

Appendix D

Other Correspondence

**Appendix D
Other Correspondence
Table of Contents**

Environmental Correspondence Tracking Letter Number	Name of Sender	Date of Letter	Page Number
Incoming			
EI-1411	David Coburn	02/15/05	D-1
EI-1439	David Coburn	04/04/05	D-28
EI-1479	Robert Pine	05/19/05	D-53
EI-1664	David Coburn	09/07/05	D-54
EI-1717	Richard Huriaux, Office of Pipeline Safety	10/17/05	D-66
EI-1728	Russell Hooten, Texas Parks and Wildlife	10/28/05	D-67
EI-2006	David Coburn	05/02/06	D-68
EI-2525	David Coburn	09/14/06	D-70
EI-2561	James Barden, Medina County Judge	10/13/06	D-79
EI-2624	David Coburn	01/03/07	D-80
EI-2830	David H. Coburn	02/16/07	D-82
EI-3150	David H. Coburn Steptoe & Johnson	9/5/07	D-88
EI-3225	David H. Coburn	11/15/07	D-90
EI-3291	David Coburn	12/13/07	D-100
Outgoing			
EO-187	Victoria Rutson	12/28/04	D-101
EO-198	Victoria Rutson	02/15/05	D-103
EO-207	Victoria Rutson	05/12/05	D-104
EO-212	Victoria Rutson	07/8/05	D-107
EO-272	Victoria Rutson	5/8/06	D-111
EO-289	Victoria Rutson	7/18/06	D-113
EO-322	Victoria Rutson	9/8/06	D-114
EO-605	Victoria Rutson	8/17/07	D115
	Letter from Rusty Mase, URS Corporation to Mr. Russell Hooten, Texas Parks and Wildlife	09/09/05	D-116
	Meeting Notes from URS and Texas Parks and Wildlife 10/4/05 Meeting	10/04/05	D-116
	E-mail from David Coburn to Rini Ghosh re: SGR Proceeding – Pipeline Information	11/16/06	D-117

#E1-1411
KR

David H. Coburn
202.429.8063
dcoburn@stepstoelaw.com

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

February 15, 2005

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.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 update you on the status of Vulcan Construction Material L.P.'s ("Vulcan") efforts in connection with the establishment of the quarry in Medina County that is proposed to be served by the Southwest Gulf Railroad ("SGR"). We are offering this information for your consideration in connection with any further cumulative impacts analysis that SEA may provide in a final EIS issued with respect to the SGR line. This information is solely related to the development of the quarry. The rail line and the quarry are not "connected actions" for purposes of NEPA analysis, as alleged by some commenters on the draft EIS. SGR will address the arguments recently made by quarry/rail line opponents on the "connected action" issue in a separate submission. However, as the quarry is part of the Board's cumulative impact analysis, we wanted to provide you with this additional and updated information regarding state permits for the quarry.

As we have previously reported, Vulcan's activities in developing its quarry are subject to extensive regulation by the Texas Commission on Environmental Quality ("TCEQ"). First, Vulcan requires an air quality permit from the TCEQ before it can begin quarry operations. Such a permit would be issued pursuant to the regulatory standards of the TCEQ, which is charged with implementing the federal Clean Air Act and relevant provision of Texas law pursuant to TCEQ regulations.

On December 7, 2004, Vulcan submitted an application to the TCEQ for an air quality standard permit for operation of a Tier II Portable Rock Crusher for the Medina County quarry site. Vulcan was assisted in submitting the application by Westward Environmental, Inc., an environmental consulting firm. Vulcan's application, a copy of which is attached, was submitted pursuant to TCEQ regulations at

Ms. Victoria Rutson
February 15, 2005
Page 2

Texas Admin. Code, Title 30, Chapter 116, Subchapter F, governing the issuance of standard permits required for this type of rock crusher. A copy of that regulation may be found at http://info.sos.state.tx.us/pls/pub/readtacSext.ViewTAC?tac_view=5&ti=30&pt=1&ch=116&sch=F&rl=Y. Further, a copy of a publication concerning the issuance of such permits, entitled "Air Quality Permits for Temporary Rock Crushers" is attached for your information.¹

The Vulcan application for an air quality permit for the portable crusher was granted by the TCEQ on December 28, 2004. A copy of the TCEQ's letter granting the application is attached. As you will see from the enclosed materials, the permitted portable crusher is authorized to operate for no more than 1,080 hours or for a six month period, ending June 7, 2005. (Vulcan intends to seek an extension of that termination date as it has not yet initiated operation of the portable crusher pending receipt of additional permits, as discussed further below.) The operation of the portable crusher by Vulcan will be subject to the conditions imposed on the type of standard permit that it has received. Thus, Vulcan will be required to comply with conditions concerning the location of the crusher (no less than 300 feet from the nearest property line), the maximum number of hours it may operate (1080 hours or 180 non consecutive days), and a fee hopper throughput limit of 250 tons per hour, among other conditions. Those other conditions include compliance with EPA Clean Air Act regulations governing operations of this nature, which are published at 40 CFR Part 60, Subpart 000.

Before the portable crusher can become operational, however, Vulcan needs to apply for, and obtain, further approval from the TCEQ for (1) a water pollution abatement plan (WPAP) and (2) a storm water permit. A WPAP is required for any TCEQ-regulated activity that occurs on the Edwards Aquifer Recharge Zone, including the construction of roads or buildings, excavations, etc. See Texas Admin. Code, Title 30, Chap. 213, Rule 213.5 (copy attached). The purpose of the plan is to address any water pollution issues that may result from activities, such as rock crushing, that are subject to strict TCEQ regulation.

The application for the WPAP is extensive, and is currently in process. That application needs to be supported by a thorough description of the area, as well as a geological assessment of the area, which can be completed only after an extensive study of the site's geological features has been completed. As specified in the WPAP regulations cited above, that assessment must include a geologic map illustrating the outcrop of surface geologic units and all geologic and manmade features, such as caves and sinkholes. All sensitive geologic features must also be described and evaluated in the geologic assessment. Vulcan's contractor (Raba-Kistner Consulting) is currently in the process of completing this assessment. In addition to the geologic assessment, Vulcan's WPAP application will include, as per the WPAP regulations, a technical report. This report will address a variety of data concerning, e.g., stormwater runoff, area of the site expected to be disturbed, and a description of best management practices to be adopted to address any potential pollution issues and ensure no detriment to the aquifer.

¹ That publication was issued in February 2002 by TCEQ's predecessor, the Texas Natural Resource Conservation Commission.

Ms. Victoria Rutson
February 15, 2005
Page 3

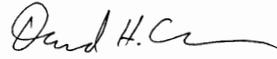
As noted, Vulcan will also be applying to the TCEQ for a storm water permit for the quarry. That permit would be issued pursuant to the terms of Section 402 of the Clean Water Act, Section 26.040 of the Texas Water Act and applicable TCEQ regulations. Vulcan would be required to comply with all of the conditions of the permit relative to the discharge of storm water, which conditions will require that Vulcan implement many best management practices to prevent the pollutants from exiting the property and to address any erosion issues associated with quarry activities. These conditions are set forth in TCEQ General Permit TXR050000, including Section J thereof. A copy of this General Permit can be found at <http://www.tnrcc.state.tx.us/permitting/waterperm/wvperm/txr050000.pdf>.

Vulcan will also be obligated to comply with the EPA's regulations governing oil spill prevention programs at 40 CFR Part 112, provided that more than the amount of oil required to trigger the applicability of those regulations is located at the quarry site. These regulations require, among other things, that Vulcan prepare and maintain a Spill Prevention, Control and Countermeasure plan that meets EPA's detailed regulatory requirements.

Assuming that the TCEQ approves Vulcan's WPAP and storm water permit applications, Vulcan intends to initiate the operation of its temporary rock crusher on the site. The stone that would be crushed would be used for developing roads and other facilities needed for the operation of the quarry. In addition, some of that stone may be trucked to local markets.

Vulcan is currently working on preparation of an application addressed to the TCEQ for approval of a permanent rock crusher to be sited at the Medina quarry. I will keep you advised with respect to that process. Further, we would be pleased to answer any questions that SEA might have concerning the above.

Sincerely,



David H. Coburn

cc: Ms. Rini Ghosh
Ms. Jaya Zyman-Ponebshek



Westward Environmental, Inc.

P.O. Box 2205
BOERNE, TEXAS
78006

December 7, 2004

Texas Commission on Environmental Quality
Region 13
14250 Judson Road
San Antonio, Texas 78233-4480

Project No.: 10003-112

Attention: Richard Garcia

Subject: Vulcan Construction Materials, L.P.
CN600355465, RN103914735
Air Quality Standard Permit for Tier II Temporary Rock Crusher
West Texas Portable Crusher #1
Medina Quarry, Medina County, Texas

Mr. Garcia,

On behalf of Vulcan Construction Materials, L.P., we are submitting this notification for the above referenced rock crushing facility. An area map, plot plan, and project description are attached with this application to demonstrate compliance with the standard permit. The facility will have a maximum production rate of 250 TPH. Vulcan Construction Materials, L.P. will meet the General Requirements and the Tier II Requirements for the permit.

Please provide Westward Environmental, Inc. a courtesy copy of the approval letter for our files. If you have any questions regarding this registration, please feel free to call or fax our office.

Respectfully submitted,
WESTWARD ENVIRONMENTAL, INC.



Melissa Steele
Environmental Specialist

Distribution: Addressee (facsimile and mail)
✓ Ms. Aleisha Knochenhauer – Vulcan Construction Materials, L.P.
10003-112 file

Attachments

PHONE: (830) 249-8284

EMAIL: GENERAL@WESTWARDENV.COM

FAX: (830) 249-0221

**Vulcan Construction Materials, L.P.
Standard Permit for Tier II Temporary Rock Crusher
West Texas Portable Crusher #1**

Table of Contents

DOCUMENT	PAGE #
Core Data Form	1 - 2
Project Description	3 - 4
Standard Permit Regional Notification Form	5
Area Maps	6 - 7
Plot Plan	8
Requirements of Air Quality Standard Permit for Temporary Rock Crushers	9 - 12


 October 2004
Westward Environmental, Inc.
 Project No.: 10003-112
www.westwardenv.com

TCEQ Core Data Form

TCEQ Use Only

If you have questions on how to fill out this form or about our Central Registry, please contact us at 512-239-5175.

Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact us at 512-239-3282.

SECTION I: General Information									
1. Reason for Submission Example: new wastewater permit; IHW registration; change in customer information; etc. New Air Quality Standard Permit for Temporary Rock Crusher									
2. Attachments		Describe Any Attachments: (ex: Title V Application, Waste Transporter Application, etc.)							
X	YES		NO	Tier II Standard Permit Application (regional notification and maps)					
3. Customer Reference Number-if issued					4. Regulated Entity Reference Number-if issued				
CN	600355465		(9 digits)	RN	103914735		(9 digits)		
SECTION II: Customer Information									
5. Customer Role (Proposed or Actual) – As It Relates to the Regulated Entity Listed on This Form Please check <u>one</u> of the following:									
		Owner		Operator		X		Owner and Operator	
		Occupational Licensee		Volunteer Cleanup Applicant				Other	
TCEQ Use Only			Superfund		PST		Respondent		
6. General Customer Information									
New Customer				Change to Customer Information					
				Change in Regulated Entity Ownership		X		No Change*	
*If "No Change" and Section I is complete, skip to Section III - Regulated Entity Information.									
7. Type of Customer:			Individual			Sole Proprietorship - D.B.A.			
X			Partnership			Corporation		Federal Government	
			State Government			County Government		City Government	
			Other Government			Other			
8. Customer Name (If an individual, please print last name first)							If New Name, Enter Previous Name		
Vulcan Construction Materials, L.P.									
9. Mailing Address									
P.O. Box 791550									
City			State		ZIP		ZIP + 4		
San Antonio			Texas		78279		1550		
10. Country Mailing Information if outside USA					11. E-Mail Address if applicable				
12. Telephone Number			13. Extension or Code			14. Fax Number if applicable			
(210) 524-3500						(210) 524-3553			
15. Federal Tax ID (9 digits)			16. State Franchise Tax ID Number if applicable			17. DUNS Number if applicable (9 digits)			
631211833			16312118330						
18. Number of Employees							19. Independently Owned and Operated?		
0-20		21-100		101-250		251-500		X	
						501 and higher		Yes	
								No	
SECTION III: Regulated Entity Information									
20. General Regulated Entity Information									
New Regulated Entity			X			Change to Regulated Entity Information			No Change*
*If "No Change" and Section I is complete, skip to Section IV - Preparer Information.									

Press the Tab Key to continue to page 2.

21. Regulated Entity Name (If an individual, please print last name first)					
West Texas Portable Crusher #1					
22. Street Address (No PO Boxes)					
CR 353					
City		State	ZIP	ZIP + 4	
Hondo		Texas	78861		
23. Mailing Address					
P.O. Box 791550					
City		State	ZIP	ZIP + 4	
San Antonio		Texas	78279	1550	
24. E-Mail Address:					
25. Telephone Number		26. Extension or Code		27. Fax Number if applicable	
(210) 524-3500				(210) 524-3553	
28. Primary SIC Code (4 digits)	29. Secondary SIC Code (4 digits)	30. Primary NAICS Code (5 or 6 digits)		31. Secondary NAICS Code (5 or 6 digits)	
1422		212312			
32. What is the Primary Business of this entity? (Please do not repeat the SIC or NAICS description)					
Construction Materials					
Questions 33 - 37 address geographic location. Please refer to the instructions for applicability.					
33. County		Medina			
34. Description of Physical Location					
The plant is located northeast of Hondo, Texas approximately 7 miles north of US 90 and 6 miles east of SR 173. The entrance is located along the south border of the property on CR 353 approximately 1/2 mile east of CR 351.					
35. Nearest City		State	Nearest Zip		
Hondo		Texas	78861		
36. Latitude (N)			37. Longitude (W)		
Degrees	Minutes	Seconds	Degrees	Minutes	Seconds
29	27	38	99	01	16
38. TCEQ Programs In Which This Regulated Entity Participates Not all programs have been listed. Please add to this list as needed. If you don't know or are unsure, please mark "Unknown". If you know a permit or registration # for this entity, please write it below the program.					
<input type="checkbox"/>	Animal Feeding Operation	<input type="checkbox"/>	Petroleum Storage Tank	<input type="checkbox"/>	Water Rights
<input type="checkbox"/>	Title V - Air	<input type="checkbox"/>	Wastewater Permit	<input type="checkbox"/>	
<input type="checkbox"/>	Industrial & Hazardous Waste	<input type="checkbox"/>	Water Districts	<input type="checkbox"/>	
<input type="checkbox"/>	Municipal Solid Waste	<input type="checkbox"/>	Water Utilities	<input checked="" type="checkbox"/>	Unknown
<input checked="" type="checkbox"/>	New Source Review - Air	<input type="checkbox"/>	Licensing - Types	<input type="checkbox"/>	
SECTION IV: Preparer Information					
39. Name			40. Title		
Melissa Steele			Environmental Specialist		
41. Telephone Number		42. Extension or Code	43. Fax Number if applicable		
(830) 249-8284		23	(830) 249-0221		
44. E-mail Address: msteele@westwardenv.com					

**Air Quality Standard Permit for Temporary Rock Crushers – Tier II
West Texas Portable Crusher #1
Project Description**

Owner/Operator: Vulcan Construction Materials, L.P.
P.O. Box 791550
San Antonio, Texas 78279-1550

Contact: Ms. Aleisha Knochenhauer – Environmental Services Manager

Phone: (210) 524-3500
Fax: (210) 524-3553

Site Location: Medina Quarry, Medina County, Texas (N29°27'38" and W99°01'16"). The site is northeast of Hondo, Medina County, Texas approximately 7 miles north of US 90 and 6 miles east of SR 173. The plant entrance is located on County Road 353, just east of County Road 351. However, the site is difficult to locate and the gate at the entrance may be locked; therefore, the TCEQ inspector should contact Westward Environmental, Inc. or Vulcan Construction Materials, L.P. for assistance in gaining access to the site to perform the site inspection. (See attached site maps and plot plan.)

Crusher Serial No.: Primary Crusher – 616x87
Secondary Crusher – 619x212

TCEQ Account No.: There is no TCEQ Account Number for this facility. The Regulated Entity No. is RN103914735. The facility is currently authorized under Standard Permit at the Parmelly Site on Highway 277 near View, Taylor County, Texas (N32°18'09" and W99°55'14").

Expected duration at site: Undetermined (Less than 180 non-consecutive calendar days)
Expected operation hours: Maximum of 24 hours per day, 7 days per week (Less than 1,080 total hours)
Expected Arrival Date: 7 January 2005
Expected Vacate Date: Prior to 7 June 2005

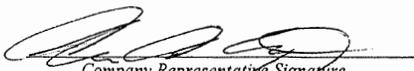
Vulcan Construction Materials, L.P. will satisfy the conditions of the Air Quality Standard Permit for Temporary Rock Crushers. The following is a checklist to demonstrate compliance with the General Requirements and Tier II Requirements. However, this is not an exhaustive list. The complete list of conditions is attached at the end of this application.

General Requirements:

1 A. This location will comply with this definition of a site.
1 B. This operation will be located at least ¼ of a mile from a residence, place of worship or school when crushing concrete.
1 C. All screen sides will be enclosed and all conveyors shall be covered with a half-moon or equivalent enclosure that covers the top of the conveyor to minimize emissions.
1 D. This facility will comply with the property line visible emission requirements.
1 E. This facility will comply with the opacity limits listed in the standard permit.
1 F. Permanently mounted spray bars will be installed at the inlet and outlet of all crushers, at all shaker screens, and at all material transfer points and used as necessary to maintain compliance with all commissions regulations.
1 G. Dust emissions from all in-plant roads and active work areas that are associated with the operation of the crusher will be minimized at all times through watering.
1 H. All stockpiles will be sprinkled with water, dust suppressant chemicals, or covered, as necessary, to minimize dust emissions.
1 I. Raw material and stockpile heights shall not exceed 45 feet.
1 J. The crusher will be equipped with a runtime meter.
1 K. Written records will be kept for a rolling 24 month period and will accompany the rock crusher to any site at which it operates and will include hours of operation including daily start and stop time, throughput per hour at the feed hopper, date the crusher was placed on site and date crusher was moved to site.
1 L. The subject facility meets the requirements of the standard permit and is therefore exempt from 116.110(a)(1).
1 M. This facility will comply with all applicable 40 CFR Part 60, Subpart OOO requirements.
1 N. This facility will only crush non-metallic minerals as listed in 40 CFR Part 60, Subpart OOO.
1 O. There are no other rock crushers or concrete batch plants at this location.
1 P. There is no fee required for this standard permit.
1 Q. There is no registration required as described in 116.111.

Tier II Requirements:

3 A. The crusher's feed hopper throughput shall not exceed 250 tons per hour.
3 B. The crushers and all associated sources will be located no less than 300 feet from the nearest property line.
3 C. The crushers and associated sources operating under this standard permit will be located at least 550 feet from any concrete batch or asphalt batch plant.
3 D. The equipment authorized under this paragraph will fall under the equipment requirements and will have no more than a primary crusher, a secondary crusher, two screens, and associated conveyors.
3 E. The rock crusher and associated sources (excluding stockpiles) will not operate for more than 1,080 hours or 180 non-consecutive calendar days on site, whichever occurs first.


Company Representative Signature

10-19-04
Date

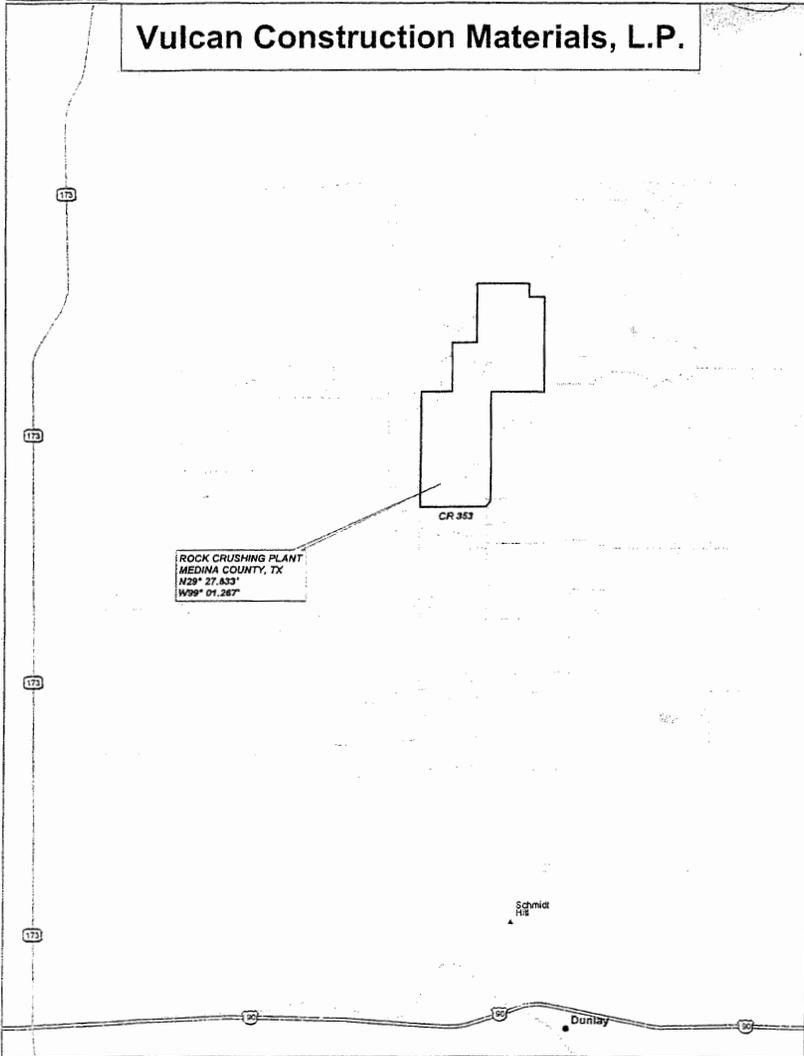


**Texas Commission on Environmental Quality
Regional Notification
Standard Permits / Permits by Rule Relocation Form**

This form should be used in two circumstances: 1) Voluntarily for specified portable facilities under standard permit; and 2) As required for specified facilities under permit by rule (PBR) - see Section II. A Core Data form is not required to be submitted with this form if information in Section I(A) is completed. Checklists for the individual standard permit or PBR, as well as any appropriate referenced Tables should be attached, along with supporting information as requested in the form below. All information should be mailed or faxed to the appropriate regional office and any local air pollution control programs.

