex. 78861



SURFACE TRANSPORTATION BOARD  
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

September 7, 2007

Richard Fournier  
200 PR 3 531  
Hondo, TX 78861

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

Dear Mr. Fournier:

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

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

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

HEO-629  
JFW



SURFACE TRANSPORTATION BOARD  
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

September 14, 2007

Lynette Stewart  
3619FM2676  
Hondo, TX 78661

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

Dear Ms. Stewart:

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

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

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

HEO-633  
JFW

complete the Section 106 and NEPA processes. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.

Sincerely,



Victoria Rutson  
Chief  
Section of Environmental Analysis

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

#E1-3159  
Dfw

Lynette Stewart  
3619 FM 2676  
Hondo, Texas 78861  
830-741-4836  
830-931-4849  
[jimnv@mecwb.cOm](mailto:jimnv@mecwb.cOm)

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

FAX\*: 202-245-0454  
RE: Finance Docket 34284

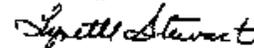
Question on Home and Farm Location

Dear Ms. Rutson:

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

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

Sincerely,



Lynette Stewart



SURFACE TRANSPORTATION BOARD  
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

September 21, 2007

Joseph and Vicki Solomon  
1040CR353  
Hondo, TX 78861

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

Dear Mr. and Mrs. Solomon:

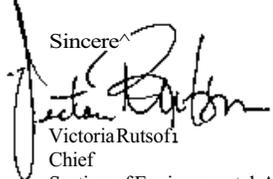
The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is in receipt of your September 19, 2007 written request to act as a consulting party for the above referenced project pursuant to Section 36 CFR 800.2(c)(5) of the regulations implementing Section 106 of the National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

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

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

#EO-645  
DAN

complete the Section 106 and NEPA processes. If you have any questions, please do not hesitate to contact Diana Wood, SEA Project Manager at 202-245-0302.

Sincerely,  
  
Victoria Rutsofi  
Chief  
Section of Environmental Analysis

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

#E1-3176  
DHW  
fo 34284

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

September 19, 2007

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

Joseph & Vicki Salomon  
1040CR353  
Hondo, Texas 78861-6425

(830)741-8352



Joseph Salomon

rt

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edim tonvovaw nre

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DHW



SURFACE TRANSPORTATION BOARD  
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

September 25, 2007

Russell Mangold  
807 33<sup>rd</sup> Street  
Hondo, TX 78861

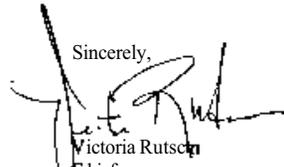
Re: STB Finance Docket No. 34284, Southwest Gulf Company - Construction and Operation Exemption - Medina County, TX; Request to be a Consulting Party under Section 106 of the National Historic Preservation Act

Dear Mr. Mangold:

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

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

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

Sincerely,  
  
Victoria Rutsch  
Chief  
Section of Environmental Analysis

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

#E1-3177  
DHW  
FD 34284

1-5

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

Dear Ms. Rutsch,

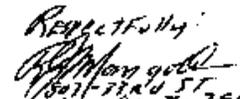
Please Consider my Request to be made Co-Signatory  
Partner To The Programmatic Agreement For  
Southwest Gulf Railroad, Finance Docket # 34284

We are descendants from The Original Settlers of  
The Quith Area. Our Ranch has been in the Family  
Over 100 Years.

Also Be advised that for the past 10 years it  
has been an interest to Early Archaeological Studies  
By Thomas R Hester PhD, Professor of Anthropology,  
Emeritus University of Texas at Austin.

I Have Taken The liberty to Copy a Portion  
of A Letter sent to you on Nov 6, 2003 From  
Prof. Hester: After Reviewing, <sup>and</sup> please note  
that the proposed S.G.R. Eastern Byway will come  
very close to State of Texas Right # 41 ME 172 and  
that the Revised Weiblen's Road will be 90  
over this Right.

Russell Mangold  
807-3320 ST  
Hondo, TX 78861

Respectfully,  
  
807-3320 ST  
Hondo, TX 78861

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

mailing address:  
PO Box 625  
Utopia, TX 78884

email: secocreek@rcc.net

*b) Personal scientific research in the prehistory of the area*

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

One of the sites; 41ME132 [official State of Texas site number], the Gap Site, is directly beneath or at least closely adjacent to Alternative 3 of the proposed railroad route southeast of Quihi. This site has just been barely studied. However, a test pit dug by the

late Buddy Mangold, found a zone of Frio points just below the surface. Further exploration could (1) expand our knowledge of the Late (Transitional) Archaic by better denning this Frio-age campsite or (2) could find earlier, stratified deposit below Frio. This site is on a terrace of Quihi creek, and while no geoarchaeological studies have yet been done at the site, it appears that Quihi creek has shifted its channel repeatedly in this zone (cf. 41ME34). This site alone points out the errors of the statements re: site occurrence found in the subject report.