I. REGISTRANT INFORMATION				
A. TCEQ Customer Reference Number (No.): CN - 600355465	TCEQ Regulated Entity No.: RN - 103914735			
Air Account ID No. (if known):	Equipment Serial/ID No.: 616x87 and 619x212			
B. Company or Other Legal Customer Name (must be same as Core Data "Customer" if previously submitted):				
Company Contact Name: Aleisha Knochenhauer	Title: Environmental Services Manager			
Mailing Address: P.O. Box 791550				
City: San Antonio	State: Texas	Zip Code: 78279-1550		
Phone: (210) 524-3500	Fax: (210) 524-3553	E-mail:		
II. FACILITY AUTHORIZATION AND SITE INFORMATION				
Name and Type of Facility: Portable Rock Crushing Plant	<input type="checkbox"/> Permanent <input checked="" type="checkbox"/> Portable			
Address: County Road 353	City: Hondo	County: Medina		
If no street address, provide written driving directions to the site: (attach description if additional space is needed)				
The plant is located northeast of Hondo, Texas approximately 7 miles north of US 90 and 6 miles east of SR 173. The entrance is located along the south border of the property on CR 353, just east of CR 351.				
Standard Permit Notification		PBR Notification		
Standard Permit Registration Number:		PBR Registration Number:		
Standard Permit Type (Check any that apply): <input type="checkbox"/> Asphalt Concrete Plant Public Works Project <input type="checkbox"/> Concrete Batch Plant Public Works Project <input checked="" type="checkbox"/> Temporary Rock Crusher (Tier I or Tier II)		PBR Rule (Check any that apply): <input type="checkbox"/> Air Curtain Incinerator (§ 106.496) <input type="checkbox"/> Remediation (§ 106.533) <input type="checkbox"/> Replacement Facility (§ 106.264) <input type="checkbox"/> Remediation Update (§ 106.533)		
Expected Arrival Date: 07 Jan. 2005		Departure Date: 07 June 2005	Time at site: <180 days	Hours of Operation: <1,080
Is there another facility at this site? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		If "YES," enter facility type:		Permit or Registration No.:
III. TECHNICAL INFORMATION & REQUIREMENTS				
A. Any changes to permitted sources or controls? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		If "YES," please attach detailed description		
B. Is a checklist attached which shows how the facility meets all requirements of the PBR or Standard Permit? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		If "NO," the applicant must attach detailed documents which show how all general and specific requirements will be met.		
C. Is an applicable Table attached? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		If "YES," list Table No.:		
D. Is a plot plan attached (include a scale, plant boundaries, all equipment, and distance/direction to nearest property line)? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		Is an area map attached (include location relative to landmarks and distance/direction to the nearest structure)? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
E. What is the distance from this facility's emission release point to the nearest property line?		>300 Feet		
What is the distance from this facility's emission release point to the nearest off-property structure?		>1320 Feet		
VI. SIGNATURE FOR NOTIFICATION				
The signature below indicates that I have knowledge of the facts herein set forth and that the same are true and correct to the best of my knowledge and belief. I further state that to the best of my knowledge and belief, the facility will satisfy the conditions and limitations of the indicated standard permit or permit by rule. The facility will operate in compliance with all regulations of the Texas Commission on Environmental Quality and with U.S. Environmental Protection Agency regulations governing air pollution.				
Name: Aleisha Knochenhauer		Signature: 		Date: 10-19-04

Vulcan Construction Materials, L.P.

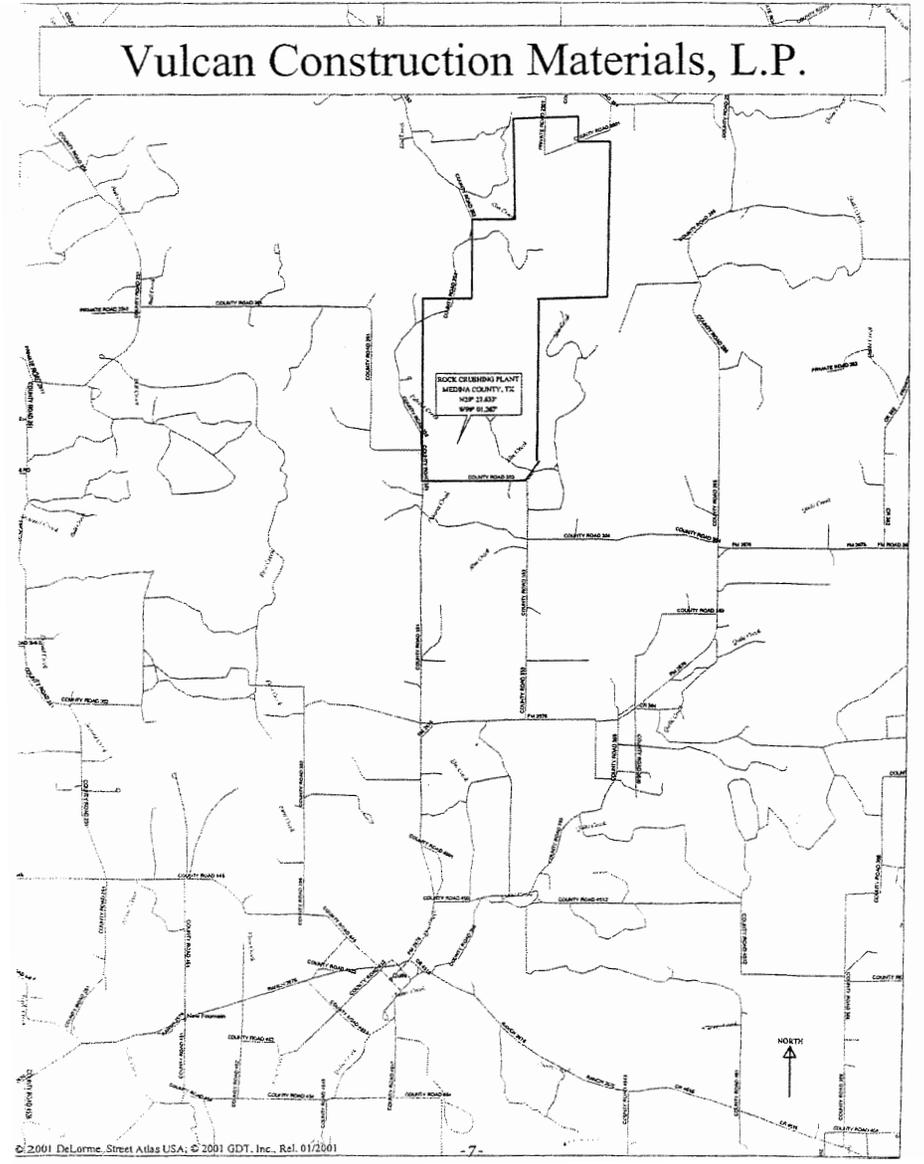


Data use subject to license
 © 2004 DeLorme Street Atlas USA® 2005
 www.delorme.com



Scale 1:100,000
 1" = 1.58 mi Data Zoom 11-0

Vulcan Construction Materials, L.P.



© 2001 DeLorme Street Atlas USA; © 2001 GDT, Inc. Rel. 01/2001

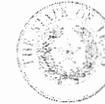
- (i) covered with a material such as, but not limited to, roofing shingles or tire chips (when used in combination with (ii) or (iii) of this subsection);
 - (ii) treated with dust-suppressant chemicals;
 - (iii) watered; or
 - (iv) paved with a cohesive hard surface that is maintained intact and cleaned.
- (H) All stockpiles shall be sprinkled with water, dust-suppressant chemicals, or covered, as necessary, to minimize dust emissions.
- (I) Raw material and product stockpile heights shall not exceed 45 feet.
- (J) The crusher shall be equipped with a runtime meter.
- (K) Written records shall be kept for a rolling 24 month period and shall accompany the rock crusher to any site at which it operates. These records shall be made available at the request of any personnel from the commission or any local air pollution control program having jurisdiction. These written records shall contain the following:
- (i) hours of operation including daily start and stop time;
 - (ii) the throughput per hour of the feed hopper (as determined by an appropriate method based upon physical measurement or calculated using a production factor determined to be acceptable by the commission); and
 - (iii) the date(s) the crusher was placed on site and the date(s) it was removed from the plant site.
- (L) Facilities which meet the conditions of this standard permit do not have to meet the emissions and distance limitations listed in 30 TAC § 116.610(a)(1).
- (M) Crushers that are authorized by this standard permit shall meet all applicable conditions of 40 CFR Part 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.
- (N) Only crushers that are processing nonmetallic minerals or a combination of nonmetallic minerals that are described in 40 CFR Part 60, Subpart OOO, shall be authorized by this standard permit.
- (O) The rock crusher and all associated facilities operating under this standard permit shall neither locate nor operate on the same site as any other rock crusher.

- (P) This standard permit shall not require compliance with 30 TAC § 116.614 "Standard Permit Fees."
- (Q) Notifications under this standard permit shall not be registered in accordance with 30 TAC § 116.611 "Registration to Use a Standard Permit."
- (2) A Tier I crusher shall comply with paragraph (1) of this standard permit and all of the following:
- (A) The crusher shall not be located at a quarry or mine.
 - (B) The crusher feed hopper throughput shall not exceed 125 tons per hour.
 - (C) The crusher and all associated sources shall be located no less than 200 ft. from the nearest property line.
 - (D) The equipment authorized under this paragraph shall be limited to one primary crusher, two conveyors, and two screens.
 - (E) The rock crusher and all associated sources operating under this standard permit shall neither locate nor operate on the same site as any concrete batch plant or asphalt batch plant.
 - (F) The crusher and associated sources (excluding stockpiles) shall not operate for more than 360 hours or 45 non-consecutive calendar days on site, whichever occurs first. The owner or operator shall remove the crusher and associated equipment from the site within 24 hours of ceasing operation. The 24 hours allotted for the removal shall not be used as additional operational time above the 360 hours or 45 non-consecutive calendar days.
 - (G) If the time periods listed in paragraph 2(F) have not been exhausted during any rolling 365 day period, the operator may return to the authorized site and operate for the remaining balance of time for that site. To return to the site, the operator shall notify the commission as described in paragraph 2(H). Once the operating hours (360) or calendar days (45) for the site have been exhausted and the site has been vacated, the owner or operator shall not use a standard permit to locate any rock crusher on the site for at least 365 days.
 - (H) The owner or operator shall notify the appropriate regional office in writing at least 10 calendar days prior to locating at the site. The notification shall include the owner or operator's name, address, phone number, site location, crusher serial number, expected duration at the site, expected hours of operation, expected date of arrival on site and expected date to vacate the site. When the applicant has previously occupied a site, the applicant shall also include its previous duration at the site to show compliance with paragraph 2(F).

- (3) A Tier II crusher shall comply with paragraph (1) of this standard permit and all of the following:
- (A) The crusher's feed hopper throughput shall not exceed 250 tons per hour.
 - (B) The crushers and all associated sources shall be located no less than 300 ft. from the nearest property line.
 - (C) The crushers and associated sources operating under this standard permit shall be located at least 550 ft. from any concrete batch plant or asphalt batch plant. If this distance cannot be met, then the crusher authorized under this standard permit shall not operate at the same time as the concrete batch plant or asphalt batch plant.
 - (D) The equipment authorized under this paragraph shall be limited to one primary crusher, one secondary crusher, two screens and any associated conveyors.
 - (E) The rock crushers and associated sources (excluding stockpiles) shall not operate for more than 1080 hours or 180 non-consecutive calendar days on site, whichever occurs first. The owner or operator shall remove the crusher and associated equipment from the site within 24 hours of ceasing operation. The 24 hours allotted for the removal of equipment shall not be used as additional operational time above the 1080 hours or 180 non-consecutive calendar days.
 - (F) If the time periods listed in paragraph 3(E) have not been exhausted during any rolling 365 day period, the operator may return to a site and operate for the remaining balance of time for that site. To return to a site, the operator shall notify the commission as described in paragraph 3(G). Once the operating hours (1080) or calendar days (180) for the site have been exhausted and the site has been vacated, the owner or operator shall not use a standard permit to locate any rock crusher on the site for at least 365 days.
 - (G) No owner or operator shall locate a crusher on site without first obtaining written approval from the executive director. The owner or operator shall notify the appropriate regional office in writing at least 30 calendar days prior to locating at the site. The notification shall include the owner or operator's name, address, phone number, site location, plot plan, crusher serial number, commission air account number, expected duration at the site, expected hours of operation, expected date of arrival on site and expected date to vacate the site. When the applicant has previously occupied a site, the applicant shall also include its previous duration at the site to show compliance with paragraph (3)(E). A compliance history review shall be performed by the executive director in accordance with 30 TAC Chapter 60. If a facility is determined to be a poor performer, as defined in 30 TAC Chapter 60, a standard permit notification will not be accepted or approved.

- 12 -

Kathleen Hartnett White, *Chairman*
 R. B. "Ralph" Marquez, *Commissioner*
 Larry R. Soward, *Commissioner*
 Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 28, 2004

Ms. Aliasha Knochenhauer, Environmental Services Manager
 Vulcan Construction Materials, L.P.
 P.O. Box 791550
 San Antonio, TX 78279-1550

Re: Standard Permit - Tier II Temporary Rock Crusher
 Site Location: Medina Quarry, Medina County, Texas
 Primary Crusher Serial No.: 616x87
 Secondary Crusher Serial No. 619x212
 Regulated Entity No.: RN 103914735
 Customer No.: CN 600355465

Dear Ms Knochenhauer:

This is to acknowledge receipt of the application for the Tier II Portable Rock Crusher to be located at the Medina Quarry. Based on the information presented and a site review conducted, it has been determined that authorization can be granted to construct and operate this facility at the proposed site.

This authorization is contingent upon continued compliance with the terms of the Standard Permit for Temporary Rock Crushers. Any changes to the representations must have prior written approval from a delegated representative of the executive director.

The subject site is located on the Edwards Aquifer Recharge Zone and regulated under 30 TAC Chapter 213. For provisions required under 30 TAC Chapter 213, please contact Mr. Robert Napier of the Edwards Aquifer Protection Program in our San Antonio Regional Office. His phone number is 210/403-4073.

Your crushers may be subject to NSPS Subpart OOO if they were constructed after August 31, 1983 and have a capacity above 150 tons per hour. This office has no record of a visible emissions performance test being performed on these crushers or a like make and model. Please provide a copy of the appropriate performance tests, or it will be necessary for you to conduct such tests within 60 days of start of operation at the Medina Quarry.

REPLY TO: REGION 13 • 14250 JUDSON RD. • SAN ANTONIO, TEXAS 78233-4480 • 210/490-3096 • FAX 210/545-4329

P.O. Box 13087 • Austin, Texas 78711-3087 • 512/239-1000 • Internet address: www.tceq.state.tx.us

printed on recycled paper using 50% post consumer waste

Ms. Aliesha Knochenhauer
December 29, 2004
Page 2

Re: Standard Permit - Tier II Temporary Rock Crusher
Site Location: Medina Quarry, Medina County, Texas
Primary Crusher Serial No.: 616x87
Secondary Crusher Serial No. 619x212
Regulated Entity No.: RN 103914735
Customer No.: CN 600355465

We appreciate your cooperation in this matter. If you have any questions, please feel free to contact Mr. Layne Perelli at 210/490-3096.

Sincerely,

Rick Hite

Rick Hite
Air Section Manager
San Antonio Regional Office

CC: Westward Environmental, Inc., Attn: Melissa Steele
Mr. Edgar Sawyer, Region 13 Stack Test Program
Mr. Robert Napier, Region 13 Edwards Aquifer Protection Program



February 2002

Air Quality Standard Permit for Temporary Rock Crushers

Air Permits Division
Texas Natural Resource Conservation Commission

Table of Contents

I. Executive Summary 1

II. Explanation and Background of Air Quality Standard Permit 1

III. Overview of Air Quality Standard Permit 1

IV. Permit Condition Analysis and Justification 2

V. Protectiveness Review 6

VI. Public Notice and Comment Period 8

VII. Comments Requested 8

VIII. Public Meetings 8

IX. Analysis of Comments 9

X. Statutory Authority 23

Air Quality Standard Permit for Temporary Rock Crushers 24

**TEMPORARY ROCK CRUSHER
AIR QUALITY STANDARD PERMIT
SUMMARY DOCUMENT**

I. EXECUTIVE SUMMARY

The Texas Natural Resource Conservation Commission (TNRCC or commission) is issuing an air quality standard permit for rock crushers (RCs). This standard permit is applicable to all temporary RCs that process nonmetallic minerals or a combination of nonmetallic minerals and have a feed hopper throughput that is equal to or less than 250 tons per hour (tph).

II. EXPLANATION AND BACKGROUND OF AIR QUALITY STANDARD PERMIT

This standard permit for temporary RCs is being developed because the transient nature of these types of operations has made it apparent that the TNRCC should provide an authorization process that will allow RCs to operate temporarily at a location (or to operate on a limited, noncontinuous time frame), process material in a timely manner, and be in compliance with all TNRCC regulations. Although in many cases RCs are operating at quarries and mines, RCs are also required to process material at locations that are not permanent material handling sites. Examples of these types of sites are estate subdivision developments, strip-mall construction sites, building demolition projects, public road and highway projects, and sanitary landfills for size reduction of disposed material. This standard permit provides a streamlined preconstruction authorization process that may be used by any RC complying with the standard permit requirements and which is not prohibited by some other state or federal permitting statute or regulation.

III. OVERVIEW OF AIR QUALITY STANDARD PERMIT

Based on the results of a protectiveness review, the commission is issuing a standard permit for RCs under Title 30 Texas Administrative Code Chapter 116, Subchapter F (30 TAC Chapter 116, Subchapter F), Standard Permits. The commission currently authorizes RCs under the conditions of 30 TAC Chapter 106, Permits by Rule (PBR), or under 30 TAC Chapter 116, Control of Air Pollution by Permits for New Construction or Modification. The development of this standard permit is consistent with the desire of the commission to simplify its regulatory structure and provide standard permits as an alternative authorization to authorization by existing PBRs. The general public often expresses concern with RC registration applications. These objections often include traffic safety, noise, appearance, and property values. These concerns are beyond the commission's jurisdiction to address. The general public also expresses concerns over nuisance dust, ambient air quality, and potential negative health impacts and these issues are the focus of the RC protectiveness review and the proposed conditions of the standard permit.

The commission is including requirements to minimize dust emissions, property line distance limitations, opacity and visible emission limitations based on computer dispersion modeling, impacts analysis, and plant observations performed to verify the protectiveness of the standard

permit. The commission has concluded research which shows that the standard permit for RCs is protective of the public health and welfare and that facilities which operate under the conditions specified will comply with TNRCC regulations.

The standard permit is designed to authorize RCs that are portable and, based on business needs, move to various sites. However, it is not intended to provide an authorization mechanism for all possible unit configurations or for unusual operating scenarios. Those facilities which cannot meet the standard permit conditions may apply for an air quality permit under 30 TAC § 116.111, General Application or a PBR under 30 TAC § 106.142.

IV. PERMIT CONDITION ANALYSIS AND JUSTIFICATION

The new standard permit for RCs creates a new authorization mechanism for rock crushing facilities. Any rock crushing facility may continue to apply for an air quality permit under 30 TAC § 116.111 or a PBR 30 TAC § 106.142. This standard permit requires RCs to comply with certain administrative requirements, including regional notification (Tier 1), regional notification and written regional approval (Tier 2), as well as general provisions and specific requirements for controlling emissions from equipment and activities at a site.

Applicability and General Conditions

The general conditions for standard permits, located in 30 TAC Chapter 116, Subchapter F, apply to all RCs seeking authorization under this standard permit. All RCs are required to meet 30 TAC Chapter 116, Subchapter F rule requirements as well as the specific conditions of this standard permit listed in paragraph (1). Tier I RCs must also comply with paragraph (2) and Tier II must comply with paragraph (3). The proposed standard permit also specifies that any changes that are made to this standard permit by the commission shall apply to all existing and future facilities that are authorized by this standard permit. The standard permit registration is location specific and relocation to a new site requires the owner or operator to reapply for a new authorization under the standard permit.

Administrative and General Requirements

Paragraph (1) of the proposed standard permit outlines the administrative requirements that all RCs must meet in order to be eligible to use this standard permit. Subsection (A) is the definition of a plant site and should be used when determining the meaning of "site" that is used throughout this standard permit. Subsection (B) satisfies House Bill 2912, § 5.07 which amended Texas Health and Safety Code (THSC), § 382.065, to require all RCs that are crushing concrete to be located at least 440 yards (1320 ft) from any structure used as a single family or multifamily residence, school, or place of worship. Subsection (C) requires all screen sides to be enclosed and conveyors to be covered with a half-moon enclosure or equivalent.

Subsections (D) & (E) address performance demonstrations for the facility. All RCs authorized under this standard permit will be limited to no visible emissions exceeding 30 seconds over a six-minute period as determined by the U.S. Environmental Protection Agency (EPA) Test Method (TM) 22

from the crusher, screens, transfer points on conveyors, material storage or feed bins, in-plant roads, and work areas that are directly associated with the facility and stockpiles. Additionally, opacity of emissions from any transfer point on belt conveyors or any screen shall not exceed 10 percent and from any crusher shall not exceed 15 percent, averaged over a six-minute period, and according to EPA TM 9. The performance expectations are listed for compliance demonstrations with the conditions of the standard permit and prevention of nuisance conditions. Visible emission limitations and opacity requirements ensure that both the operators and TNRCC field investigators can clearly understand how to demonstrate compliance with the rule and regulations of the commission.

Subsection (F) requires all RCs to have properly mounted spray bar equipment on the inlet and outlet of all crushers, all shaker screens, and at all material transfer points. These devices are to be used as necessary to maintain compliance with all TNRCC regulations. Water sprays are an effective control method to minimize dust emissions from these emission points. Subsection (G) requires that dust emissions from road and traffic areas directly associated with the operation of the RC be minimized by covering or treating them with dust-suppressant materials, chemicals, watering, or paving. Similarly, subsection (H) requires that dust from stockpiles be controlled by watering, dust-suppressant chemicals, or covered as necessary to minimize emission from these sources. Subsection (I) limits raw material and product stockpiles to a maximum height of 45 ft. To show compliance with the time limitations listed in this standard permit, subsection (J) requires all RCs to be equipped with a run time meter. Subsection (K) requires production records to be kept at the plant site in accordance with 30 TAC § 116.615(8), General Conditions. Hourly throughput, plant operation, dates, and times at specific plant sites must be recorded and maintained to demonstrate compliance with the maximum production rate and time limits listed in the standard permit. Because these plants are portable, these records are required to accompany the plant to any site and shall be maintained for a rolling 24-month period. As described in subsection (L), the commission has also clarified that 30 TAC § 116.610(a)(1), Applicability, does not apply to RCs under this standard permit as the protectiveness review addressed emission rates and distance limitations for these facilities.

Subsection (M) requires compliance with all applicable conditions of Title 40 Code of Federal Regulation Part 60, Subpart OOO (40 CFR Part 60, Subpart OOO), Standards of Performance for Nonmetallic Mineral Processing Plants. As described in subsection (N), any RC authorized under this standard permit is also limited to crushing only those nonmetallic materials or a combination greater than 50% of those materials that are listed in 40 CFR Part 60, Subpart OOO (excluding kaolin, mica, and talc). This limitation applies to all RCs, regardless of whether the proposed RC is subject to the terms and conditions listed in 40 CFR Part 60, Subpart OOO. Kaolin, mica, and talc have been excluded because of toxicity concerns greater than those from materials such as limestone. This requirement is applied to RCs that will be authorized under this standard permit.

Subsection (O) ensures the rock crushing operations at a site are limited, and that particulate matter (PM) standards are not exceeded. The protectiveness review showed that PM concentrations predicted to result from emissions from the rock crushing scenarios authorized by this standard permit approach the 30 TAC Chapter 111 (Control of Air Pollution from Visible Emissions and Particulate Matter) standards under worst case scenarios. 30 TAC § 116.614 requires a fee of \$450 for any standard permit unless otherwise specified in a particular standard permit. This standard permit

[subsection 1(P)] has been clarified to exempt these facilities from this fee. Due to the portable nature of these types of facilities subsection Q has been added to exempt these facilities from the registration procedure listed in 30 TAC § 116.611. Specific notification procedures are listed in the individual tiers of this standard permit

Specific Requirements for Tier I Rock Crushers

Paragraph (2) requirements are applicable to portable RCs with a throughput of 125 tph or less that propose to be located temporarily at a site. Paragraph 2 also requires compliance with all applicable regulations, ensures the temporary nature of the site at which the RC will be located, and includes regional office notification procedures.

Subsection (2)(A) limits the use of this proposed standard permit to locations that are not quarries and or mines. Subsections (2)(B) and (C) limit the feed hopper throughput of the RC to a maximum of 125 tph and require a minimum distance of 200 ft. from any property line. Subsection (2)(D) limits the number of pieces of equipment at a proposed location to one primary crusher, two conveyors and two screens. Additionally, subsection (2)(E) prohibits RCs authorized under this standard permit from locating at sites where an existing concrete batch plant or asphalt plant is currently operating. These subsections are required to ensure compliance with all applicable TNRCC regulations. This tier of the standard permit is intended for those types of locations (e.g., construction sites, subdivision developments, roads and highways) that are not permanent aggregate handling operations and for those locations where there is little possibility of multiple operations occurring at the same time. These requirements are designed to ensure the protection of public health. Given the conservative assumptions and the extremely low number of modeled exceedances of 30 TAC Chapter 111 (Control of Air Pollution from Visible Emissions and Particulate Matter) standards, it is not expected that any individual facility, which meet these limits will exceed the standards of 30 TAC Chapter 111 (one hour and three hour) or the 24-hour or annual National Ambient Air Quality Standards (NAAQS).

Subsection (2)(F) limits RCs to 360 operational hours or 45 calendar days at a site. Once either of these two limitations is met, the owner/operator is required to stop operation and leave the site. In order to allow the owner/operator time to remove the RC and associated equipment from the site, the standard permit will allow for an additional 24 hours to remove the RC and associated equipment. However, the additional 24 hours may not be used as additional operational time. Because there are no emissions associated with the relocation of equipment, this additional time is given to provide some flexibility for the applicant to remove equipment and not be in violation of the standard permit time requirements. Subsection (2)(G) states that the operational time limitations listed in Subsection (2)(F) are not consecutive. An applicant may move to another site and return, provided that the 360 hour time limit or the 45 calendar day limit has not been exceeded. Once either limitation has been exhausted, the owner or operator shall not use a standard permit to locate a RC at this site for a period of 365 consecutive calendar days. If the RC and associated facilities are moved from the site, the owner/operator must renotify the regional office prior to moving back to the site (see description of notification process below). The proposed standard permit is not intended to create a location where an RC would be permanently located. These additional requirements are needed to make clear the

commission's intention to allow certain types of facilities the flexibility to temporarily locate at a given site, process material and then leave the site and not return for a specific period of time.

Finally, Subsection (2)(H) describes that the applicant must notify the appropriate regional office at least 10 days prior to locating at a site. Due to the short time frames allowed under this portion of the standard permit, no written approval from the regional office is required. The notification shall provide information to the region of the temporary location and the time frame the RC is proposed to be at the site. This information is intended to assist the regional office in answering any questions that may arise as to why the RC is at the location or how it may be authorized.

Specific Requirements for a Tier II Rock Crushers

Paragraph (3) covers those requirements that are applicable to portable RCs with a throughput of 250 tph or less that propose to be located at any temporary plant site. Paragraph (3) requires compliance with all applicable regulations, ensures the temporary nature of the site at which the proposed facility will be located, and includes notification requirements.

Subsections (3)(A) and (3)(B) limit the feed hopper throughput of the RC to a maximum of 250 tph and require a minimum distance of 300 ft. from any property line. Subsection (3)(C) also establishes a 550-ft. "separation" distance between any RC authorized under this standard permit and either an operating concrete batch plant (CBP) or asphalt concrete batch plant (ACP). If this distance cannot be met, then the RC authorized under this standard permit shall not operate at the same time as the CBP or ACP. Subsection (3)(D) limits the number of pieces of equipment at a proposed location to one primary crusher, one secondary crusher, two screens, and any associated conveyors. As stated for a Tier I RC, the requirements in these subsections are to ensure compliance with all applicable TNRCC regulations. This tier of the standard permit is intended for all types of locations at which RCs may be needed to process material. Although it is still not intended to authorize a permanent crushing operation, it is intended to allow equipment at plant sites that handle aggregate materials (e.g., quarries and mines) or large scale projects that may require higher production rates to accomplish the required tasks. Given the intent of this type of operation, this portion of the standard permit does consider the possibility of multiple facilities (CBPs and ACPs) operating at the same time. Given the conservative assumptions and the low number of modeled exceedances of 30 TAC Chapter 111 standards, it is not expected that any individual facility which meets these limits will exceed the standards of 30 TAC Chapter 111 (one hour and three hour) or the 24-hour or annual NAAQS.

Subsection (3)(E) limits a RC to 1080 operational hours or 180 calendar days at a plant site. Once either of these two limitations is reached, the owner/operator is required to stop operation and leave the site. The 1080 operational hours are considered to be the maximum total operational time allowed under this standard permit. An operator may operate any combination of the primary and secondary crusher (and associated equipment) that is authorized under this standard permit. However, no single or combined use of the equipment shall exceed 1080 hours or 180 days of operation. In order to allow the owner/operator time to remove the proposed facility from the site, the standard permit does allow for an additional 24 hours to remove RCs and associated equipment. However, the additional 24 hours may not be used as additional operational time. Because there are no emissions associated with the

relocation of equipment, this additional time is given to provide some flexibility for the applicant to remove equipment and not be in violation of the time requirements of this standard permit. Subsection (3)(F) states that the operational time limitations listed in Subsection (3)(E) are not consecutive. An applicant may move to another site and return, provided that the 1080 hour time limit or the 180 calendar day limit has not been met. Once either limitation has been exhausted, the owner/operator shall not use a standard permit to locate a RC at that site for a period of 365 consecutive calendar days. If the RC and associated facilities are moved from the site, the owner/operator must obtain written approval from the regional office prior to relocating back to the site. This standard permit is not intended to create a location where an RC would be permanently located. This portion of the proposed standard permit is to allow certain types of facilities the flexibility to temporarily locate to a given site, process material and then leave the site and not return for a given period. However, this tier of the standard permit expands the types of plant sites at which relocation may occur.

Subsection (3)(G), due to the larger operations and longer time frames allowed under Tier II, requires that the applicant obtain written approval from the appropriate regional office prior to locating any equipment at a site. The request to locate an RC is required to be submitted to the regional office at least 30 days in advance of locating to a proposed plant site. Under this tier, a site review by the regional office is required to ensure that all applicable portions of the standard permit are being met by the applicant. If the applicant meets all applicable requirements of the standard permit, the regional office will provide the owner/operator with written approval.

V. PROTECTIVENESS REVIEW

Dispersion Modeling and Distance Limits

The RC standard permit team developed representative worst-case operating scenarios to be evaluated by dispersion modeling. Pollutants evaluated were PM and particulate matter with an aerodynamic diameter of 10 microns or less (PM_{10}). Impacts were obtained using the EPA Industrial Source Complex (ISC) model. The model's output was used as the basis to develop the distance limits for the standard permit.

The operating scenarios consisted of generic configurations of two sizes of rock crushing equipment and associated stockpiles. All rock crushing equipment emissions, including drop points, screens, crushers, and conveyers, were characterized as a single elevated area source with initial vertical dispersion. In addition, because the configuration was generic, the area source was modeled separately in both an east-west and north-south orientation to determine worst-case impacts. Stockpiles associated with the operation of the rock crushing equipment were represented as volume sources. The locations of the stockpiles were selected to determine the worst-case configuration based on the orientation of one area source with one volume source and the prevailing wind directions in the meteorological data set.

The emissions of the sources were based on the maximum capacity of the rock crushing equipment, a process rate of 125 tph for Tier 1 and 250 tph for Tier 2. The emissions for both tiers reflect emission reductions for the use of water sprays, enclosed screens, and watering stockpiles. Because the sources are all low-level fugitives, the emissions modeled were reduced by 40 percent to account for increased dispersion due to plume meander and spreading which is not accounted for in the ISC model.

Because there is no set "property line" for this standard permit, the receptor grid started as close to the edge of the long axis of the area source for each model run as practical to accommodate the size and location of the facilities and stockpiles and extended approximately 1300 ft. in all directions from the center of the sources. To be conservative, the receptors were spaced 25 ft. apart.

Five years of meteorological data for a single location were used in lieu of evaluating multiple regional meteorological data sets. The rationale for this decision considered that the source releases are low-level fugitives and that the sources would be evaluated in multiple orientations; therefore, five years of data would provide representative worst-case meteorological parameters for fugitive impacts (low wind speed and stable atmospheric conditions). The meteorological data for this analysis consisted of surface data from Austin and upper-air data from Victoria for the years 1983, 1984, 1986, 1987, and 1988.

Because all the emission sources were characterized as low-level fugitives, the emissions would be terrain following, therefore, only flat terrain was considered. Rural dispersion coefficients were used because RCs would be located primarily in areas that are considered rural. Downwash was not considered for this analysis because there are no typical downwash structures involved.

To demonstrate compliance, the modeling team tabulated the total number of modeled exceedances of the 30 TAC Chapter 111 one-hour and three-hour standards over a five-year period that occurred over each tier's receptor grid. The compliance prediction was based on an evaluation of the total hours of modeled exceedances divided by the total hours in the applicable review period (43,824 hours for the one-hour standard and 14,608 hours for the three-hour standard) and, the conservativeness of assumptions made in the review. For each source configuration, the maximum distance to obtain 99.9 percent predicted compliance was used as the basis for the distance limitation for each tier. Given the conservative nature of the modeling and limited hours of operation, the team expects a predicted compliance of 99.9 percent to be 100 percent compliance in practice. In addition, the NAAQS for PM_{10} should not be exceeded based on the results of the one-hour and three-hour analyses, limited hours of operation, and lower emission rates for each tier.

The state property line standards for PM are the controlling standards for the distance limitations. The distance limit for the crusher and all associated facilities is 200 ft. from the property line for Tier I and 300 ft. from the property line for Tier II. In addition, for Tier II, a distance limit of at least 550 ft. from any CBP or ACP was determined by adding the greater of the distance from the ACP protectiveness review (250 ft.) or the distance from the CBP standard permit (100 ft.) to the Tier II distance limit of 300 ft. This is a conservative distance based on the assumptions of

worst-case orientation of RC sources and possible alignment of the same short-term meteorological wind and stability conditions with concrete batch plant or asphalt concrete batch plant sources.

VI. PUBLIC NOTICE AND COMMENT PERIOD

In accordance with 30 TAC § 116.603, the TNRCC published notice of the proposed standard permit in the *Texas Register* and newspapers of the largest general circulation in the following metropolitan areas: Amarillo; Austin; Corpus Christi; Dallas; El Paso; Houston; Lower Rio Grande Valley; Lubbock; Permian Basin; San Antonio; and Tyler. The date for publication in Amarillo; Austin; Corpus Christi; Dallas; El Paso; Houston; Lubbock; Permian Basin; San Antonio; and Tyler was November 30, 2001 and the date for publication in the Lower Rio Grande Valley was December 4, 2001. The comment period closed on January 3, 2002.

VII. COMMENTS REQUESTED

In addition to general comments concerning the standard permit for temporary RCs with a throughput of less than 250 tph, the commission solicited, in particular, comments regarding the concept of a standard permit for permanent RCs.

VIII. PUBLIC MEETINGS

Public meetings on the proposal were held on the following dates at the stated times and locations: January 3, 2002 at 7:00 p.m., Texas Natural Resource Conservation Commission Building C, Room 131E, 12100 Park 35 Circle, Austin, Texas; January 3, 2002 at 7:00 p.m., City of Arlington Council Chambers Municipal Building, 101 West Abram Street, Arlington, Texas; January 3, 2002 at 7:00 p.m., City of Houston Pollution Control Auditorium, 7411 Park Place Boulevard Houston, Texas. Oral comments were provided by the following: Representative Al Edwards, Representative Ron Wilson, a representative for Representative Bill Callegari, Texas Pipe and Supply (TPS), Trinity Materials/Transit Mix (TM), Big City Crushed Concrete (BCCC), Recycled Materials (RM), representatives of the Southeast Coalition of Civic Clubs (SCCC), representatives of the Sunnyside Civic Club (SCC), representatives of Residents for a Better Community (RBC), a representative of the National Association for the Advancement of Colored People (NAACP) and three private citizens not affiliated with any of the above mentioned organizations.

Written comments were submitted by the following: Representative Bill Callegari, Associated General Contractors of Texas (AGC), Bland/Shroeder/Archer, LP (BSA), CSA Materials, Inc. (CSA), Jenkins and Gilchrist on behalf of TXI (TXI), Recycled Materials (RM), S.H. Tolliver Company (SHTC), Texas Aggregates and Concrete Association (TACA), Westward Environmental, Inc (WE), Frederick-Law (FL), representatives of the Southeast Coalition of Civic Clubs (SCCC) and four private citizens not affiliated with any of the above mentioned organizations.

IX. ANALYSIS OF COMMENTS

General Comments

The commission received both positive and negative comments on the concept of a Tier III or permanent rock crusher standard permit. Comments on the Tier III concept were solicited in order to assist in the possible development of a Tier III standard permit. The commission will continue to consider the option of a Tier III standard permit. As part of determining whether to develop a Tier III standard permit, the commission will seek additional stakeholder input. Until the commission approves a Tier III type of standard permit for rock crushers, the rock crusher permit by rule authorized in 30 TAC § 106.142 will remain in effect.

The commission also received comments which mentioned a Southern Crushed facility. Responses to timely filed comments about that facility were provided in the Executive Director's Responses to Public Comments at the beginning of January 2002. Therefore, comments about Southern Crushed will not be addressed in this response to comments on the proposed RC standard permit.

Representative Bill Callegari, Representative Al Edwards, Representative Ron Wilson, TPS and several private citizens commented that it is important to give public notice to residents of the surrounding area when a RC is located at a specific site.

The development of a standard permit includes a comprehensive evaluation of emission controls and operating conditions for a large group of very similar facilities. Because of the similarity of emissions and operating scenarios of RCs, the commission can develop a set of emission controls and operating conditions that will apply to all individual facilities and meet the intent of the Texas Clean Air Act (TCAA). The emission controls, operating conditions, and worst case impacts are subject to a technology requirements review that will determine whether are not the conditions of the permit are sufficient to protect public health and welfare. For example the RC standard permit review shows that Tier I would have a maximum PM emission rate of 0.048 tons per year (tpy) and that Tier II would have a maximum PM emission rate of 0.672 tpy. In this standard permit the commission has also placed limits on the hours of operation, time allowed on site, amount of ancillary equipment, and types of emission controls that may exceed those in a regular permit.

Texas Health and Safety Code § 382.05195(b) [THSC § 382.05195(b)] requires that the commission publish newspaper notice of a proposed standard permit. Notice of this proposed standard permit was published in 11 newspapers and the Texas Register. Additionally, THSC § 382.05195(c) requires the commission to publish notice of and provide a public meeting to take additional public comment on a proposed standard permit. Three public meetings were held in Houston, Arlington, and Austin to take comments on this standard permit. A protectiveness review was performed and the commission solicited public comment on the conditions for authorization during the review of a standard permit. This standard permit has undergone a detailed protectiveness review and public comments have been considered and responses will be published in the Texas

Register. Only after the public participation period is concluded and any comments have been considered may the commission approve the standard permit.

Representative Al Edwards, SCCC, RBC, TPS, and private citizens commented that there needs to be more monitoring of rock and concrete crushing sites.

The commission does not typically conduct case-by-case monitoring at all specific sites. Modeling is the accepted alternative per guidance and policy of both EPA and TNRCC and can simulate multiple worst case atmospheric conditions that would not be possible with monitoring. Additionally, the models rely on emission factors that are highly conservative (worst case) and is based on actual monitoring data developed by the EPA. In this instance, worst case modeling indicated that these temporary facilities would meet all applicable TNRCC rules. Specifically, these operations were compared to the one-hour and three-hour 30 TAC Chapter 111 PM standard and the NAAQS 24-hour and annual standard for PM₁₀. Additionally, modeling provides a mechanism for predicting any off-property impacts prior to an actual facility being constructed at a given location. Monitoring is typically a post construction tool to assist the agency in determining continued compliance with commission regulations.

A private citizen commented that the air quality in Houston is not good and requested a moratorium on any further permits for RCs.

The Houston Galveston area has been designated nonattainment for the air pollutant ozone. This ozone nonattainment area is classified as Severe-17 under the Federal Clean Air Act (FCAA) Amendments of 1990 and therefore is required to attain the one-hour ozone standard of 0.12 ppm by November 15, 2007. The state has developed a State Implementation Plan which details strategies and mechanisms by which it will reduce air pollution.

This standard permit will authorize sources that emit PM₁₀. These sources do not emit ozone. The standard permit was evaluated against the NAAQS for PM₁₀ on 24-hour and annual bases. These PM standards were developed to ensure protection of public health and welfare. The standard permit did not significantly impact either of these federal requirements therefore the commission does not anticipate that the use of this standard permit is likely to adversely impact the air quality in the Houston area or any where in the State of Texas.

Representative Bill Callegari, Representative Al Edwards, Representative Ron Wilson, NAACP and RBC commented that no specific neighborhood should be targeted because of its economic or racial composition as a viable location for RCs and that RCs should not be concentrated in one general area. In addition Representative Al Edwards, Representative Ron Wilson, NAACP, SCCC, and numerous private citizens commented that there were too many concrete crushers in the Sunnyside area.

The commission does not have statutory authority for restricting the placement of facilities based on land use issues. However, the commission can ensure that these facilities do not contribute to adverse health impacts due to air pollution and believes that the controls, limits,

and restrictions in this standard permit achieve that goal. Additionally, the new THSC § 382.065 prohibits the location of this type of facility within 440 yards of a building used as a single or multifamily residence, school, or place of worship. The TNRCC has no guidance addressing how environmental equity is to be considered in the permitting process. Air quality permits evaluated by the agency are reviewed without any particular knowledge of, or reference to, the socioeconomic or racial status of the surrounding community. Although there are no TNRCC rules addressing environmental equity issues such as the location of permitted facilities in areas with minority and low-income populations, disparate exposures of pollutants to minority and low-income populations, or the disparate economic, environmental, and health effects on minority and low-income populations, the TNRCC has made a strong policy commitment to address environmental equity by creating an environmental equity program within the Office of Public Assistance. This program works to help citizens and neighborhood groups participate in the regulatory process; to ensure that agency programs that substantially affect human health or the environment operate without discrimination; and to make sure that citizens' concerns are considered thoroughly and are handled in a way that is fair to all. The Office of Public Assistance can be reached at 1-800-687-4040 for further information.

A private citizen suggested enclosing the RC and associated equipment in a building and Representative Al Edwards stated that such an enclosure should be seriously considered.

After detailed analysis including refined air dispersion modeling, the commission believes that the controls, such as spray bars, screen enclosures, and conveyor covers, and best management practices, such as watering roads and stockpiles, in this standard permit ensure that emissions meet the property line standards and NAAQS for PM and are thus protective of public health and welfare. Additional controls such as a complete enclosure are not required to reduce emissions below the above stated standards. Additionally, these types of requirements are technically impractical and economically unreasonable given the temporary nature of the types of facilities that are authorized by this standard permit.

RCCC and several private citizens commented that the dust from RCs will cause adverse health effects.

The standard permit underwent a detailed protectiveness review and the permit provisions were developed to prevent any adverse health effects associated with the air emissions from temporary RCs. Assuming the RCs authorized by this standard permit operate according to the provisions of the permit, the commission would not expect adverse health effects to result from exposure to authorized emissions.

Private citizens, SCCC, and SCC commented that they are opposed to the rock crusher standard permit.

The commission acknowledges the opposition to the proposed standard permit but believes the standard permit is protective and is a practical method to authorize operations of this nature.

SCCC, TPS and private citizens commented that the concentration of concrete crushers in the neighborhood lowered property values. A private citizen also stated that the diminished quality of life, due to air pollution, lowered the City of Houston's bond rating.

The commission has no statutory authority for consideration of the effect of this standard permit on property values or other land use issues. Similarly, the commission has no statutory authority to consider a city's bond rating in the process of approving a standard permit or approving individual authorizations. Moreover, THSC § 382.065, as passed by the 77th Texas Legislature as a part of House Bill 2912, prohibits the location or operation of a concrete crushing facility within 440 yards of a building used as a single or multifamily residence, school, or place of worship.

BCCC stated that the concrete crushing industry has developed differently in Dallas because of the more stringent land use regulations and suggested that regional or local entities should have the authority to approve concrete crusher sites.

Land use planning and zoning are handled by local jurisdictions such as cities. TNRCC has no authority to consider land use planning in the development of the standard permit. Nor does TNRCC's authorization of a facility supercede local authority to restrict or limit land use.

BSA suggested that portable RCs with a capacity of 250 tph or less be treated the same as other construction equipment - exempt from permitting but subject to TNRCC dust control regulations.

Facility is defined as a discrete or identifiable structure, device, item, equipment or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment. THSC § 382.003(6), 30 TAC § 116.10(4). 30 TAC § 116.110 states that new facilities or facilities being modified are subject to the requirements of 30 TAC Chapter 116. RCs, even though portable, are considered to be stationary sources because they are fixed (do not move) while operating. A RC, regardless of size, is a facility and is therefore subject to 30 TAC Chapter 116 or 106 authorization requirements. Other types of construction equipment that are considered mobile sources do not fit this definition and are not subject 30 TAC Chapter 116 permitting requirements.

CSA commented that the location, production, emissions, and equipment requirements of the proposed standard permit for RCs are not practical, necessary, or economically feasible for most RCs operating in rural areas. RCs in rural areas are often located miles from the nearest receptor and requirements based on crowded urban areas will adversely affect RCs operating in rural areas of the state and some rock crushers may be forced to shut down. BSA and CSA commented that if aggregate cannot be crushed on site then the aggregate must be hauled to the site with resultant increases in air pollution from trucks and wear on roads and highways.

The standard permit is designed to allow for authorization of RCs that are portable and, based on business needs, move to various sites. However, it is not intended to provide an authorization mechanism for all possible unit configurations or operating scenarios. Those

facilities which cannot meet the standard permit conditions may apply for an air quality permit under 30 TAC § 116.111 or a PBR under 30 TAC § 106.142. The property line limit of the standard permit is used in lieu of off property receptor limitations as required by a case-by-case permit review to ensure that the operating facility is in compliance with all TNRCC rules and regulations.

AGC, CSA, TACA, WE, and TXI objected to or expressed concern about eliminating the PBR for rock crushing (30 TAC § 106.142).

Based upon these comments, the commission amended the proposed standard permit to allow use of the PBR for RCs (30 TAC § 106.142).

TXI and RM requested an extension of the comment period. TXI was also concerned about the lack of stakeholder involvement and AGC requested a formal stakeholder meeting.

The commission provided several opportunities for public comment. The proposed rock crusher standard permit was made available on the commission's public website and was published in the *Texas Register* on November 30, 2001. Comments were accepted during the formal comment period and at three public hearings. The three public hearings were conducted in various areas of the state (Houston, Austin and Arlington) on January 3, 2002. Therefore, the commission is not extending the comment period nor holding an informal stakeholder meeting.

FL requested an explanation of the 40% reduction in modeled impacts to account for meander of the plume. FL stated that because the 5-year meteorological data are already one-hour averages of wind speed and direction aggregated from much more short-term readings, plume meander would have been accounted for in the model data.