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

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

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

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

**2) Implications for Surveys and Excavations Related to the Subject Project**

While archaeologists know very little about the archaeology of the project area (that in itself is cause for intensive investigation), what we do know provides hard evidence that it lies in an area of extreme archaeological significance. It is surrounded by important sites, many of which I have listed and some of which are in similar if not identical environmental contexts. We know from 41ME132 and 41ME133, in the midst of the project area, that extensive prehistoric remains are predictable, and will likely extend back almost 11,000 years at some sites. However, the whole chronological range of human prehistory in the area is likely to be found in various forms at any number of sites (e.g., 41ME34, and even closer, 41MES3). Because of the nature of the formation processes in the local geology, any archaeological survey that is worth its salt will have to employ an experienced geoarchaeologist or geomorphologist to identify likely site areas, changes that are more recent in time, etc., and there will be a pressing need for an extensive program of backhoe trenching to reconstruct the Holocene geology and to develop a model of site location. It can be predicted that any number of sites will lie in the path of the subject railroad or its alternatives. In order for NEPA, Sec. 106, or any number of other permitting processes to go forward, hundreds of thousands of dollars will have to be spent on archaeological survey and geomorphology. The mitigation of only two or three sites would likely cost into the millions of dollars based on modern archaeological standards at the Federal and State level.

### 3) Implications for Historic Archaeology

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

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

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

### 4) Closing Observations

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

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

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

Sincerely yours,

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

mailing address:  
PO Box 625  
Utopia, TX 78884

email: secocreek@tricc.net



*SURFACE TRANSPORTATION BOARD*  
*Washington, DC 20423*

*Office of Economics, Environmental Analysis and Administration*

October 1, 2007

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

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

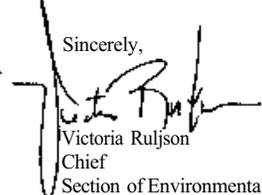
Dear Ms. Jones:

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

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

HEO-649  
VFW

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

Sincerely,  
  
Victoria Ruljson  
Chief  
Section of Environmental Analysis

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

HEE-3185  
D7W

The Michael Churchill Jones Ranch Trust  
Barbara H. Jones, Trustee  
209 Newbury Terrace  
San Antonio, TX 78209  
September 27, 2007

Re: Finance Docket 34284

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

Dear Ms. Ruston:

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

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

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

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

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

Very truly yours,

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



**SURFACE TRANSPORTATION BOARD**  
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

HEE-690  
D7W

October 2, 2007

Curtis Saathoff  
7506 Pipers Run  
San Antonio, TX 78251

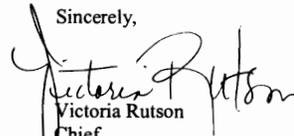
Re: STB Finance Docket No. 34284, Southwest Gulf Company – Construction and Operation Exemption – Medina County, TX; Request to be a Consulting Party under Section 106 of the National Historic Preservation Act

Dear Ms. Jones:

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

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

Sincerely,  
  
Victoria Rutson  
Chief  
Section of Environmental Analysis

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

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HEI-3187  
D7w

September 5<sup>th</sup> 2007

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

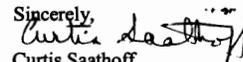
FAX# 202-245-0454

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

Dear Madam:

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

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

Sincerely,  
  
Curtis Saathoff  
7506 Pipers Run  
San Antonio, TX 78251  
210-684-4989  
210-326-1556

Seathoff Farms 7610 Fm 2676, Hondo TX 78661

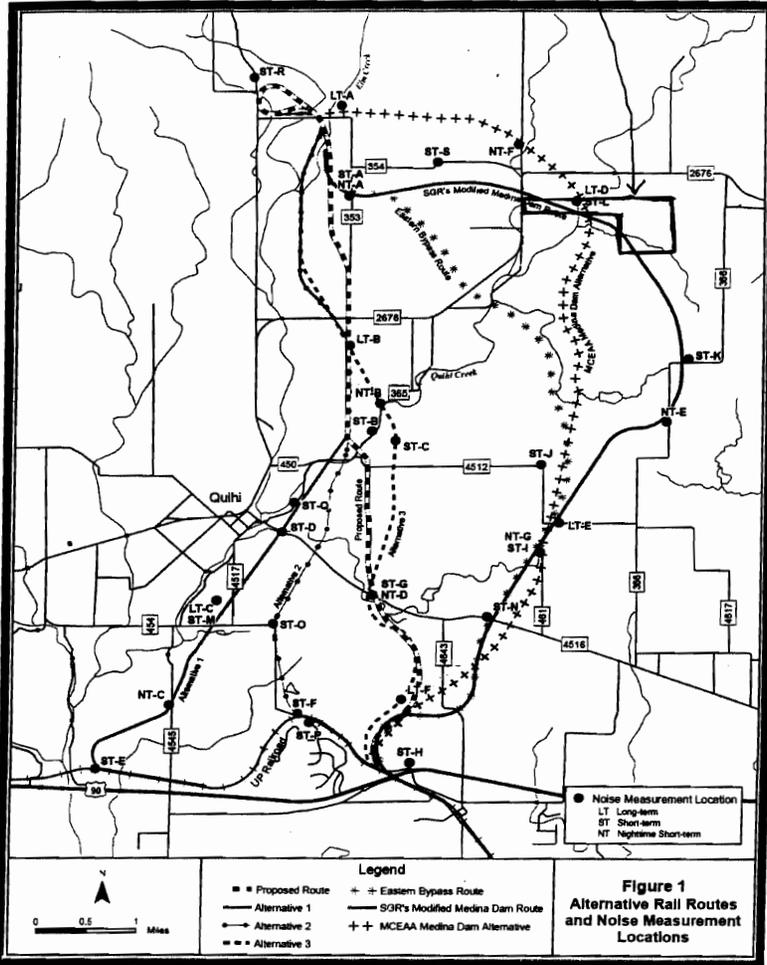


Figure 1. Alternative Rail Routes and Noise Measurement Locations