The meteorological data for input into the ISC model is based on National Weather Service (NWS) observations. These observations take place once per hour and are not one-hour averages. The NWS records wind speeds to the nearest knot and wind direction to the nearest 10 degrees of angle.

The ISC model accounts for variations in the wind speed and direction during a modeled hour by use of dispersion coefficients. These coefficients are partially based on a set of field studies. The dispersion coefficients resulting from the field studies were based on averaging times much less than one-hour, as short as 3 minutes. The ISC model has incorporated these dispersion coefficient values for one-hour periods by use of the assumption that each 3-minute period is the same as the next. This assumption would lead to gross over-estimation of predicted concentrations.

The TNRCC has recognized the disparity in dispersion coefficients for some time, and has decided to mitigate overly conservative model results. To do so, a conversion from 3-minute averages to one-hour averages was performed. The use of this conversion from one averaging time to another results in the 40 percent reduction of one-hour predictions.

The TNRCC modeling staff are applying this factor only to low-level intermittent fugitive sources (sources with little or no vertical momentum or buoyancy) at this time.

FL commented that the 1996 protectiveness review of the rock crusher PBR found that it was not protective of the public without a 1/4-mile buffer from the property lines.

The 1996 protectiveness review determined that a distance of 1/4 mile from the facility rather than the required distance of 1/2 mile as listed in the current 30 TAC § 106.142 would be acceptable to meet 30 TAC § 111.155 standards. Though the 1996 protectiveness review scenario had a smaller hourly maximum production/process rate, this scenario represented more equipment (screens) and load out points on the crusher, larger stockpiles, larger plant footprint, and no emission controls on the crusher screens or conveyers other than water. In addition, the staff did not use any mitigating factors for the 1996 review to account for the overly conservative assumptions used in the modeling demonstration. These differences account for the 1996 scenario predicted concentrations being higher with a corresponding greater distance to demonstrate compliance than for the 2001 scenario. The requirement of additional emission controls in the standard permit is the largest factor in the reduction of the buffer size from the 1996 review. Additionally this standard permit allows no visible emissions to leave the property.

FL commented that the protectiveness review should have included haul-road and blasting particulate emissions in the modeling. FL also noted that these are large sources of contaminants that are subject to the 30 TAC Chapter 111 property line standard.

All sources of contaminants directly associated with rock crushing facilities were evaluated for this protectiveness review, though they were not necessarily evaluated through dispersion modeling. Emissions from haul roads and blasting are intermittent and not easily quantified on a short-term basis, therefore, it would not be appropriate to model the estimated emissions on a continuous basis.

Emissions from haul roads and in plant work areas are minimized by implementation of best management practices in the standard permit. If roads are maintained according to the provisions of the standard permit, emissions from these sources will be minimized. Additionally, no visible emissions are allowed to leave the site under this standard permit.

Blasting and associated equipment are not facilities which require a permit or other authorization. However, emissions from blasting are subject to 30 TAC Chapter 111. Due to the short-term duration of blasting emissions, the commission does not expect 30 TAC Chapter 111 standards to be exceeded.

BCCC commented that the commission based the protectiveness review on rock crushing plants and that concrete crushing is significantly different than rock crushing because in concrete crushing there less of the material processed was wasted.

The commission developed this standard permit to address a broad range of conditions and operating scenarios. Consequently, the commission established requirements based on those conditions that were most likely to result in emissions that would exceed property line standards in 30 TAC Chapter 111 or NAAQS.

Comments on General Requirements

TACA agrees with the definition of a "site" as a means to deter RCs from circumventing operating time restrictions.

The commission acknowledges the comment and believes that the term will help assure compliance.

TACA and TXI objected to the requirement to locate all concrete crushers and associated sources at least 440 yards from any school, church, or residence because it adversely affects the ability for portable facilities to be sited for recycling projects.

THSC § 382.065, as passed by the 77th Texas Legislature as a part of House Bill 2912, prohibits the location or operation of a concrete crushing facility within 440 yards of a building used as a single or multifamily residence, school, or place of worship. The statute provides no exceptions for recycling projects.

AGC and WE objected to the requirement that no visible emissions leave the property from roads associated with the RC operation because emissions from roads are subject to the nuisance requirements in the General Rules. WE commented that visible emissions should not be limited to 30 seconds.

Performance demonstrations from sources of emissions such as roads and plant work areas are needed to ensure compliance with the conditions of the standard permit and the prevention of nuisance conditions. Visible emission limitations and opacity requirements ensure that both the operators and TNRCC field investigators can clearly understand how to demonstrate compliance with the rules and regulations of the commission. Further, tools do not exist to accurately calculate emissions from roads. Rather, it has been agency practice to ensure that emissions from sources that cannot be accurately calculated are controlled or eliminated using best management practices. Lack of visible emissions is evidence of the effectiveness of those practices. Based on engineering judgement and wide experience with these types of facilities, the TNRCC believes that the 30-second period should allow for normal equipment operation, while ensuring proper abatement performance. Finally, minimization of emissions also serves to minimize the potential for adverse health, welfare and nuisance effects. This is consistent with NSR permitting requirements, was included in the Concrete Batch Plant Standard Permit and meets the threshold of BACT which is required for a standard permit.

TACA supports the requirement for permanently mounted spray bars at all shaker screens and transfer points. However, TACA is concerned that this might make all portable facilities wet rock crushing operations and suggests substituting the term "misting mechanism" for "spray bar."

The commission intends water to be used to minimize visible emissions and not to alter the actual operations of RCs. The term "spray bar" has been commonly used by the TNRCC and is understood by the commission and the regulated community to be a dust suppression mechanism associated with RCs.

AGC believes that permanently mounted spray bars at the shaker screens and material transfer points are unnecessary because material will be controlled at the inlet and outlet of the crusher.

Spray bars are an accepted method of minimizing emissions from these types of sources. Although under certain conditions spray bars at these points may not be necessary, the standard permit is intended to cover a broad range of facility configurations and operating conditions. In order to ensure compliance with all TNRCC regulations and to protect public health and welfare the commission believes that it is important to maintain the requirement to have spray bars at all screens and material transfer points.

AGC and WE commented that the stockpile height requirement was too restrictive. Representative Al Edwards and TPS commented that the stockpile heights were too high for areas adjacent to residential housing, schools, and churches.

No changes have been made to the standard permit in response to these comments. The protectiveness review indicates that the conditions of this standard permit, including stockpile height, are protective and will help ensure compliance with state and federal regulations. The commission has no statutory authority to reduce or increase the stockpile heights based on any consideration other than to protect public health and welfare and ensure compliance with applicable regulations. However, local governmental entities may impose more restrictive limits based on land use considerations such as aesthetics.

AGC and WE objected to the requirement for a runtime meter.

The temporary nature of the operation of a RC is integral to authorization of a facility by this standard permit and it is imperative that an accurate accounting of the time spent in operation be kept according to paragraph (1)(K)(i). A runtime meter provides a method by which the owner/operator may ensure an accurate record is being maintained of the time a RC is in operation.

WE commented that the written records required by the standard permit should not be required to follow the crusher from site to site as the limitations of the proposed standard permit are site-specific.

Consistent with the requirements in 30 TAC § 116.115(F)(ii) and 30 TAC § 116.115(F)(v), records are required to be kept with the RC at any site it occupies and maintained for a rolling 24 month period. The commission may need access to records in order to determine

compliance with the emission limitations (production, etc.) after a crusher has left a specific site. Also, the standard permit limits the time that a crusher may be at a specific site within a one-year time frame; therefore, records must follow the crusher in order for the commission to determine if the crusher was previously located at a site and how long it was there.

TXI objected to the exclusion of crushing quartz and sandstone even in a completely wet process such as a sand and gravel operation.

The commission has revised the standard permit based on this comment. Based on additional protectiveness review of inhalable silica from quartz and sandstone under the conditions of the standard permit, both materials will be authorized under this standard permit. This analysis of these materials indicates that there will not be any adverse health effects from respirable silica associated with the crushing of these materials.

AGC, TXI, TACA, and WE objected to the requirement that RCs operating under this standard permit shall not locate or operate on the same site as another RC. TXI and AGC asked for the scientific basis for this requirement.

The purpose of this standard permit is to authorize a single RC and modeling was based on that scenario. Further, the crushers are designed to be temporary sources for use at construction sites, subdivision developments, and road and highway projects, where multiple crushing operations do not occur simultaneously. The prohibition against locating at a site with another crusher is needed to show compliance with all TNRCC regulations and to ensure protection of public health and welfare.

Comments on Tier I Rock Crushers

TXI and WE objected to the requirement that a Tier I RC not be located at a quarry or a mine. TXI and TACA request that the TNRCC provide the basis for this requirement.

This tier of the standard permit is intended for temporary locations (e.g., construction sites) and for those locations where there is little possibility of multiple operations occurring at the same time. Facilities that do not meet the requirements of Tier I of this standard permit may be authorized under Tier II, under a PBR (30 TAC § 106.142) or by obtaining a regular air quality permit under 30 TAC Chapter 116.

AGC and TACA commented that due to production limitations and time restrictions Tier I has limited applicability for industry.

The standard permit is designed to allow for authorization of RCs that are portable and, based on business needs, move to various sites and operate at any one site for a short period of time. However, it is not intended to provide an authorization mechanism for all possible unit configurations or operating scenarios. Those facilities which cannot meet the standard permit conditions may apply for an air quality permit under 30 TAC § 116.111 or a PBR under 30 TAC § 106.142.

AGC, SHTC, TACA, and WE commented that Tier I limitations should be based on emissions rather than throughput.

Particulate emissions from a RC are closely related to throughput. It is the commission's intention to use throughput as a surrogate for actual emissions in order to provide industry with an effective method of demonstrating compliance with the provisions of the standard permit.

AGC and TACA commented that the 125 tph limit should be based on crusher capacity rather than process throughput at the feed hopper because a significant portion of the material from the feed hopper is screened out before it reaches the crusher. TXI suggested that the 125 tph limit be based on material production rather than feed hopper throughput. RM suggested that the hourly rate be an average over several production days.

The 125 tph limit is based on total facility capacity rather than material production or crusher capacity because this includes quantification of emissions from all sources. This would include emissions from all hoppers, screens, crushers and conveyors. The commission selected the total facility capacity scenario rather than those listed above because total facility capacity and all associated sources represents the worst case scenario, i.e., all material fed into the system is crushed. The authorized hourly production rate of 125 tph is necessary in order to ensure compliance with 30 TAC Chapter 111 one- and three-hour standards.

AGC commented that associated facilities should not be limited to placement at least 200 ft. from the nearest property line and gave the example of a road. Representative Edwards and Representative Callegari commented that the distance limitation was too short.

Property line distance limitations are used instead of off property receptor distance limitations to protect public health and welfare, and to ensure that the operating facility is in compliance with all TNRCC regulations, particularly the property line standards in 30 TAC Chapter 111. The protectiveness review indicated that the 200 ft. distance limitation from the property line ensures that RCs meet TNRCC regulations and protect public health and welfare. Roads are not facilities under THSC and are not subject to the distance requirement. However, they are sources of emissions and are controlled by best management practices such as watering and are prohibited from emitting visible emissions that cross the property line.

AGC and TACA commented that the requirement to fully enclose screen sides and conveyors is not practical because it will make the conveyors more difficult to move. AGC and TXI also stated that fully enclosed screen sides and conveyors were not necessary due to the minimal emissions from these facilities and asked what the scientific basis for this requirement was. AGC and WE stated that the commission should not dictate the type of equipment used to control emissions. TM requested that the commission clarify the meaning of enclosed conveyor and said that different conveyor manufacturers had indicated that in other states they put a half-moon cover over the top of the conveyor.

In order to minimize property line distance requirements, while being protective of public health and ensuring that the facility is in compliance with TNRCC regulations, the commission modeled emissions from facilities with enclosed screens and conveyors. The commission has clarified the requirement for enclosed conveyors to mean a cover that fits over the top of the conveyor. Also, because there was an identical requirement in the Tier II requirements, the commission removed this requirement from Tier I and Tier II and added it to the General Requirements.

AGC objected to the requirement that Tier I RCs be restricted to one primary crusher, two conveyors, and two screens because the type of job and nature of the required product might require more equipment.

In order to minimize property line distance requirements, while being protective of public health and ensuring that the facility is in compliance with TNRCC regulations, the commission modeled emissions on a prescribed amount of equipment based on what was expected at the majority of temporary RC sites. If Tier I requirements cannot be met, the facility has the option of meeting Tier II or obtaining a permit under 30 TAC § 116.111 or a PBR under 30 TAC § 106.142.

AGC, TXI, TACA, and WE objected to the requirement that RCs authorized by this standard permit not locate or operate on a site with an asphalt or concrete batch plant. WE and TACA commented that the restriction against co-location with a concrete or asphalt plant prevents recycling of aggregate materials at these plants. AGC and TXI requested to know the scientific basis for this determination.

The purpose of this standard permit is to authorize a single RC and the protectiveness review was based on that scenario. Tier I of the standard permit is intended for those types of locations (e.g., construction sites) that are not permanent aggregate handling operations and for those locations where there is little possibility of multiple operations occurring at the same time. The commission intended for no cumulative effects to occur at Tier I locations. Tier II may be used at these types of sites where all the requirements of Tier II are met.

AGC commented that limiting the time on site for RCs located in urban/suburban areas is reasonable but makes little sense in sparsely populated areas and that many highway projects require more time and would make the standard permit unusable for those situations. WE commented that project delays and change orders could cause the RC to run out of time before finishing a job. AGC and WE added that 24 hours was not a sufficient amount of time to disassemble equipment and move out.

The commission intends for the standard permit to cover a broad range of facility configurations and operating conditions for temporary RCs. It is not intended to provide an authorization mechanism for all possible unit configurations or operating scenarios. Those facilities which cannot meet the standard permit conditions may apply for an air quality permit under 30 TAC § 116.111 or a PBR under 30 TAC § 106.142. Further, the

commission anticipates that, for the types of facilities intended to be authorized by this standard permit (which is highly portable), 24 hours is an adequate amount of time to disassemble the equipment and move offsite.

AGC and WE commented that the 365 day period before relocating to the site is too long.

The commission developed the standard permit for temporarily-sited RCs. It is designed to allow for authorization of RCs that are portable and, based on business needs, move to various sites. Tier I of the standard permit is intended for those types of projects (e.g., construction sites, subdivision developments, roads and highways) that do not require permanent aggregate handling operations and for those locations where there is little possibility of the necessity for rock crushing to occur at the site again. However, in the unlikely event that additional crushing operations are needed at a site that has already been occupied, the 365 day minimum time frame still allows for a crusher to return that site.

AGC stated that the time on site and operation time restrictions did not take into account factors beyond the owner's/operator's control such as machinery downtime, weather, phased projects, and engineer change orders.

During the development of the standard permit, the factors above were taken into consideration. As a result, the site time was increased from 20 days to 45 days for Tier I, and from 60 days to 180 days for Tier II.

Comments on Tier II Rock Crushers

AGC and TACA commented that due to production limitations and time restrictions Tier II has limited applicability for industry.

The standard permit is designed to allow for authorization of RCs that are portable and, based on business needs, move to various sites. However, it is not intended to provide an authorization mechanism for all possible unit configurations or operating scenarios. Those facilities which cannot meet the standard permit conditions may apply for an air quality permit under 30 TAC § 116.111 or a PBR under 30 TAC § 106.142.

AGC and TACA commented that the 250 tph limit should be based crusher capacity rather than process throughput at the feed hopper because a significant portion of the material from the feed hopper is screened out before it reaches the crusher. TXI and WE suggested that the 250 tph limit be based on material production rather than feed hopper throughput. AGC, TACA, and SHTC suggested that restrictions should be based on emissions rather than throughput. SHTC requested the basis for the 250 tph restriction. RM suggested that the hourly rate be an average over several production days.

The 250 tph limit is based on total facility capacity rather than material production or crusher capacity because this includes quantification of emissions from all sources. This would include emissions from all hoppers, screens, crushers and conveyors. The commission selected the total facility capacity scenario rather than those listed above because total facility capacity

and all associated sources represents the worst case scenario, i.e., all material fed into the system is crushed. The authorized hourly production rate of 250 tph is necessary in order to ensure compliance with 30 TAC Chapter 111 one- and three-hour standards.

AGC commented that the distance limitation of 300 ft. from the nearest property line is reasonable in urban/suburban areas but makes little sense in sparsely populated areas and that many highway projects will not be able to meet the 300 ft. limit and the standard permit will be unusable for those situations. TXI, BCCC, and WE commented that the 300 ft. limitation will preclude the use of temporary RCs at many sites and suggested restricting the distance to 300 ft. to an off property receptor rather than 300 ft. to the property line. TACA added that the 300 ft. setback distance is not based on any scientific modeling data and questioned the basis for this restriction. Representative Callegari and FL commented that the 300 ft. distance is too short.

Property line distance limitations are used instead of off property receptor distance limitations to protect public health and welfare, and to ensure that the operating facility is in compliance with all TNRCC regulations, particularly the property line standards in 30 TAC Chapter 111. The protectiveness review indicated that the 300 ft. distance limitation from the property line ensures that RCs meet TNRCC regulations and protect public health and welfare. Roads are not facilities under THSC and are not subject to the distance requirement. However, they are sources of emissions and are controlled by best management practices such as watering and are prohibited from emitting visible emissions that cross the property line.

The commission intends for the standard permit to cover a broad range of facility configurations and operating conditions for temporary RCs. However, the standard permit is not intended to provide an authorization mechanism for all possible unit configurations or operating scenarios.

The state property line standards for PM are the controlling standards for the distance limitations. To demonstrate compliance, the modeling team tabulated the total number of modeled exceedances of the one-hour and three-hour standards over a five-year period that occurred over each tier's receptor grid. The compliance prediction was based on an evaluation of the total hours of modeled exceedances divided by the total hours in the applicable review period (43,824 hours for the one-hour standard and 14,608 hours for the three-hour standard) and, the conservative nature of assumptions made in the review. For each source configuration, the maximum distance to obtain 99.9 percent predicted compliance was used as the basis for the distance limitation for each tier. Given the conservative nature of the modeling and limited hours of operation, the team expects a predicted compliance of 99.9 percent to be 100 percent compliance in practice. In addition, the NAAQS for PM₁₀ should not be exceeded based on the results of the one-hour and three-hour analyses, limited hours of operation, and lower emission rates for each tier.

AGC, TXI, TACA and WE objected to the requirement that a RC be located at least 550 ft. from a concrete or asphalt batch plant. TACA and TXI stated that, due to operations restriction on batch plants and local ordinances that may prohibit nighttime operation of a RC, the standard permit provision that allows operation of a RC that cannot meet the 550 ft. requirement when the concrete or asphalt plant is not operating is impractical. AGC, SHTC, and WE added that RCs are often used to produce aggregate for asphalt plants and are often located less than 550 ft. from the asphalt plant. Having the crusher separated from the asphalt plant will increase emissions from unpaved roads and result in increased traffic and haul truck emissions due to the need to bring aggregate from off site.

The 550 ft. distance requirement is necessary to offset the cumulative emissions of multiple facilities operating simultaneously and to ensure compliance with the TNRCC regulations and protect public health. Additionally, this standard permit was developed to address a broad range of operating conditions and does not take into account local ordinances that might preclude its use in certain situations.

AGC, BCCC, and TACA commented that the requirement to fully enclose screen sides and conveyors is not practical because it will make the conveyors more difficult to move. AGC and TXI also stated that fully enclosed screen sides and conveyors are not necessary due to the minimal emissions from these facilities and asked what the scientific basis for this requirement is. AGC and WE stated that the commission should not dictate the type of equipment used to control emissions. TM requested that the commission clarify the meaning of enclosed conveyor and said that different conveyor manufacturers had indicated that in other states they put a half-moon cover over the top of the conveyor.

In order to protect public health and welfare and ensure compliance with TNRCC regulations and NAAQS, this standard permit underwent a detailed protectiveness review that took into account emission reductions from the use of enclosed screens and conveyors. The commission has clarified the requirement for enclosed conveyors to mean a cover that fits over the top of the conveyor. Also, because there was an identical requirement in the Tier I requirements, the commission removed this requirement from Tier I and Tier II and added it to the General Requirements.

AGC objected to the requirement that Tier II RCs be restricted to one primary crusher, one secondary crusher, and two screens because type of job and nature of the required product might require more equipment.

In order to provide owners/operators with as short a property line distance requirement as possible while being protective of public health and ensuring that the facility is in compliance with TNRCC regulations, the commission modeled emissions based on a prescribed amount of equipment based on what was expected at the majority of temporary RC sites. If Tier II requirements cannot be met, the facility has the option of obtaining a permit under 30 TAC § 116.111 or a PBR under 30 TAC § 106.142.

AGC commented that the time on site limitations are reasonable for RCs located in urban/suburban areas but that many highway projects require more time and the time limit will make the standard permit unusable for those situations. They added that 24 hours is not a sufficient amount of time to disassemble equipment and move out. BCCC stated that although the time limitations would not have been exceeded in any of their previous projects, they are concerned that the time limits might preclude long term projects. SHTC requested justification for the onsite time limitations. WE commented that the time restrictions limits their ability to bid certain projects.

The standard permit is designed to allow for authorization of RCs that are portable and, based on business needs, move to various sites. However, it is not intended to provide an authorization mechanism for all possible unit configurations or operating scenarios. Those facilities which cannot meet the standard permit conditions may apply for an air quality permit under 30 TAC §116.111.

AGC, SHTC, and WE commented that the 365 day period before relocating to the site is too long.

The commission developed the standard permit for temporarily-sited RCs. It is designed to authorize RCs that are portable and, based on business needs, move to various sites. Tier II of the standard permit expands the types of sites that a crusher may occupy (specifically, Tier II adds quarries and mines). However, Tier II, like Tier I, is intended for those types of projects (e.g., construction sites, subdivision developments, roads and highways) that do not require permanent aggregate handling operations and for those locations where there is little possibility of the necessity for rock crushing to occur at the site again. However, in the unlikely event that additional crushing operations are needed at a site that has already been occupied, the 365 day minimum time frame still allows for a crusher to return that site.

AGC, BCCC, and WE requested that the TNRCC (Regional Office) respond to a notification of intent to locate a Tier II RC within 30 days.

Subchapter F of Chapter 116 requires the agency to respond to all standard permit applications within 45 days or as soon as practical. The commission intends to continue with this practice.

X. STATUTORY AUTHORITY

This standard permit is issued under TCAA § 382.011, which authorizes the commission to control the quality of the state's air, TCAA § 382.023, which authorizes the commission to issue orders necessary to carry out the policy and purposes of the TCAA § 382.051, which authorizes the commission to issue permits, including standard permits for similar facilities for numerous similar sources, and TCAA § 382.05195 which authorizes the commission to issue standard permits according to the procedures set out in that section.

Air Quality Standard Permit for Temporary Rock Crushers

This air quality standard permit authorizes crushing operations which meet all of the conditions listed in paragraph (1) and paragraph (2) for Tier I or paragraph (3) for Tier II. As described in 30 TAC § 116.605(d), any changes that are made to this standard permit by the commission shall apply to all existing and future facilities that are authorized by this standard permit. The owners/operators that are affected by these changes shall apply for a new authorization under the standard permit.

(1) General Requirements

- (A) For the purposes of this standard permit, a site is defined as one or more contiguous or adjacent properties which are under common control of the same person (or persons under common control).
- (B) When crushing concrete, the crusher and all associated sources (screens, transfer points on belt conveyors, material storage or feed bins, work areas that are only associated with the facility, or stockpiles) shall be located at least 440 yards from any structure used as a single family or multifamily residence, school, or place of worship.
- (C) All screen sides shall be enclosed and all conveyors shall be covered with a half-moon or equivalent enclosure that covers the top of the conveyor to minimize emissions.
- (D) Except for those periods described in 30 TAC §§ 101.6 and 101.7, no visible fugitive emissions shall leave the property from the crusher, associated sources, and in-plant roads associated only with the facility. Visible emissions shall be determined by a standard of no visible emissions exceeding 30 seconds in duration in any six-minute period as determined using EPA Test Method (TM) 22.
- (E) Except for those periods described in 30 TAC §§ 101.6 and 101.7, opacity of emissions from any transfer point on belt conveyors or any screen shall not exceed 10 percent and from any crusher shall not exceed 15 percent, averaged over a six-minute period, and according to EPA TM 9.
- (F) Permanently mounted spray bars shall be installed at the inlet and outlet of all crushers, at all shaker screens, and at all material transfer points and used as necessary to maintain compliance with all commission regulations.
- (G) Dust emissions from all in-plant roads and active work areas that are associated with the operation of the crusher shall be minimized at all times by at least one of the following methods:
 - (i) covered with a material such as, but not limited to, roofing shingles or tire chips (when used in combination with (ii) or (iii) of this subsection);

- (ii) treated with dust-suppressant chemicals;
- (iii) watered; or
- (iv) paved with a cohesive hard surface that is maintained intact and cleaned.

- (H) All stockpiles shall be sprinkled with water, dust-suppressant chemicals, or covered, as necessary, to minimize dust emissions.
- (I) Raw material and product stockpile heights shall not exceed 45 feet.
- (J) The crusher shall be equipped with a runtime meter.
- (K) Written records shall be kept for a rolling 24 month period and shall accompany the rock crusher to any site at which it operates. These records shall be made available at the request of any personnel from the commission or any local air pollution control program having jurisdiction. These written records shall contain the following:
 - (i) hours of operation including daily start and stop time;
 - (ii) the throughput per hour of the feed hopper (as determined by an appropriate method based upon physical measurement or calculated using a production factor determined to be acceptable by the commission); and
 - (iii) the date(s) the crusher was placed on site and the date(s) it was removed from the plant site.
- (L) Facilities which meet the conditions of this standard permit do not have to meet the emissions and distance limitations listed in 30 TAC § 116.610(a)(1).
- (M) Crushers that are authorized by this standard permit shall meet all applicable conditions of 40 CFR Part 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.
- (N) Only crushers that are processing nonmetallic minerals or a combination of nonmetallic minerals that are described in 40 CFR Part 60, Subpart OOO, shall be authorized by this standard permit.
- (O) The rock crusher and all associated facilities operating under this standard permit shall neither locate nor operate on the same site as any other rock crusher.
- (P) This standard permit shall not require compliance with 30 TAC § 116.614 "Standard Permit Fees."
- (Q) Notifications under this standard permit shall not be registered in accordance with 30 TAC § 116.611 "Registration to Use a Standard Permit."

(2) A Tier I crusher shall comply with paragraph (1) of this standard permit and all of the following:

- (A) The crusher shall not be located at a quarry or mine.
- (B) The crusher feed hopper throughput shall not exceed 125 tons per hour.
- (C) The crusher and all associated sources shall be located no less than 200 ft. from the nearest property line.
- (D) The equipment authorized under this paragraph shall be limited to one primary crusher, two conveyors, and two screens.
- (E) The rock crusher and all associated sources operating under this standard permit shall neither locate nor operate on the same site as any concrete batch plant or asphalt batch plant.
- (F) The crusher and associated sources (excluding stockpiles) shall not operate for more than 360 hours or 45 non-consecutive calendar days on site, whichever occurs first. The owner or operator shall remove the crusher and associated equipment from the site within 24 hours of ceasing operation. The 24 hours allotted for the removal shall not be used as additional operational time above the 360 hours or 45 non-consecutive calendar days.
- (G) If the time periods listed in paragraph 2(F) have not been exhausted during any rolling 365 day period, the operator may return to the authorized site and operate for the remaining balance of time for that site. To return to the site, the operator shall notify the commission as described in paragraph 2(H). Once the operating hours (360) or calendar days (45) for the site have been exhausted and the site has been vacated, the owner or operator shall not use a standard permit to locate any rock crusher on the site for at least 365 days.
- (H) The owner or operator shall notify the appropriate regional office in writing at least 10 calendar days prior to locating at the site. The notification shall include the owner or operator's name, address, phone number, site location, crusher serial number, expected duration at the site, expected hours of operation, expected date of arrival on site and expected date to vacate the site. When the applicant has previously occupied a site, the applicant shall also include its previous duration at the site to show compliance with paragraph 2(F).

(3) A Tier II crusher shall comply with paragraph (1) of this standard permit and all of the following:

- (A) The crusher's feed hopper throughput shall not exceed 250 tons per hour.
- (B) The crushers and all associated sources shall be located no less than 300 ft. from the nearest property line.

- (C) The crushers and associated sources operating under this standard permit shall be located at least 550 ft. from any concrete batch plant or asphalt batch plant. If this distance cannot be met, then the crusher authorized under this standard permit shall not operate at the same time as the concrete batch plant or asphalt batch plant.
- (D) The equipment authorized under this paragraph shall be limited to one primary crusher, one secondary crusher, two screens and any associated conveyors.
- (E) The rock crushers and associated sources (excluding stockpiles) shall not operate for more than 1080 hours or 180 non-consecutive calendar days on site, whichever occurs first. The owner or operator shall remove the crusher and associated equipment from the site within 24 hours of ceasing operation. The 24 hours allotted for the removal of equipment shall not be used as additional operational time above the 1080 hours or 180 non-consecutive calendar days.
- (F) If the time periods listed in paragraph 3(E) have not been exhausted during any rolling 365 day period, the operator may return to a site and operate for the remaining balance of time for that site. To return to a site, the operator shall notify the commission as described in paragraph 3(G). Once the operating hours (1080) or calendar days (180) for the site have been exhausted and the site has been vacated, the owner or operator shall not use a standard permit to locate any rock crusher on the site for at least 365 days.
- (G) No owner or operator shall locate a crusher on site without first obtaining written approval from the executive director. The owner or operator shall notify the appropriate regional office in writing at least 30 calendar days prior to locating at the site. The notification shall include the owner or operator's name, address, phone number, site location, plot plan, crusher serial number, commission air account number, expected duration at the site, expected hours of operation, expected date of arrival on site and expected date to vacate the site. When the applicant has previously occupied a site, the applicant shall also include its previous duration at the site to show compliance with paragraph (3)(E). A compliance history review shall performed by the executive director in accordance with 30 TAC Chapter 60. If a facility is determined to be a poor performer, as defined in 30 TAC Chapter 60, a standard permit notification will not be accepted or approved.

<<Prev Rule

Texas Administrative Code

Next Rule>>

TITLE 30 ENVIRONMENTAL QUALITY
 PART 1 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
 CHAPTER 213 EDWARDS AQUIFER
 SUBCHAPTER A EDWARDS AQUIFER IN MEDINA, BEXAR, COMAL, KINNEY, UVALDE, HAYS, TRAVIS, AND WILLIAMSON COUNTIES

RULE §213.5 Required Edwards Aquifer Protection Plans, Notification, and Exemptions

(a) Required plans. A plan must be submitted for the following, as appropriate:

(1) a water pollution abatement plan under subsection (b) of this section to conduct regulated activities on the recharge zone not covered by subsections (c), (d), or (e) of this section;

(2) an organized sewage collection system plan under subsection (c) of this section for rehabilitation or construction related to existing or new organized sewage collection systems on the recharge zone;

(3) an underground storage tank facility plan for static hydrocarbon and hazardous substance storage under subsection (d) of this section for the construction or rehabilitation of an underground storage tank system; including tanks, piping, and related systems located on the recharge zone or transition zone; and

(4) an aboveground storage tank facility plan for static hydrocarbon and hazardous substance storage under subsection (e) of this section for the construction or rehabilitation of an aboveground storage tank system; including tanks, piping, and related systems, for the storage of hydrocarbon or hazardous substance located on the recharge zone or transition zone.

(b) Water pollution abatement plan. A water pollution abatement plan must contain the following information.

(1) Application. The information required under §213.4 of this title (relating to Application Processing and Approval) is part of the plan and must be filed with the executive director at the appropriate regional office.

(2) Site location.

(A) Location data and maps must include a legible road map with directions, including mileage, which would enable the executive director to locate the site for inspection.

(B) A general location map must include:

(i) the site location on a copy (or spliced composite of copies, if necessary) of an official recharge zone map(s) with quadrangle name(s) and recharge and transition zone boundaries clearly labeled; and

(ii) a drainage plan, shown on the recharge zone map, indicating all paths of drainage from the site.

(C) A site plan with a minimum scale of one inch to 400 feet must show:

(i) the 100-year floodplain boundaries (if applicable);

(ii) the layout of the development showing existing and finished contours as appropriate, but not greater than ten-foot contour intervals;

(iii) the location of all known wells (including, but not limited to, water wells, oil wells, and unplugged and abandoned wells);

(iv) the location of any sensitive feature on the site of the proposed regulated activity as identified in the geologic assessment under paragraph (3) of this subsection;

(v) the drainage patterns and approximate slopes anticipated after major grading activities;

(vi) areas of soil disturbance and areas which will not be disturbed;

(vii) locations of major structural and nonstructural controls identified in the technical report;

(viii) locations where stabilization practices are expected to occur;

(ix) surface waters (including wetlands); and

(x) locations where stormwater discharges to a surface water or a sensitive feature.

(3) Geologic assessment. For all regulated activities, the applicant must submit a geologic assessment report prepared by a geologist describing the site-specific geology. The report must identify all potential pathways for contaminant movement to the Edwards Aquifer. Single-family residential subdivisions constructed on less than ten acres are exempt from this requirement. The geologic assessment report must be signed, sealed, and dated by the geologist preparing the report.

(A) The geologic assessment must include a geologic map, at site-plan scale, illustrating:

(i) the outcrop of surface geologic units; and

(ii) all geologic and manmade features, specifically identifying:

(I) caves;

(II) sinkholes;

(III) faults;

(IV) permeable fractures;

(V) solution zones;

(VI) surface streams; and

(VII) other sensitive features.

(B) The geologic assessment must contain a stratigraphic column showing, at a minimum, formations, members, and thicknesses.

(C) The geologic assessment must contain a description and evaluation of all geologic and manmade features, on forms provided by, or approved by, the executive director. The assessment must determine which of these features are sensitive features. The assessment must include:

(i) the identification of each geologic or manmade feature, with a cross-reference to the site-plan map coordinates; and

(ii) the type of geologic or manmade feature including, but not limited to:

(I) sinkholes;

(II) caves;

(III) faults;

(IV) wells;

(V) surface streams; or

(VI) potentially permeable fractures and solution zones.

(D) The geologic assessment must contain a narrative assessment of site-specific geology. The assessment must detail the potential for fluid movement to the Edwards Aquifer and include a discussion of the stratigraphy, structure, and karstic characteristics of the site.

(E) The geologic assessment must contain a narrative description of soil units and a soil profile, including thickness and hydrologic characteristics.

(4) Technical report.

(A) The technical report must address the following issues.

(i) The report must describe the nature of the regulated activity (such as residential, commercial, industrial, or utility), including:

(I) the size of the site in acres;

(II) the projected population for the site;

(III) the amount and type of impervious cover expected after construction is complete, such as paved surface or roofing;

(IV) the amount of surface expected to be occupied by parking lots; and

(V) other factors that could affect surface water and groundwater quality.

(ii) The report must describe the volume and character of wastewater expected to be produced. Wastewater generated at a site should be characterized as either domestic or industrial, or if commingled, by approximate percentages of each type.

(iii) The report must describe the volume and character of stormwater runoff expected to occur. Estimates of stormwater runoff quality and quantity should be based on area and type of impervious cover, as described in clause (i) of this subparagraph. An estimate of the runoff coefficient of the site for both the pre-construction and post-construction conditions should be included in the report.

(iv) The report must describe any activities or processes which may be a potential source of contamination.

(v) The report must describe the intended sequence of major activities which disturb soils for major portions of the site (e.g., grubbing, excavation, grading, utilities and infrastructure installation).

(vi) The report must contain estimates of the total area of the site that is expected to be disturbed by excavation, grading, or other activities.

(vii) The report must contain the name of the receiving water(s) at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project.

(B) The technical report must describe the temporary best management practices (BMPs) and measures that will be used during and after construction. The technical report must clearly describe for each major activity identified in subparagraph (A)(v) of this paragraph appropriate control measures and the general timing (or sequence) during the construction process that the measures will be implemented.

(i) BMPs and measures must prevent pollution of surface water, groundwater, or storm water that originates upgradient from the site and flows across the site as provided under this paragraph.

(ii) BMPs and measures must prevent pollution of surface water or groundwater that originates on-site or flows off site, including pollution caused by contaminated stormwater runoff from the site as provided under this paragraph.

(iii) BMPs and measures must prevent pollutants from entering surface streams, sensitive features, or the aquifer as provided under this paragraph.

(iv) To the maximum extent practicable, BMPs and measures must maintain flow to naturally-occurring sensitive features identified in either the geologic assessment, executive director review, or during excavation, blasting, or construction.

(I) The temporary sealing of a naturally-occurring sensitive feature which accepts recharge to the Edwards Aquifer as a temporary pollution abatement measure during active construction should be avoided.

(II) A request to temporarily seal must include a justification as to why no reasonable and practicable alternative exists. The request will be evaluated by the executive director on a case-by-case basis.

(v) Temporary BMPs and measures must meet the requirements contained in subparagraph (D)(i) of this paragraph.

(vi) The report must include a plan for the inspection of temporary BMPs and measures and for their timely maintenance, repair, and, if necessary, retrofit.

(vii) Temporary sediment pond or basin construction plans and design calculations for a proposed temporary BMP or measure must be prepared by or under the direct supervision of a Texas licensed professional engineer. All construction plans and design information must be signed, sealed, and dated by the Texas licensed professional engineer.

(viii) Pilot-scale field testing (including water quality monitoring) may be required for BMPs that are not contained in technical guidance recognized by, or prepared by, the executive director.

(ix) The construction-phase BMPs for erosion and sediment controls should be designed to retain sediment on site to the extent practicable.

(x) All control measures must be properly selected, installed, and maintained in accordance with the manufacturers specifications and good engineering practices. If periodic inspections by the applicant or the executive director, or other information indicates a control has been used inappropriately, or incorrectly, the applicant must replace or modify the control for site situations.

(xi) If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts to water quality (e.g., fugitive sediment in street being washed into surface streams or sensitive features by the next rain).

(xii) Sediment must be removed from sediment traps or sedimentation ponds not later than when design capacity has been reduced by 50%.

(xiii) Litter, construction debris, and construction chemicals exposed to storm water shall be prevented from becoming a pollutant source for storm water discharges (e.g., screening outfalls, picked up daily).

(C) The technical report must describe the permanent BMPs and measures that will be used during and after construction is completed.

(i) BMPs and measures must prevent pollution of surface water, groundwater, or storm water that originates upgradient from the site and flows across the site.

(ii) BMPs and measures must prevent pollution of surface water or groundwater that originates on-site or flows off the site, including pollution caused by contaminated storm water runoff from the site.

(iii) BMPs and measures must prevent pollutants from entering surface streams, sensitive features, or the aquifer.

(iv) To the extent practicable, BMPs and measures must maintain flow to naturally occurring sensitive features identified in either the geologic assessment, executive director review, or during excavation, blasting, or construction.

(I) The permanent sealing of, or diversion of, flow from a naturally occurring sensitive feature that

accepts recharge to the Edwards Aquifer as a permanent pollution abatement measure should be avoided.

(II) A request to seal a naturally occurring sensitive feature must include a justification as to why no reasonable and practicable alternative exists. The request will be evaluated by the executive director on a case-by-case basis.

(v) Permanent BMPs and measures must meet the requirements contained in subparagraph (D)(ii) of this paragraph.

(vi) Construction plans and design calculations for the proposed permanent BMPs and measures must be prepared by, or under the direct supervision of, a Texas licensed professional engineer. All construction plans and design information must be signed, sealed, and dated by the Texas licensed professional engineer.

(vii) The technical report must include a plan for the inspection of the permanent BMPs and measures and for their timely inspection, maintenance, repair, and, if necessary, retrofit. The plan must be prepared and certified by the engineer designing the permanent BMPs and measures. The plan must be signed by the owner or responsible party.

[Cont'd...](#)

[Next Page](#)

[Previous Page](#)

[List of Titles](#)

[Back to List](#)

STEPTOE & JOHNSON LLP
ATTORNEYS AT LAW

#E1-1439
RJR

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 4, 2005

VIA HAND DELIVERY

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.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 reply on behalf of Southwest Gulf Railroad Company ("SGR") to the February 15, 2005 letter from your office requesting certain additional information for SEA's consideration in connection with the on-going environmental review of the SGR rail project.

1. **Alternative Rail Routes.** Your letter correctly notes that a total of 15 potential routes for the SGR line were initially considered, with seven of these constituting only minor variations from eight basic alignments that were initially considered. You have asked for maps of all fifteen routes and information specifying the reasons as to why each of the 11 of the 15 eliminated from further consideration was eliminated.

Four of these 15 potential alignments consist of SGR's preferred route, and alternatives 1, 2 and 3 that were reviewed in the Draft Environmental Impact Statement (DEIS) issued by SEA in this proceeding. Maps of four additional alignments that were considered but rejected by SGR are attached in Exhibit 1 to this letter. Maps of the additional seven variations are no longer available. However, the eight alignments for which maps are available (the four alignments under review in this proceeding and the four included as part of Exhibit 1) represent each of the basic alignments that were reviewed by Vulcan (prior to SGR's formation as a separate corporate entity) and its contractor, TRAX Engineering and Associates, Inc. ("TRAX"). Thus, the alignments for which maps are not available would reflect only very minor variations from these eight alignments for which maps have been supplied.

Ms. Victoria Rutson
April 4, 2005
Page 2

A copy of the TRAX report on the alignments initially considered for this rail project has previously been supplied to SEA and URS under cover of our February 27, 2003 letter, which is set forth in Exhibit G (beginning at page G-18) to the DEIS. Unfortunately, TRAX is no longer in business and we have been unable to contact the person at that firm who handled this matter. Further, neither Vulcan nor SGR have in their files maps of the seven variations of the eight basic alignments.

The reasons that each of the alternatives set forth at Exhibit 1 were eliminated in favor of the Preferred Alternative (and the other three alternatives under consideration) are, as to each alignment, that the alternative would have traversed additional landowner property and/or not met the grade, curvature or other screening criteria (or not met that criteria as efficiently as the alternatives under consideration) described below. The specific screening criteria used by TRAX and Vulcan to assess routes included avoidance of wetlands, topography (avoidance of grades in excess of 1%), avoidance of curves in excess of 4 degrees near the ends of the line and 3 degrees near the central part of the line, limiting the number of properties required to be crossed and minimization of the number of properties that might have to be bisected. The grade and curvature screening criteria are, as described in the TRAX report, consistent with rail industry standards. Apart from the preferred route and the three alternatives under consideration in this proceeding, none of the other routes fully satisfied these screening criteria.

Please note that none of the eight basic alignments that were considered, and accordingly none of the minor variations of those routes that were considered, traverse any further to the east or west of the preferred route than do Alternatives 1 (the most westerly route) or Alternative 3 (the most easterly route). In fact, each of these routes is in the same general area as the preferred route and the three alternatives. While you have also noted that opponents of the SGR rail project have suggested that reasonable and feasible alternatives exist "that bypass the Quihi, Texas area" to the east or west, the fact is that there are no routes farther to the east or west that would be either reasonable or feasible.¹

Any routes further to the east or west than those studied would effectively require a much more circuitous route (almost a semi-circle) relative to the obviously straighter, and, therefore, shorter and more efficient rail routes that were considered between the quarry and the point on the UP line most advantageous in terms of a connection between the two rail lines. These two end points are essentially fixed -- the quarry cannot be relocated and the point of connection with the UP line chosen by SGR is uniquely advantageous (to both SGR and UP) from an operational viewpoint and because no grade separation needs to be constructed in relation to a major highway, U.S. 90, at that point of connection. As SGR has noted previously, this is at a point in the area where the UP line is north of U.S. 90, meaning that U.S. 90 need not be crossed.

¹ As there is no town or other entity officially known as Quihi, we assume that you are referring to a cluster of structures, approximately one mile west of where the preferred route would cross Quihi Creek. The impacts of the SGR line on these structures are addressed in the Draft EIS and a Draft Programmatic Agreement has been developed that would further address these properties.

The fixed nature of these end points, and the fact that rail routes for the type of traffic to be transported by the SGR line are limited by grade and curvature considerations, make any type of semi-circular route considerably less efficient from a rail operational and cost viewpoint, as well as from the perspective of SGR's interest in minimizing the number of persons and properties impacted by the line. In that regard, any "bypass" route would, almost by definition, impact the properties of more persons and traverse many more miles, than do any of the other relatively straight routes under consideration. The so-called Medina Dam route, for example, would be at least 11 and possibly 13 miles long, as compared to the approximately 7 mile long route that SGR favors.²

Any western "bypass route" would be at least as long as the Medina Dam route, and possibly longer. A longer rail line would be significantly more expensive to build. Conservatively, an eastern or western bypass would cost at least an additional \$4-6 million to build, which would severely and adversely impact the economic viability of the SGR rail line. This assumes a conservative figure of \$1 million/mile in construction costs, while in fact TRAX has estimated higher costs for construction of the SGR line.³ Further, a longer line means higher operating (largely, fuel and labor) costs and maintenance costs. Excluding additional capital investment costs, the maintenance expenses for a longer bypass line are estimated by SGR to consist of at least an additional \$80,000/year based on the need to hire an additional rail maintenance employee and to operate additional equipment. Further, a longer route would necessarily have more impacts in terms of noise, air quality and safety, among other factors, than would the shorter alignments SGR has proposed. For these reasons alone, no semi-circular "bypass" route warrants serious consideration as the cost/benefit balance suggests that such a route would not be economically feasible or practical.

Nonetheless, recognizing that concerns have been raised about routing the line in the vicinity of certain historic resources in the "Quihi" area, and in view of comments suggesting that a more easterly routing over the so-called Medina Dam route be considered, SGR did study that route. The results of that study were discussed in SGR's May 4, 2004 submission to SEA, set forth beginning at page G-153 of the DEIS. SGR explained in that submission that the Medina Dam route (including certain variations on that route that were considered) would require grades (or alternatively substantial cuts and fills) and curves that are simply not feasible from a rail operational viewpoint. No commenter has shown otherwise. SGR refers SEA to that May 4 submission for more details on the problems with this easterly alternative, as well as to the information described below which indicates that any Medina Dam route

² The length of the Medina Dam route would vary based on the precise course that that route might take. As explained in SGR's May 4, 2004 letter to SEA, deviations from the old Medina Dam rail route would be required at both its south and north ends since the route followed by the old railroad that was used to construct the Medina Dam did not go near the quarry or near the logical and practical point of connection with the UP line.

³ Based on the cost estimates set forth in Exhibit 2 to the TRAX Report (page G-24 of the DEIS), the cost of a 7 mile SGR line will in fact exceed \$11.5 million.

would require a much larger amount of cut and fill relative to the other alternatives under review to avoid the grade problems, and thus be much more environmentally disruptive.

The disqualifying problems with a more westerly "bypass" are equally significant. First, as is evident from the relative disadvantages that SEA has determined exist with respect to Alternative 1 (the most westerly of the alternatives under review), a more westerly orientation would exacerbate impacts on historic resources. The Technical Memorandum prepared by Mr. Daniel Cassidy, and set forth as Appendix I-4 of the Draft EIS, correctly notes that, "In addition to the 18 Germanic-Alsatian structures inventoried near the proposed rail alignments [only 5 of which are proximate to the proposed route], there are many more located to the south and west toward New Fountain and along Quihi Creek."

Mr. Cassidy's conclusion about the numerous historic resources in the New Fountain/Quihi Creek area, which is south and west of the area in which the preferred alignment is located and directly in the path of any westerly alignment of the SGR line, is supported by information supplied to SGR by its cultural resources consultant, Mr. Sergio Iruegas. Mr. Iruegas has prepared the attached letter describing the history of the New Fountain area and the map, attached to his letter, showing the number of potential historic resources west of the preferred alignment, including in the New Fountain area. (See Exhibit 2 to this letter). It is apparent from Mr. Iruegas' review of the area, and from his map, that rerouting the SGR line further west of Alignment 1 would create a new set of issues concerning cultural resources impacts.⁴

An equally serious problem with any westerly bypass routing would be the heightened impact of any such routing on floodplains. The point at which the preferred route crosses Quihi Creek, which is the point at which the Creek is at its narrowest, was carefully selected based on stream flows to reduce floodplain impacts. South and west of that point, Quihi Creek joins with Elm Creek and becomes a more robust stream with a wider floodplain. Thus, the DEIS properly notes that Alternative 1, the most westerly of the alternatives under consideration, would cross more total floodplain than the other alternatives and would "cross more streams of higher order (i.e., more main streams), which means it would be more difficult to mitigate an increased potential for flooding by the engineering design of the crossing." DEIS at 4-37.

⁴ The impacts of the preferred route on cultural resources have been studied in the DEIS and would be further addressed in the event that a Programmatic Agreement -- previously negotiated between interested parties in this matter -- were finalized or the terms of that Programmatic Agreement imposed as mitigation. SGR believes that its consideration of several alternative routes has demonstrated a good faith effort in regard to addressing cultural resources. In conformity with the requirements of the Section 106 process, SGR is prepared to work under the terms specified in the PA to identify, assess effects, and mitigate any adverse effects to cultural resources that may be encountered during the course of a more intensive review of resources that may be located along the ultimately approved corridor.

Were the line routed further west of Alternative 1, the floodplain impacts would not diminish. As shown on the map attached to this letter as Exhibit 3, there are significantly more floodplain areas (shown in the light blue lines), and more low-lying areas (shown in blue shade) to the west of the proposed route than in the immediate area of the proposed route or to the east of that area. The floodplain information on this map is drawn from FEMA's Flood Insurance Rate maps, which identify areas of 100 year flood hazard. (Also see page 3-25 of the DEIS, which illustrates the floodplain point addressed here.) In addition, there are larger drainage features west of the current alignment, as is clear from Exhibit 3, as well as Exhibit 5, a satellite photograph of the area. Thus, a westerly bypass would result in surface water impacts that are not present to the same degree with respect to the preferred route, which was designed to cross Quihi Creek at a point designed to minimize impacts. See page 4-37 of the DEIS.

As SEA is well aware, the NEPA requirement that alternatives be considered is subject to a "rule of reason" such that unreasonable or infeasible alternatives need not be addressed. See *National Resources Defense Council, Inc. v. Hodel*, 865 F.2d 288, 294-95 (D.C. Cir. 1988). According to the Supreme Court, "[T]he concept of alternatives [under NEPA] must be bounded by some notion of feasibility." *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 551 (1978). Thus, alternatives that are neither practical nor effective -- which is the case with either a western or eastern bypass around Quihi -- need not be evaluated in depth. See *Airport Neighbors Alliance, Inc. v. U.S.*, 90 F.3d 426 (10th Cir. 1996). Indeed, any alternative that would thwart a primary purpose of the SGR rail project, which is the efficient transportation of aggregate from the Vulcan quarry to the UP line, need not be evaluated. Here, SEA has met its NEPA obligations by considering, in depth, the preferred route, three alternative alignments and a no-action alternative. The above information, as well as information on the Medina Dam route previously supplied, demonstrates that no additional alternatives farther to the east or west of the alternatives under review would meet the purposes of the project. Thus, no other alternatives warrant further consideration.

2. Cut and Fill: In response to your letter, inquiring as to whether SGR has studied cut and fill data for the various routes under consideration, including the Medina Dam route, SGR has recently completed a study to determine cut and fill volumes for each of the alternative routes under consideration, including the preferred alternative. In addition, it has studied the cut and fill volumes that would be associated with the Medina Dam route, as modified in a manner so that it would reach the quarry and connect with the UP line at the planned point of connection.⁵ The results are set forth in the spreadsheet attached as Exhibit 4, and discussed further below.⁶

⁵ The calculations were based on the same modifications or deviations to the old Medina Dam railroad route as are described in SGR's May 4, 2004 letter to SEA and as are shown on the maps set forth as Exhibits 3 and 5 to this letter

⁶ SGR can supply workpapers underlying the calculations set forth in this Exhibit should SEA or URS wish to review these.

Please note that the figures set forth in Exhibit 4 offer a relatively rough approximation of the cut and fill volumes for the studied routes. Developing more precise information, which will be done in connection with final engineering of the approved route, would consume a substantial amount of time and resources. However, the data developed by SGR provide a sound and reliable basis for comparing the cut/fill impact of one route versus another. The following process was used to calculate the cuts and fill volumes:

1. U.S. Geological Survey Digital Elevation Model data (this data is not final engineering quality data) was used to generate a three dimensional surface of the area between the main line and the quarry.
2. The proposed routes were draped on the surface and the high, low, and average elevation of each route was calculated.
3. The criteria outlined in the December 2002 TRAX Report previously provided to SEA were taken into account for:
 - o Grade Limitations
 - o Curve Radius Limitations
 - o Cut and Fill Profiles
4. The draped line was raised or lowered to hold reasonable grades, and to minimize cuts and fills along the routes in order to create a "route at grade" line.
5. Once that process was completed, a three dimensional surface of the cut and fill profiles was attached to the "route at grade" line.
6. These cut and fill surfaces were used to create solids that represent the areas that had to be cut or filled. The volumes of these solids was computed.
7. U.S. Federal Emergency Agency Flood Insurance Rate Maps based on 100 year flood events were used to delineate where Flood Plains (Class A) exist.
8. Portions of the fill solids that extended into the Flood Plain were removed and the total amount of fill was reduced by that amount. It was assumed for purposes of the calculations that fill generally would not be placed into floodplains and that trestle bridges would be used to cross streams.

The results of this process show that the Medina Dam route (as modified to serve the quarry and to connect with the UP line at the optimal connection point -- see May 4 letter) would entail substantially more cut and fill volumes than the other routes, and thus result in significantly more disruption to the landscape and the environment. As Exhibit 4 indicates, the Medina Dam route would require cutting and filling of a total of approximately 1.7 million cubic yards of dirt, as compared to only

approximately 270,000 cubic yards for the preferred alignment. That result in consistent with the fact that the Medina Dam route would require that an escarpment be traversed, as previously discussed by SGR in its May 4 submission.

In this connection, the satellite photograph of the area showing an overlay of the routes set forth as Exhibit 5 to this letter clearly depicts the substantial elevation changes that would be required for the Medina Dam route versus the preferred and the three alternative routes. The photograph graphically illustrates why the cut and fill volumes for that route are significantly greater than for the routes under consideration. The photograph, and the cut and fill figures, offer further reason why the modified Medina Dam route is not a feasible alternative.

3. Road Upgrades: SEA has asked SGR to provide additional information on any needed road upgrades to demonstrate that area roads could accommodate the type of increased truck traffic that would be required to serve the Vulcan quarry were the SGR line not built. In addition to the information it has previously provided on the highway alternative, SGR can offer the following:

First, Vulcan's primary plan in the event that a railroad were not available would be to use existing public roads, rather than build any new private roads on land that it owns. The trucks that would transport the aggregate would observe applicable weight limits. A private road would be constructed only if, for reasons not now apparent, public roads could not feasibly be used.

Second, Vulcan recognizes, and has acknowledged, that some upgrades likely would be needed to the area's public roads. The precise upgrades that would be required have not been studied in depth as Vulcan assumes that the SGR line will in fact be available. At such time as it may become necessary to address the upgrades in specific detail, Vulcan would work with state and county officials to discuss the upgrades that would be required. Vulcan has undertaken similar efforts in other parts of Texas and other states and sees no impediments to coordinating with public highway officials on roadway improvement issues. Vulcan is not aware of any formal permits that would be required for road upgrades.

Third, with respect to road flooding concerns, SGR notes that the Medina County area receives on average only about 28 inches of rain per year.⁷ (For comparison purposes, the Washington, DC area receives on average over 39 inches/year, according to NOAA records.) To the extent that it does rain heavily on occasion, it is certainly possible that some roadways in Medina County may temporarily flood. The critical point to note here is that any such flooding is temporary; Medina County roads are not flooded for more than several hours at any time and only following an unusually heavy rain. The simple answer to the flooding concern that has been raised, which has been vastly exaggerated by quarry opponents, is that whatever flooding occurs ends quickly, allowing roads to be reused. Thus, the impact of any such flooding (which, again, is a relatively infrequent event) would be no more than a very short-

⁷ See Handbook of Texas Online at www.tsha.utexas.edu/handbook/online/articles/print/MM/hcm10.html

term cessation of the trucking operation, a situation that Vulcan would not expect to happen more than a handful of times during the course of a year. Moreover, any temporary cessation of truck service would not likely disrupt continued operations since Vulcan anticipates that it will retain an inventory of aggregate at the remote rail loading facility.

Fourth, with respect to information about any private road that might be constructed, see the diagram set forth as Exhibit 6, which provides much of the information requested. In addition, Vulcan offers the following information:

The private road that could be constructed by Vulcan, were that necessary, would be approximately 1.5 to 1.75 miles long,⁸ linking CR 353 to CR 365, and intersecting FM 2676 (as shown on the map attached to SGR's May 4 submission and reprinted at page G-169 of the DEIS). Vulcan estimates that this road could be built in about 7 weeks by an approximately 15 person crew. The private road would be a two lane road, one lane in each direction. Each travel lane would be 12 feet wide, and there would be shoulders on each side that would be 8 feet wide. As to crossing drainage features or floodplains, Vulcan does not believe that the short private road that it has described would cross any major drainage features. To the extent that any floodplains would be crossed, Vulcan would consult, as appropriate, with the Corps of Engineers and the Medina County Floodplain Administrator to ensure that such crossing was properly designed. Concerning frequency of maintenance, Vulcan would schedule routine maintenance to fix small potholes and cracks on an ongoing basis. A resurfacing (chip and seal) would likely be required every three to five years and a surface overlay every eight to nine years. Weather conditions, notably the amount of rain, would play a major role impacting the frequency of this schedule.⁹

As to permits for any private road, Vulcan would need to coordinate with Texas DOT with respect to the intersection between FM 2676 and the private road. Texas DOT has a permitting process set forth in regulations governing the construction of access connections, including so-called private driveways, intersecting with state highways. Vulcan is advised that these regulations would apply to private roads intersecting with state highways as well. The Texas DOT manual entitled, "Regulations for Access Driveways to State Highways," sets forth the applicable regulations and may be located via link at <http://www.dot.state.tx.us/mnt/default.htm>.

⁸ The estimates provided here assume that the private road would be 1.75 miles long, but these estimates would not change in any meaningful way were the road 1.5 miles long.

⁹ Were Vulcan to build another private road into the remote railcar loading facility, instead of locating that facility at a point directly accessible to CR 4516 (see May 4 letter at p. G-155 of DEIS), the same roadway and maintenance standards would apply to such a private road. Any such road would be shorter than the road described above. The construction estimates with respect to such a road would be commensurately lower in terms of manpower and length of construction time than the estimates set forth above. More precise information cannot be offered at this time since the exact location of the remote railcar loading facility, should such a facility be needed, has not been determined.

Ms. Victoria Rutson
April 4, 2005
Page 9

Vulcan understands that it would also need to coordinate with County officials concerning the intersection between the private road and CR 365. Whether any additional permits might be required with respect to the private road is a matter that would be reviewed in greater detail if and when necessary, but Vulcan is not currently aware of other permits that might be required.

4. Location of the Maintenance and Fueling Facility: A detailed, small scale map showing the location of the fueling/maintenance facility relative to the recharge zone is attached as Exhibit 7. As the map shows, the facility would not be located over the recharge zone.

5. Maintenance Activities: SGR would maintain the right of way consistent with the Manual for Railway Engineering issued by the American Railway Engineering and Maintenance of Way Association (AREMA), which is a standard industry guide to these matters. This is a large and detailed manual that addresses all relevant issues concerning the maintenance of track, roadbed, ties, bridges and other structures. The AREMA Manual also addresses control of vegetation. An excerpt from the portion of the Manual on vegetation control is attached as Exhibit 8, which also includes the table of contents for the entire Manual.

6. Fencing: Your letter notes that the Texas Parks and Wildlife Department (TPWD) has requested information regarding the height and mesh size of the fencing that SGR proposes to use on both sides of its right of way. Subsequent to your letter, Mr. Tom Ransdell of SGR spoke with Mr. Russell Hooten of TPWD about this matter and the results of that discussion are reflected in Mr. Hooten's March 2, 2005 letter to SEA, attached hereto as Exhibit 9. SGR intends to adhere to Mr. Hooten's updated views with respect to fence a least 4 feet high and with respect to mesh (fine, so that small animals will not be able to access the tracks). Further, SGR will incorporate wildlife crossings along the track at bridges and culverts, as also recommended by Mr. Hooten.

We would be pleased to respond to any questions that you might have concerning the above.

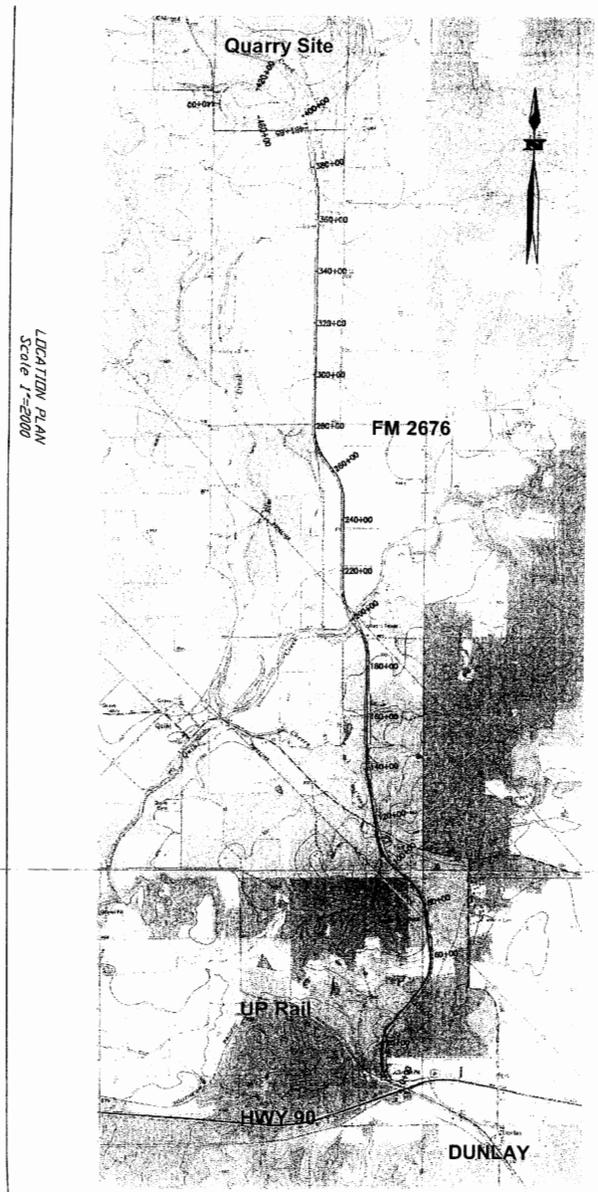
Respectfully,



David H. Coburn
Attorney for Southwest Gulf Railroad Company

cc: Ms. Rini Ghosh
Ms. Jaya Zyman-Ponebshek

EXHIBIT 1

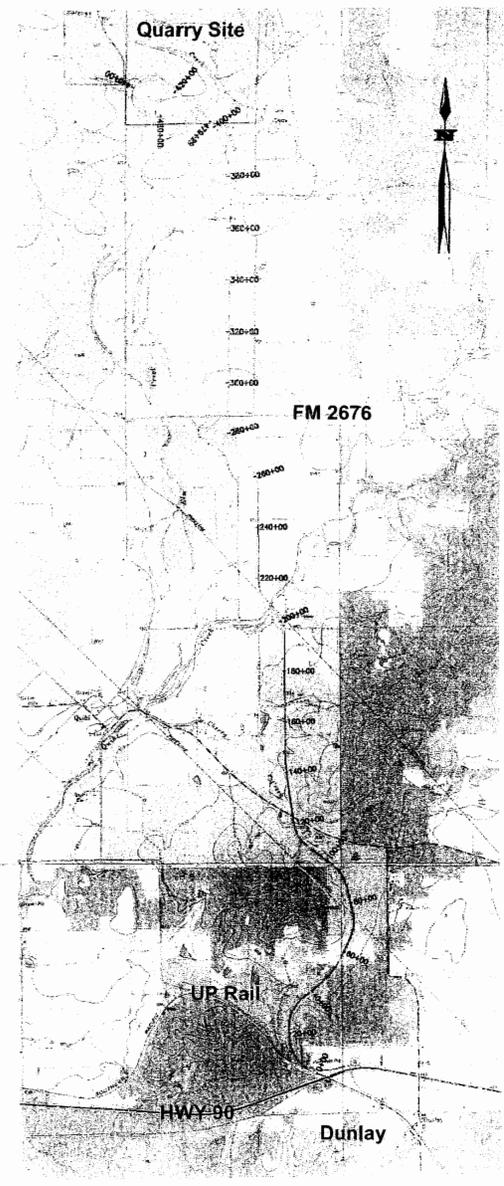


LOCATION PLAN
Scale 1"=2000

Original version submitted in color. Please contact the Section of Environmental Analysis to view a color copy.

Conceptual Plan

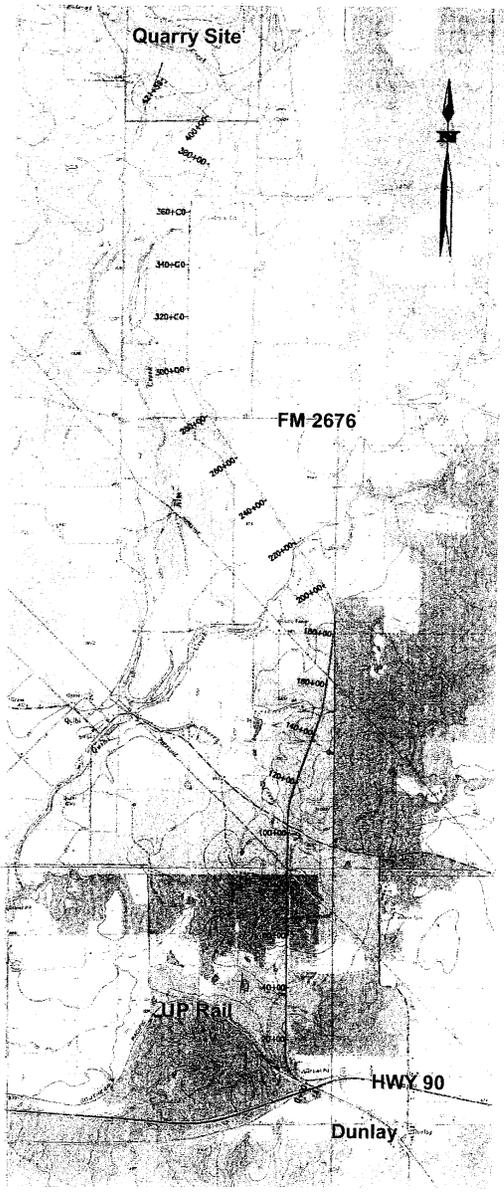
Conceptual Plan



LOCATION PLAN
Scale 1"=2000'

Original version submitted in color. Please contact the Section of Environmental Analysis to view a color copy.

Conceptual Plan



LOCATION PLAN
Scale 1"=2000'

Original version submitted in color. Please contact the Section of Environmental Analysis to view a color copy.



González, Tate & Iruegas, Inc.
Environmental Consultants

March 30, 2005

Mr. David H. Coburn
Steptoe & Johnson LLP
1330 Connecticut Avenue, N. W.
Washington, DC 20036

Re: Potential historic property resources in the Quihi and New Fountain area, Medina County, Texas (STB Finance Docket No. 34284)

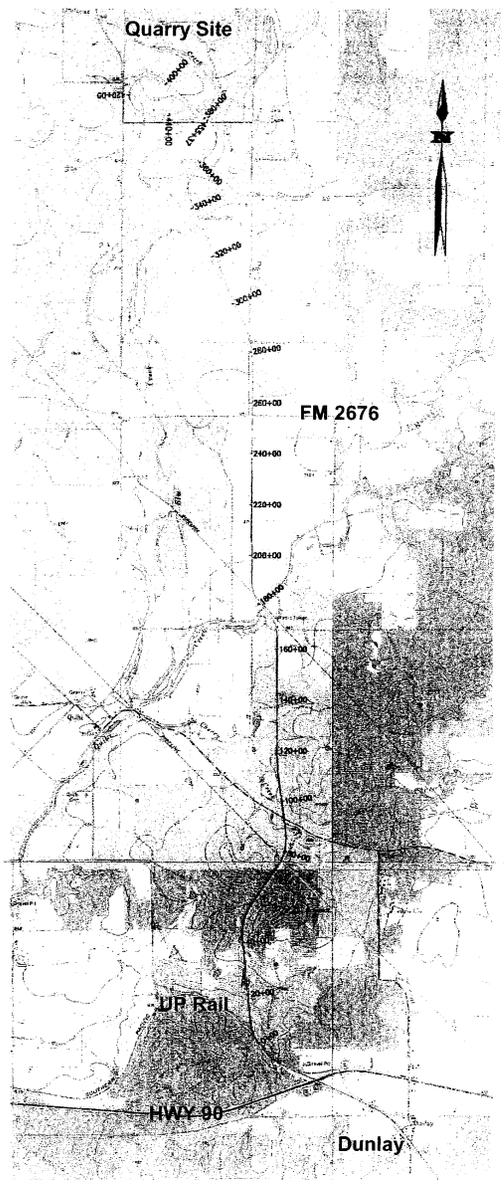
Dear Mr. Coburn:

As requested, I have prepared this letter and attached map to address, from a cultural resources perspective, a "western bypass" alignment for the Southwest Gulf Railroad (SGR) line. I understand that SGR has been asked by the Surface Transportation Board's Section of Environmental Analysis (SEA) to address the feasibility of such a bypass around the Quihi area. It is my strong opinion that any bypass west of Quihi—which would necessarily traverse the New Fountain area—has a greater potential to adversely effect historic properties in the area, notably those associated with Henri Castro's colonization of Medina County, Texas.

I have prepared this letter and map from my perspective as a former Program Administrator II and Section 106 project reviewer for the Texas Historical Commission, and as a qualified professional that meets the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. I have over five years experience working for the THC, and a combined 18 years experience working directly with the National Historic Preservation Act. I have a bachelor's degree in History, a master's degree in Archaeology, and I have completed my Ph.D. coursework in Historical Archaeology. My Ph.D. coursework included American history and architecture, as well as, historic preservation coursework towards my Cultural Heritage Management prerequisite. I worked for Harvard University's Peabody Museum for three years, and I have over two years experience managing historic preservation projects that included detailed investigations of historic structures and preparation of historic structures research reports. I have also served on the Board of Directors for the Swede Hill Neighborhood

8127 Mcca Drive
Suite B206, PMB117
Austin, Texas 78759

Voice: 512-914-4841
Fax: 512-241-0851
E-mail: gti@grievironmental.com



Conceptual Plan

LOCATION PLAN
Scale 1"=2000'

Original version submitted in color.
Please contact the Section of Environmental
Analysis to view a color copy.

González, Tate & Iruegas, Inc.

Association that I helped organize to preserve the Swedish Hill National Register Historic District in Austin, Texas.

Consideration of a western by-pass loop would require expanding the Areas of Potential Effect of the proposed SGR line and alternatives under review westward from their current boundaries to include New Fountain. New Fountain is a larger, well established, historic community with a longer history than Quihi. Ten families settled the Quihi community—two of which were killed within the first year. New Fountain, on the other hand, had numerous families and a well established community that thrived beyond agricultural pursuits. Its population was over 400 before the end of the 1800s. There would be a substantial concern for historical archaeology sites as well as historic properties. The land surrounding New Fountain has a higher probability area in which prehistoric archaeological sites are more likely to be present due to the numerous confluences of creeks, as compared to the area surrounding Quihi.

I have reviewed the Texas Historical Commission's "Visionaries in Preservation: Castroville Report." The Report includes the basis for a historic context regarding Henri Castro's efforts to colonize the area. Further, the Handbook of Texas discusses the French Alsatians in Quihi and the Germans in New Fountain that responded to Castro's advertisements of new land and opportunities. According to the Handbook of Texas, in 1845 a number of German families in Henri Castro's colony settled on Verde Creek at Vandenberg, and a year later they moved to a new reliable water resource area known historically and today as New Fountain. In 1858, the Reverend F. A. Schaper, a German Methodist, organized a Methodist church that has served its congregation for more than 100 years. The church is known today as the Ebenezer Church of New Fountain. The fourth post office in Medina County opened in New Fountain in 1857, with Roland Goering as postmaster.

In 1860, New Fountain had the Methodist church, a mill, and a Masonic lodge. By this time the town was a stagecoach stop on the old road from San Antonio to Uvalde. The first New Fountain School was established in 1876. In 1896, New Fountain had become well established with a population of 400 and two general stores, a corn mill, and a railroad express. Sometime in the mid-1800s, George Muennink, of Hondo, founded the Old Muennink Gin in New Fountain. It is believed to have been the first cotton gin in Medina County.

Because of the numerous German families that settled New Fountain and the numerous historic resources, such as the historic church, school, post office, cotton gin, general stores, and corn mill, the proposed construction of a by-pass railroad loop west of Quihi in the New Fountain area has a greater potential to adversely effect historic properties associated with Henri Castro's colonization of Medina County, Texas.

González, Tate & Iruegas, Inc.

The attached USGS topographic map shows unverified resources, indicated by red flags, west of the project Area of Potential Effect. These resources consist of structures located in the New Fountain area and the area generally west of Quihi. The structures may or may not be historic resources, although it is more likely than not that structures located along creeks are historic. The blue flags represent those verified and unverified potential historic resources in the general vicinity of the SGR preferred route, which is east of the area generally known as Quihi. The red triangle indicates a National Register listed property. Yellow diamonds indicate historic cemeteries or graves based on the topographic map. (I reviewed the Texas Historical Commission's atlas database for evidence of documented historic resources in the area of New Fountain. Neither historic buildings nor archeological sites have been documented, nor has the area been surveyed for archeological sites or for historic structures.)

It is important to note that the unverified historic resources I indicate on the map with red flags are far more numerous than the blue flagged verified and unverified historic resources in the project Area of Potential Effect east of Quihi. This underscores that any routing of the SGR line west of its current planned position will likely increase the opportunity for impacts to historic resources.

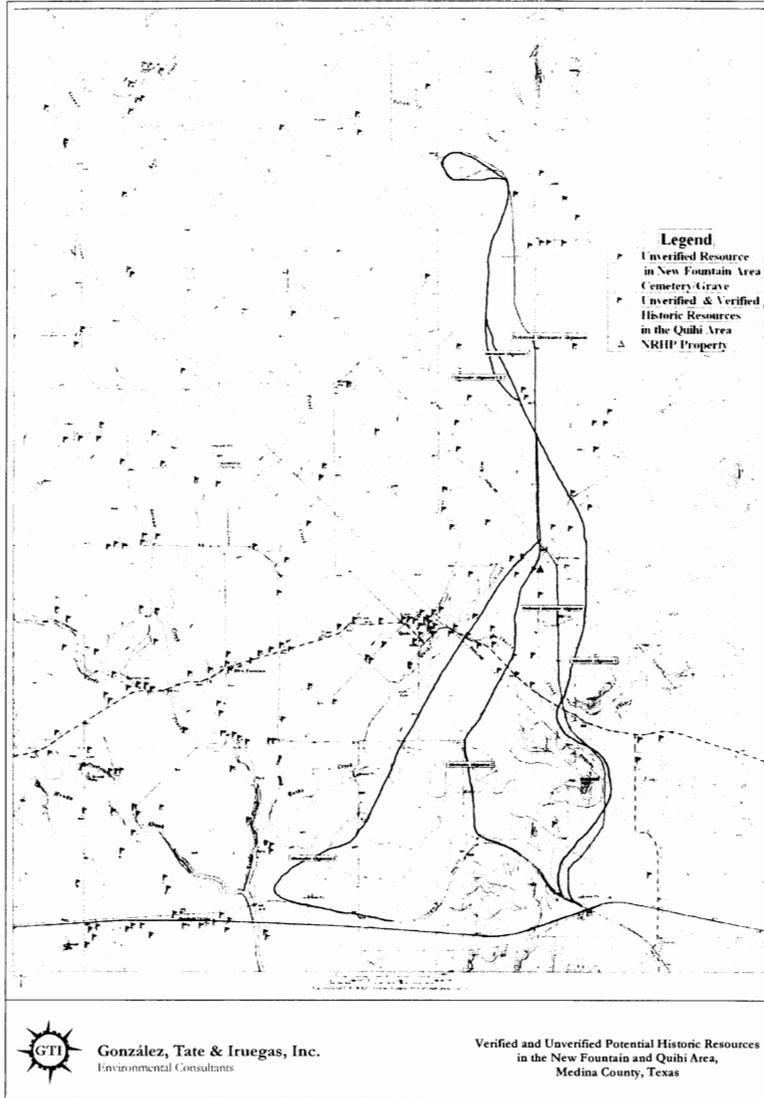
I appreciate the opportunity to offer these views.

Regards,



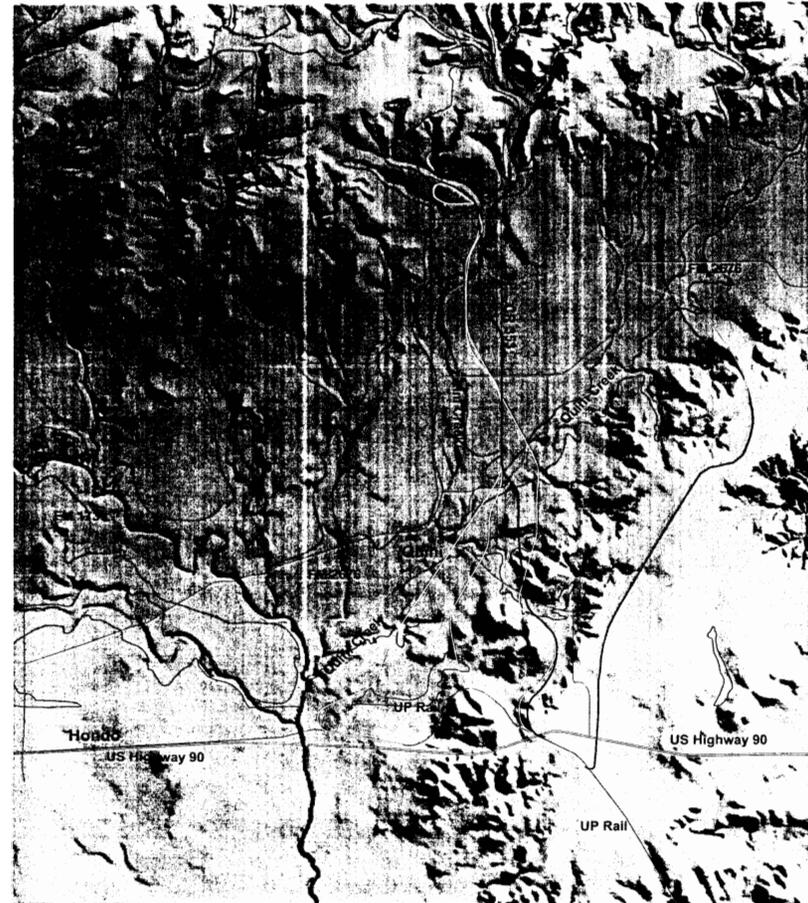
Sergio A. Iruegas, RPA
President/Cultural Resources Director

Original version submitted in color.
 Please contact the Section of Environmental
 Analysis to view a color copy.



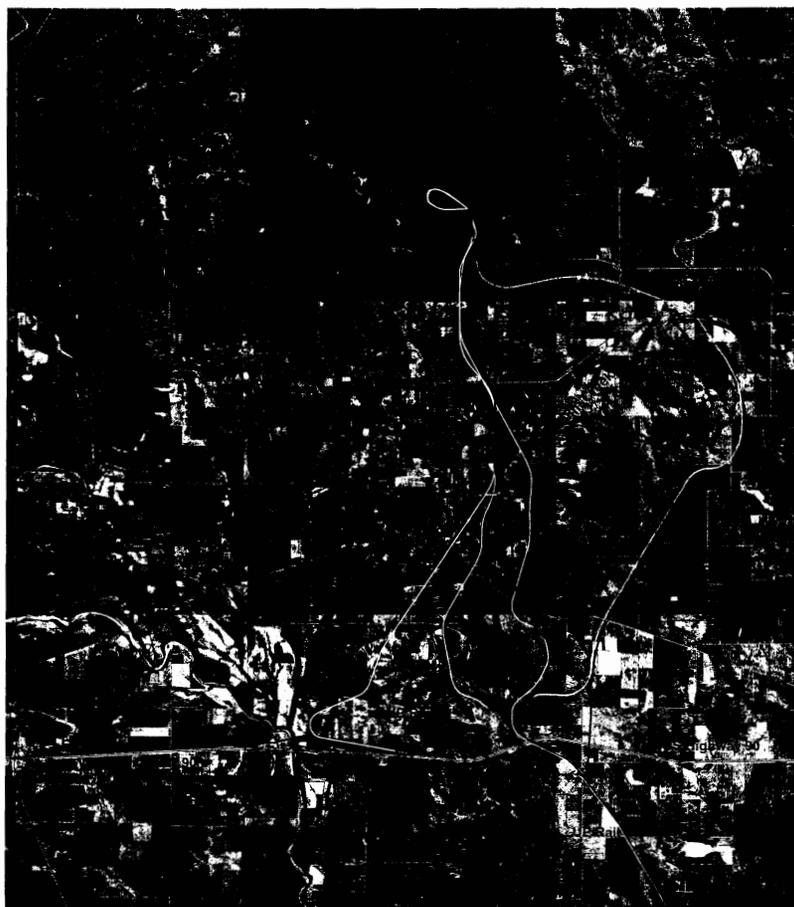
Original version submitted in color & 11x17 inch
 Size. Please contact the Section of Environmental
 Analysis to view a color copy.

Southwest Gulf Railroad Company: Medina County, Texas EXHIBIT 3



- Magenta Colored Line - SGR Proposed Route
- Red Colored Line - Old Medina Lake Dam Rail Route
- Blue Colored Lines - FEMA Flood Plain

Original version submitted in color and 11x17 inch size. Please contact the Section of Environmental Analysis to view a color copy.
Southwest Gulf Railroad Company: Medina County, Texas EXHIBIT 5



Magenta Colored Line - SGR Proposed Route
 Red Colored Line - Old Medina Lake Dam Rail Route

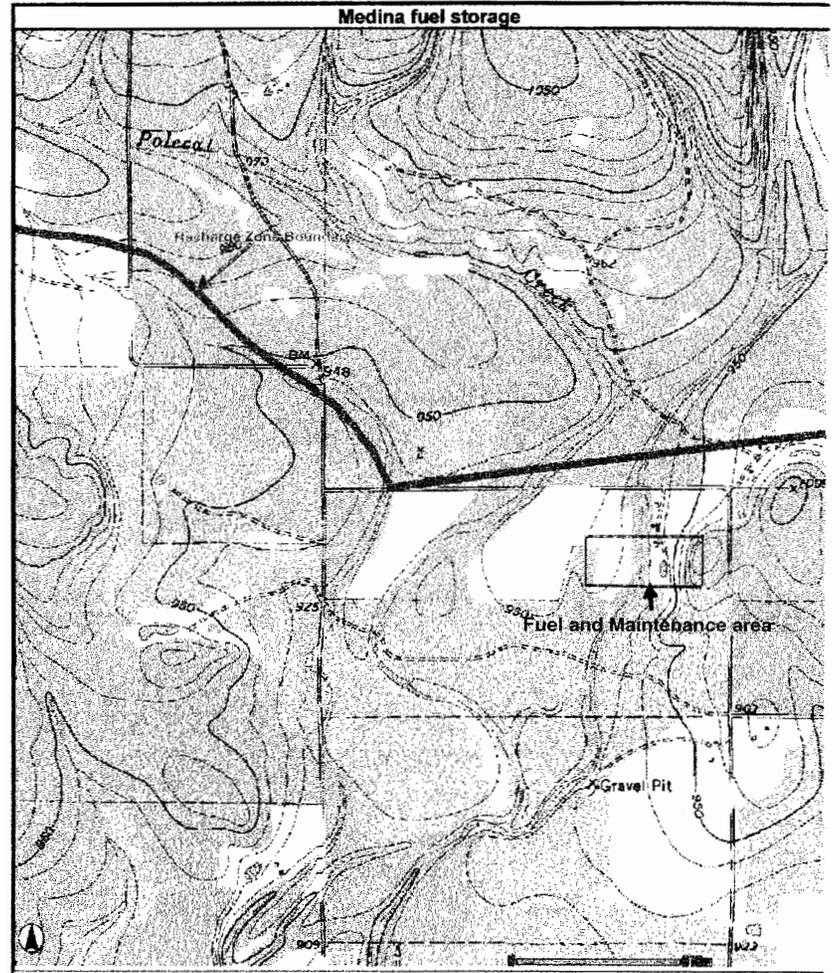
EXHIBIT 4

SGR RAIL PROJECT

Cut and Fill Data for Alternative Routes

(stopping fill at flood plain and using trestles to cross streams)

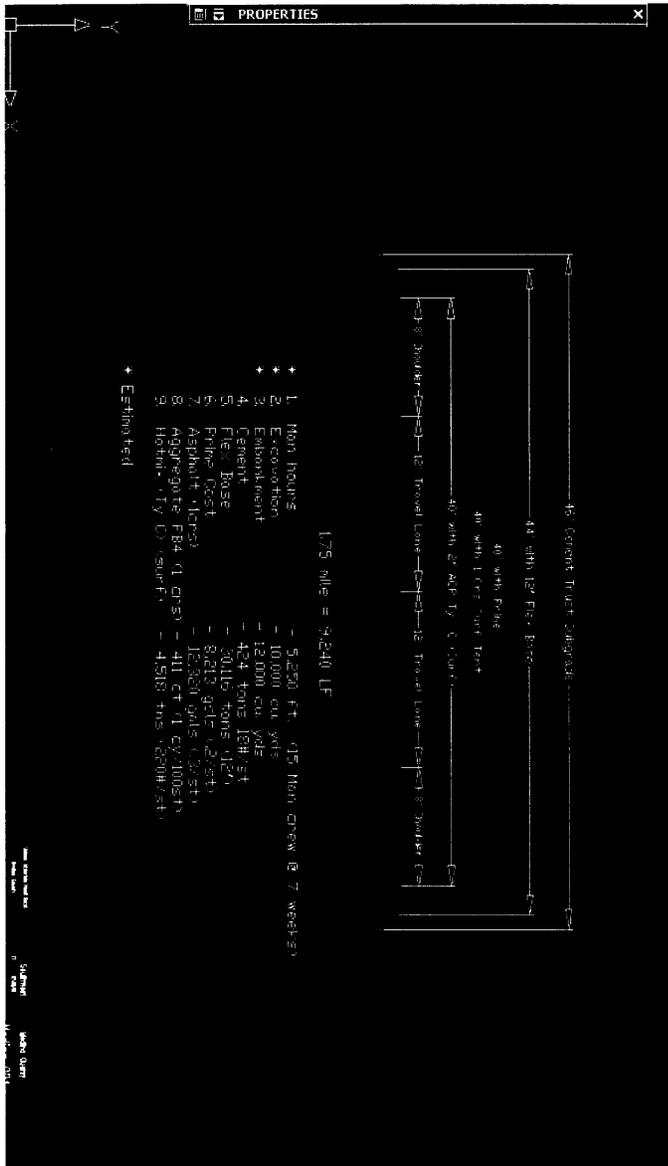
<u>Route</u>	<u>Maximum Elevation of Route</u>	<u>Minimum Elevation of Route</u>	<u>Average of Elevation of Route</u>	<u>Cut in Cu Yds</u>	<u>Fill in Cu Yds</u>	<u>Net In Cu Yds</u>
Proposed Alignment	991.83	859.38	913.99	167,683	101,973	65,710
Alternative Alignment # 1	931.51	819.93	868.89	22,456	187,430	(164,974)
Alternative Alignment # 2	934.70	857.51	895.08	69,562	123,775	(54,213)
Alternative Alignment # 3	979.82	865.86	918.71	109,882	425,865	(315,983)
Medina Dam Route assumes deviations proposed by SGR)	1,056.18	908.30	983.81	729,778	928,248	(198,470)



Original version submitted with some color images that appear in gray in B&W version. Please contact the Section of Environmental Analysis to view a color copy.

<http://gis.tceq.state.tx.us/servlet/com.esri.esrimap.Fsrimap?ServiceName=redirect&Form=1...> 3/2/2005

EXHIBIT 6

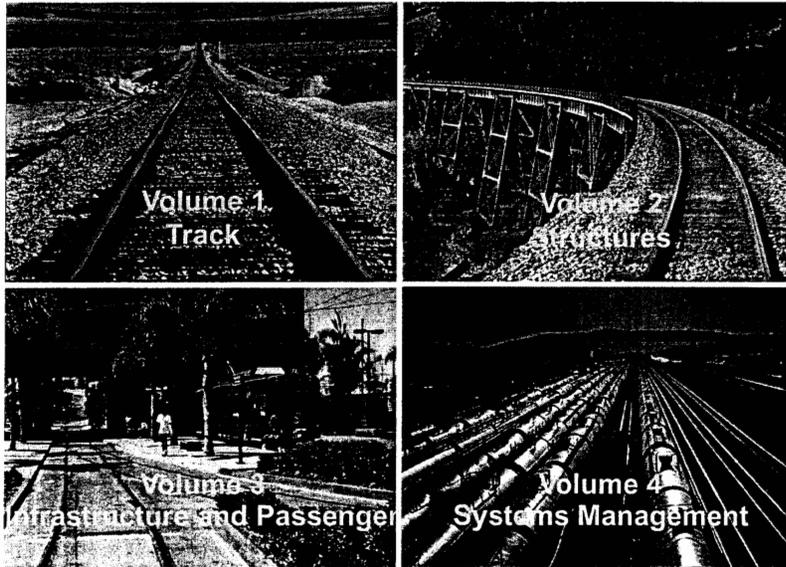


original version submitted with several color lines and 8 1/2 x 14 inch size. Color lines do not appear in B&W version. Please contact the Section of Environmental Analysis to view a color copy.



2004

Manual for Railway Engineering



American Railway Engineering and Maintenance-of-Way Association



TABLE OF CONTENTS



Current until publication of next edition

FOREWORD



This Manual is divided into four Volumes which are further subdivided into Chapters and Parts. Each volume contains a general subject index covering data found in all volumes. Each Chapter and Part are prefaced by a Table of Contents.



Because of numbering of Chapters to coincide in most cases with AREMA technical committees, there are no Chapters 3, 10, 13, 20, 21, 22, 23, 24, 25, 26, 31 and 32. Committee 24 does not maintain a Manual Chapter.

VOLUME 1 – TRACK



Introduction
Foreword
Table of Contents

Chapter 1 Roadway and Ballast

- Part 1 Roadbed
- Part 2 Ballast
- Part 3 Natural Waterways
- Part 4 Culverts
- Part 5 Pipelines
- Part 6 Fences
- Part 7 Roadway Signs
- Part 8 Tunnels
- Part 9 Vegetation Control
- Part 10 Geosynthetics

Chapter 4 Rail

- Part 1 Design
- Part 2 Specifications
- Part 3 Report Forms
- Part 4 Miscellaneous

Chapter 5 Track

- Part 1 Tie Plates
- Part 2 Track Spikes
- Part 3 Curves
- Part 4 Track Construction
- Part 5 Track Maintenance
- Part 6 Specifications and Plans for Track Tools
- Part 7 Rail Anchors

VOLUME 1 – TRACK (CONT)

- Part 8 Highway-Railway Crossings
- Part 9 Design Qualification Specifications for Elastic Fasteners on Timber Cross Ties
- Part 10 Miscellaneous



Chapter 30 Ties

- Part 1 General Considerations
- Part 2 Tie Testing
- Part 3 Solid Sawn Timber Ties
- Part 4 Concrete Ties
- Part 5 Engineered Composite Ties



General Subject Index

VOLUME 2 – STRUCTURES

Chapter 7 Timber Structures

- Part 1 Material Specifications for Lumber, Piles, Glued Laminated Timber and Fasteners
- Part 2 Design of Wood Railway Bridges and Trestles for Railway Loading
- Part 3 Construction, Maintenance and Inspection of Timber Structures



Chapter 8 Concrete Structures and Foundations

- Part 1 Materials, Tests and Construction Requirements
- Part 2 Reinforced Concrete Design
- Part 3 Spread Footing Foundations
- Part 4 Pile Foundations
- Part 5 Retaining Walls and Abutments
- Part 6 Crib Walls
- Part 7 Mechanically Stabilized Embankment
- Part 10 Reinforced Concrete Culvert Pipe
- Part 11 Lining Railway Tunnels
- Part 12 Cantilever Poles
- Part 14 Repair and Rehabilitation of Concrete Structures
- Part 16 Design and Construction of Reinforced Concrete Box Culverts
- Part 17 Prestressed Concrete
- Part 19 Rating of Existing Concrete Bridges
- Part 20 Flexible Sheet Pile Bulkheads
- Part 21 Inspection of Concrete and Masonry Structures
- Part 22 Geotechnical Subsurface Investigation
- Part 23 Pier Protection Systems at Spans Over Navigable Streams
- Part 24 Drilled Shaft Foundations
- Part 25 Slurry Wall Construction
- Part 26 Recommendations for the Design of Segmental Bridges
- Part 27 Concrete Slab Track
- Part 28 Temporary Structures for Construction



VOLUME 2 – STRUCTURES (CONT)

Chapter 9 Seismic Design for Railway Structures

- Part 1 Seismic Design for Railway Structures
- Part 2 Commentary to Seismic Design for Railway Structures



Chapter 15 Steel Structures

- Part 1 Design
- Part 3 Fabrication
- Part 4 Erection
- Part 5 Special Types of Construction
- Part 6 Movable Bridges
- Part 7 Existing Bridges
- Part 8 Miscellaneous
- Part 9 Commentary



Chapter 19 Bridge Bearings

- Part 1 Design
- Part 2 Construction
- Part 3 Commentary



Chapter 29 Waterproofing

- Part 1 Principles Governing the Waterproofing or Dampproofing of Railway Structures
- Part 2 Recommended Practices for Membrane Waterproofing
- Part 3 Recommended Practices for Dampproofing



General Subject Index

VOLUME 3 – INFRASTRUCTURE AND PASSENGER

Commuter, Transit and High Speed Rail - Unified Table of Contents and Common Elements of Planning, Design and Operations Analyses for Passenger Rail Systems

Chapter 6 Buildings and Support Facilities

- Part 1 Specifications and General Design Criteria for Railway Buildings
- Part 2 Design Criteria for Railway Office Buildings
- Part 3 Design Criteria for Spot Car Repair Shops
- Part 4 Design Criteria for Diesel Repair Facilities
- Part 5 Energy Conservation and Audits
- Part 6 Locomotive Sanding Facilities
- Part 7 Design Criteria for Railway Materials Management Facilities
- Part 8 Design Criteria for Railway Passenger Stations
- Part 9 Design Criteria for Centralized Maintenance-of-Way Equipment Repair Shops
- Part 10 Design Criteria for Observation Towers
- Part 11 Design Criteria for CTC Centers
- Part 12 Design Criteria for a Locomotive Washing Facility
- Part 13 Passenger Rail (Coach)/Locomotive Maintenance, Repair and Servicing Facilities
- Part 14 Selection and Maintenance of Roofing Systems
- Part 15 Inspection of Railway Buildings
- Part 16 Design Criteria for Main Line Fueling Facilities



VOLUME 3 – INFRASTRUCTURE AND PASSENGER (CONT)

Chapter 11 Commuter and Intercity Rail Systems (Under Development)

Chapter 12 Rail Transit

- Part 1 General Information
- Part 2 Corridor Planning
- Part 3 Track and Roadway Considerations
- Part 4 Bridge and Structural Considerations
- Part 5 Power Supply and Electrification Systems

Chapter 14 Yards and Terminals

- Part 1 Generalities
- Part 2 Freight Yards and Freight Terminals
- Part 3 Freight Delivery and Transfer
- Part 4 Specialized Freight Terminals
- Part 5 Locomotive Facilities
- Part 6 Passenger Facilities
- Part 7 Other Yard and Terminal Facilities

Chapter 17 High Speed Rail Systems

- Part 1 Introduction
- Part 2 Corridor Planning Considerations
- Part 3 Track and Roadway Considerations
- Part 4 Facilities and Structural Considerations
- Part 5 Vehicle Considerations
- Part 6 Signals, Communications, and Propulsion Considerations
- Part 7 Maintenance of Way Considerations

Chapter 18 Light Density and Short Line Railways

- Part 1 General Engineering
- Part 2 Track
- Part 3 Bridges
- Part 4 Communication and Signals

Chapter 27 Maintenance-of-Way Work Equipment

- Part 1 General
- Part 2 Roadway Machines

Chapter 33 Electrical Energy Utilization

- Part 1 Factors to Consider in Making Electrification Economic Studies
- Part 2 Clearances
- Part 3 Recommended Voltages
- Part 4 Railroad Electrification Systems
- Part 5 Signal Compatibility with Alternating Current Railway Electrification
- Part 6 Power Supply and Distribution Requirements for Railroad Electrification Systems
- Part 7 Rail Bonding
- Part 8 Catenary and Locomotive Interaction
- Part 10 Illumination

General Subject Index



VOLUME 4 – SYSTEMS MANAGEMENT

Chapter 2 Track Measuring Systems

- Part 1 Definitions
- Part 2 Track Measuring Vehicles

Chapter 16 Economics of Railway Engineering and Operations

- Part 1 Railway Location
- Part 2 Train Performance
- Part 3 Power
- Part 4 Railway Operation
- Part 5 Economics and Location of Defect Detector Systems
- Part 6 Railway Applications of Industrial & Systems Engineering
- Part 7 Public Improvements – Their Costs and Benefits
- Part 8 Organization
- Part 9 Programming Work
- Part 10 Construction and Maintenance Operations
- Part 11 Equated Mileage Parameters
- Part 12 Accounting
- Part 14 Taxes
- Part 15 Planning, Budgeting and Control

Chapter 28 Clearances

- Part 1 Clearance Diagrams – Fixed Obstructions
- Part 2 Equipment Diagrams
- Part 3 Methods and Procedures

AAR Scale Handbook (Included for Information Only)

- Part 1 Specifications for the Location, Maintenance, Operation and Testing of Railway Track Scales
- Part 2 Basic Specifications for the Manufacture and Installation of Railway Track Scales
- Part 3 Specifications for the Design and Installation of Low Profile, Pitless, and Instrumented Railway Track Scales
- Part 4 Rules for the Manufacture, Installation, Location, Operation and Testing of Railway Master Track Scales
- Part 5 Vehicle Scales
- Part 6 Hopper Type Scales
- Part 7 Belt Conveyor Scales
- Part 8 Other Scales

Guide for SI Metrication

General Subject Index





2004

Manual for Railway Engineering

Volume 1

Track

Introduction

Foreword

Table of Contents

Chapter 1 Roadway and Ballast

(Chapters 3 and 10 were combined in 2000 to form Chapter 30)

Chapter 4 Rail

Chapter 5 Track

Chapter 30 Ties

General Subject Index



American Railway Engineering and Maintenance-of-Way Association

Part 9

Vegetation Control¹

— 2001 —

TABLE OF CONTENTS

Section/Article	Description	Page
9.1 Rationale and Scope of Work		1-9-2
9.1.1	General (1994)	1-9-2
9.2 Preparing a Vegetation Control Program		1-9-2
9.2.1	Vegetation Control Methods (1994)	1-9-2
9.2.2	Degree of Control (2001)	1-9-4
9.2.3	Quantitative Considerations (1994)	1-9-5
9.2.4	Scheduling of Work (1994)	1-9-6
9.2.5	Chemical Control – Selection of Herbicides (1994)	1-9-7
9.2.6	Equipment Selection (1994)	1-9-10
9.3 Executing a Vegetation Control Program		1-9-11
9.3.1	Progress Reports (1994)	1-9-11
9.3.2	Techniques of Chemical Control (2001)	1-9-12
9.3.3	Precautions (1994)	1-9-13
9.4 Evaluating Results of a Vegetation Control Program		1-9-14
9.4.1	Field Inspections (1994)	1-9-14
9.4.2	Economic Analysis (1994)	1-9-16
9.5 Glossary (1994)		1-9-16
9.6 Lead Agencies (1994)		1-9-17
9.7 Commentary (1994)		1-9-20

LIST OF TABLES

Table	Description	Page
1-9-1	Pattern Widths	1-9-5

¹ References, Vol. 68, 1967, p. 605; Vol. 70, 1969, p. 190; Vol. 76, 1975, p. 145; Vol. 77, 1976, p. 238; Vol. 83, 1982, p. 153; Vol. 87, 1986, p. 55; Vol. 89, 1988, pp. 40, 61; Vol. 92, 1991, p. 41; Vol. 94, 1994, p. 30.

SECTION 9.1 RATIONALE AND SCOPE OF WORK

9.1.1 GENERAL (1994)

Reasons to control Vegetation on Railroad Right-of-Ways.

- a. Ballast Sections:
 - Maintain drainage.
 - Allow for inspection.
 - Prevent wheel slippage or sliding.
- b. Shoulders and Ditches:
 - Maintain drainage.
 - Provide safe walkways.
 - Allow for inspection of trains.
 - Reduce fire hazards.
- c. Bridges, Buildings and Other Structures:
 - Prevention of Fires.
 - Permit proper inspection of structure.
 - Facilitate maintenance of structure.
- d. Yards:
 - Promote safety.
 - Improve efficiency of yard operations.
 - Permit proper inspection of track.
 - Facilitate track maintenance.
- e. Noxious Weeds:
 - Insure health and safety of employees.
 - Comply with legal requirements.
 - Reduce plant propagation to neighboring properties.
- f. Signal Appurtenances:
 - Maintain visibility of signals, switch position indicators and derails.
 - Permit safe, efficient operation of switch stands and telephones.
- g. Wayside Signs:
 - Maintain visibility of speed signs, whistle signs, mile posts, etc.
- h. Signal Communication and Power Lines:
 - Prevent service interruptions.
- i. Brush Adjacent to Track:
 - To permit inspection of moving trains.
 - To prevent close clearance hazards.
- j. Highway Grade Crossings:
 - Prevent fires.



SECTION 9.2 PREPARING A VEGETATION CONTROL PROGRAM

9.2.1 VEGETATION CONTROL METHODS (1994)

The methods employed to control vegetation on railroad rights-of-way may be grouped into three general categories; controlled burning, mechanical control and chemical control. In the course of developing a program, a determination must be made of the method to be used. If the program is extensive, a combination of these methods may be desirable.

9.2.1.1 Controlled Burning

This method, used rather extensively in certain areas of the country at one time, is now rarely used. The cost of fuel as well as the labor associated with this type of operation is very high. In addition, the pollution caused by smoke and fumes are no longer acceptable to the general public. Burning is prohibited by law in many areas of the country. Weed burning usually produces only temporary control, and even when it is practiced, it may be necessary to burn several times each year. However, in several states, Departments of Forestry require hundreds of miles of fire lane burned or plowed; notably, Florida and Virginia.



9.2.1.2 Mechanical Control

- a. This category includes methods involving the use of hand tools such as brush hooks, axes, and scythes, including all types of power equipment since the results obtained are similar. The determination of where to use these mechanical methods should be based on the degree of control desired, availability of labor force, and existing conditions.
- b. Lawn maintenance by mowing in the vicinity of stations, offices, and other facilities is part of the vegetation control program. Mowing may also be performed on the rights-of-way where terrain permits; particularly in the area beyond drainage ditches to the right-of-way line. The reasons are:
 - Visibility adjacent to grade crossings.
 - Preventing the spread of weed seeds onto adjacent farmland.
 - Aesthetic value.
- c. The establishment of permanent, maintenance-free ground cover may be justified. Mowing weeds and grasses in the track and shoulder area is also useful, principally to cut down uncontrolled vegetation. The use of this practice in ballast areas will further contribute to the fouling of the ballast.
- d. Recent developments in mechanical control have been largely directed toward brush cutting. Equipment is available to perform this work operating either on track, off track or with the flexibility of hy-rail equipment. On-track equipment has the advantage of not having to operate over rough terrain. The area which can be worked is limited by the lateral reach of the cutting equipment from the track. Productive time may be limited with such equipment, depending upon the density of the rail traffic. Off-track equipment can work independently of train movements and is not restricted by the distance from the track. This may be of particular value in working under communication and signal lines. Frequently, the area covered per working hour may be less than that with on-track equipment as the equipment may have to traverse rough terrain. While hy-rail equipment may be more flexible, its construction is such that it generally cannot cover terrain as rugged as equipment designed exclusively for off track usage.
- e. The cost of controlling brush by mechanical methods is usually greater than the cost of chemical brush control. Mechanical brush control is appropriate for situations where removal of all standing vegetation is required such as interference with communication lines, clearance, or visibility. Once the brush cutting is accomplished, it will usually be more economical to control regrowth by chemical methods. Mechanical control may also be used when the use of herbicides is restricted due to federal, state, or local regulations, proximity of adjacent crops, ornamental vegetation, or pesticide sensitive people living adjacent to the right-of-way.

9.2.1.3 Chemical Control

The predominate method of controlling vegetation on rail rights-of-way is with herbicides. Factors which contribute to the use of herbicides are:

- Economy.
- Ease of application.
- Ability to regulate degree of control, including percentage of control, duration of control period, and selectivity.
- Productivity, which results in less demands on available labor force and track occupancy.

9.2.2 DEGREE OF CONTROL (2001)

Where controlled burning or mechanical control methods are used, the degree of control obtained is usually a fixed characteristic of the method used. With chemical methods the desired degree of control can be regulated with the area requirements and available funds. It is important to determine the degree of control required by segments in the early stages of planning and to develop the program in accordance with these requirements. Degrees of control attainable are described as follows:

9.2.2.1 Long Term Weed Control

Complete eradication of vegetation for the entire growing season is the most expensive degree of control. Initial high rates of residual herbicides followed by reduced rates are required for a successful program. Bare ground is usually desired under and around timber bridges, switch stands, fuel storage tanks, yards, and terminal areas.

9.2.2.2 Short Term Weed Control

This term denotes a high degree of control, but not to the extent that bare ground is obtained. It involves the use of an herbicide or combination of herbicides to control weeds which are present, plus residual control for less than a growing season. One or two treatments may be necessary per growing season depending on the herbicides used, weed species present, and length of the growing season. Short term control is usually programmed for highway grade crossings, passing tracks and sidings, and maintrack areas such as ballast sections and shoulders.

9.2.2.3 Chemical Weed Mowing

This term is used to describe treatments aimed at reducing the above ground vegetation body without retarding the process of resurgence of more desired species. Systemic or translocated herbicides are generally used for chemical weed mowing, and the degree of control is short term. One to four applications per year may be necessary depending on the amount of rainfall and the length of the growing season.

9.2.2.4 Selective Weeding

Selective weeding is the use of herbicides to control specific species of vegetation without damaging desired species. This method is used on the right-of-way outside the established roadbed pattern. Selective weeding can be used to control vegetation designated as noxious by state and local governments. It is also used to control brush and vines along the railroad property. Multiple treatments may be needed to fully establish the desired species.



9.2.3 QUANTITATIVE CONSIDERATIONS (1994)

9.2.3.1 Patterns and Acreage

- Railroads generally exercise the option of specifying not only the total acreage to be treated, but the treatment shape, or pattern. By using the centerline of the track as a reference point, it is possible to define a simple pattern, as in a yard program pattern. Main and branch line patterns may be specified as a ballast pattern (which may not require an out-of-face treatment), and a shoulder or toe path pattern. Figures frequently specified as pattern widths are found in Table 1-9-1.
- An estimate of acres per track mile may be derived by dividing the pattern width in feet by eight. This figure times the treated miles yields a total program acreage if treated out-of-face. Actual acres treated may be less if the ballast area has been "spot treated", that is, spraying only when vegetation is visible. Similarly, brush acres may be spot treated as needed, which will cause the actual acreage to be less, or in some cases more, than those shown in Table 1-9-1.

Table 1-9-1. Pattern Widths

Program	Pattern	Width	Acres/Mile
Yard	14'	Treat tracks to overlap, out-of face	1.75
Branch	16'-20'	2-4 foot toe paths, spot treat center 8-12 feet	1.75-2.25
Main line	18'-28'	2-4 foot toepaths, spot treat center 10-12 feet	1.5-2.75
Siding	16'-20'	Treat out-of-face	2.00-2.50
Crossing	50'-100'	Pattern starts at the outer edge of roadbed pattern, four quadrants per crossing (Note 1).	0.50-1.00
Brush			
Pole line	40'-60'	Acreage may vary depending on density of brush	5.00-7.50
Opposite side	10'-24'	Treat for clearance	1.25-3.00

Note 1: State requirements for patterns may vary. Consult with state agencies before specifying spray patterns for crossings.

9.2.3.2 Contract Costs

- Most railroads do not use their own personnel for the application of herbicides. The vegetation control program may be awarded to contract applicators. The contracts may be awarded as Guaranteed Performance contracts, or as Railroad Specified contracts. Both may be awarded by competitive bidding. With Guaranteed Performance contracts the railroad does not specify the herbicides or acreage. The pattern widths and areas to be treated are specified, but the railroad pays a lump sum amount on the condition that the property will be maintained to the satisfaction of the railroad company. With a railroad specified program the railroad specifies the herbicide formulations and acreage to be treated. The contractor provides a total cost per acre, which includes both the cost of the specified herbicides and the application cost per designated acre. The railroad may wish to ask for the price of each component in order to ascertain what percentage of the budget is labor and what percentage is materials. The following formula illustrates this point:

$$\text{Herbicide \$/acre} + \text{Application \$/acre} = \text{Total \$/acre}$$

- The program cost is the product of Total \$/acre times the number of acres.

9.2.3.3 Survey

- a. A number of methods may be used to determine the acreage involved in the proposed program. Vegetation control is performed on the basis of fixed patterns. It is possible to estimate a constant per mile acreage by allowing for an out-of-face treatment to the toe path area on each side of the track. The toe path treatment will generally be four feet. This is supplemented by a spot application to the ballast area. The allotment is usually based upon treating half of the area to be spot treated per mile. The allocation can range from 0.5 to 1.0 acres per mile. The density of the spot application can best be determined by a field survey. Allocations should also be made for out-of-face treatments on the roadbed at crossings, through switches, and in areas of dirty or fouled ballast. Areas such as yards require treatment of the total facility, in which case the acreage can be accurately determined. The determination for brush spray requirements need a field survey, since the density per mile varies. Treatments of such facilities as bridges and grade crossings should be specified by acres for consistency, but can be specified on a unit basis rather than an acreage basis.
- b. The methods of estimating may vary depending on the scope of the work, the level at which the estimating is done and the familiarity with the actual field conditions. In any case, it is necessary to accurately define the program and determine the quantities which are needed in each area.



9.2.4 SCHEDULING OF WORK (1994)

The type of treatment used and the degree of control desired will determine when the application should be performed. All herbicide labels state the proper time of the year to apply the product to insure optimum results. The label recommendations should be followed, and the availability of labor and equipment, climatic conditions and requirements for track occupancy must also be considered when scheduling the work.

9.2.4.1 Controlled Burning

This is usually performed in the autumn after the vegetation has become dry, but before the first snowfall.

9.2.4.2 Mechanical Control

Weather conditions often affect equipment mobility because of soft ground or snow cover.

9.2.4.3 Chemical Control

To determine the proper herbicides to use for the control of weeds and grasses, the vegetation must first be identified. The susceptibility of the various species to the products available must also be determined. The determination can then be made to use a pre-emergent or post-emergent application. Program herbicides with a contact or systemic mode of action are of no value in a pre-emergent program. This type of application should be limited to residual herbicides. While residuals are also valuable in post-emergent applications, they are normally used in combination with contact and/or systemic products. Factors such as rainfall and length of growing season will affect the herbicides selection process. There are several types of brush control treatments available.

9.2.4.3.1 Summer Foliage

Such treatments are made after the brush reaches full leaf and is actively growing.

9.2.4.3.2 Dormant Stem (cane)

These applications are made during late fall and winter while the brush is completely dormant. An advantage of this method is the reduction of potential damage to adjacent crop lands which can be caused by drift during summer foliage applications.

9.2.4.3.3 Basal Treatments

Basal treatments are generally individual stem treatments. The herbicide is applied to the basal and root collar area. It is of particular value for control of cut stumps or for clean up of scattered plants. This method can be used any time of the year.

9.2.4.3.4 Soil Treatments

Soil applications are made with pellets, granular, and liquids, either by a broadcast application to the entire area, or by spot treatment to the ground around individual stems or clusters. This type of application can be made at any time of the year except when the ground is frozen. Rainfall is necessary to activate these materials.

9.2.5 CHEMICAL CONTROL – SELECTION OF HERBICIDES (1994)

9.2.5.1 Species to be Controlled

- a. An important consideration when selecting herbicides is the type of vegetation to be controlled. Generally, vegetation is categorized as grasses, sedges, broad-leaf weeds, vines, or brush. Programming for such broad categories can be beneficial in that it will lead to the selection of herbicides that are reasonably effective on many different species and subspecies. There is considerable variation in the susceptibility of different plants to the various herbicides.
- b. Weed resistance to the treatments being applied may take over an area if the same herbicides are used year after year. Species which are susceptible to the formulations being applied are easily controlled. It then becomes necessary to change the herbicide formulations to prevent the proliferation of resistant plants.

9.2.5.2 Herbicide Information

- a. A reliable source of data pertinent to a particular herbicide is the label which is affixed to the herbicide container. Labeling is the literature which is used in promoting the products. Labeling is now considered to be a part of the official label by the Environmental Protection Agency. It must not differ in meaning from the information furnished to the EPA when the product was registered.
- b. All labels require approval by the EPA. The label must show the registration number and establishment number issued by the EPA. This information can always be found on the bottom center panel of the label. Herbicides cannot be shipped either intra- or interstate unless the product is in its original labeled container.
- c. The Insecticide, Fungicide and Rodenticide Act, as amended by the Federal Environmental Pest Control Act of 1972, requires extensive investigation and testing prior to granting label registration. Performance data and toxicity testing from various regions throughout the country is required before granting label registration. All use precautions for the product are required to be listed on the label. A thorough understanding of the label is necessary to insure safe and effective use of the herbicides selected. Personnel charged with vegetation management should keep abreast of changes and new developments.



9.2.5.3 Factors Affecting Herbicide Performance

Prior to the final choice of herbicides, a number of other factors should be considered which might affect the performance of the herbicides. Significant factors are:

9.2.5.3.1 Soils

- a. In considering this variable as related to an overall vegetation management program, it should be noted that the character of the soil generally does not affect the use of contact or systemic type herbicides except as soil affects the plant growth process. These products are applied directly to the plant and pass through that medium.
- b. Residual herbicides are applied to the soil taken into the plant through the root system, and therefore are affected by soil type. The most significant effect of soils on organic compounds applied to them is the physical absorption of the product. This physical absorption, which is caused by the mineral and organic colloids in the soil, renders the chemicals biologically unavailable. It is however, this same characteristic which determines, to a large degree, the length of time during which the product will be effective.
- c. Absorption varies from one soil to another depending upon the concentration of clay and organic matter, and the chemical and physical properties of the compounds being applied. Sand and silt content do not require as much herbicide to produce weed control as do soils that are high in clay and organic matter. However, because they do not retain them as well, the duration of effective weed control is usually shorter.

9.2.5.3.2 Rainfall

- a. Rainfall is important as a source of moisture for producing good growing conditions that make plants more susceptible to chemical treatments. Excessive rainfall can also cause problems. Highly porous soils and those low in clay and organic matter can cause too rapid leaching of herbicides through the soil and out of the root area. This can produce a lower level of vegetation control that is of shorter duration. Excessive rainfall can also cause surface movement of the herbicides out of the target area. This can cause a lower degree of control and damage to off-target vegetation such as crops and ornamentals.
- b. The rainfall patterns common in various geographical regions are also important. The amount and timing of rainfall can control when herbicides can successfully be applied. The amount of rainfall can almost always be correlated with the types of soil and weed species present in a given location. Low rainfall areas generally produce more alkaline soils, while moderate and high rainfall areas produce neutral or acidic soils.
- c. During drought periods plants usually undergo growth stress, resulting in poor performance of systemic and contact herbicides. The plants produce a heavy wax tissue on the leaves and stems to protect against excessive transpiration losses. During dry periods herbicides will remain on the soil surface until enough moisture is received to dissolve the material and carry it into the root zone.
- d. The successful use of a particular product or combination of products depends very much on the interrelated functions of the chemical with the climate, the soil, and the species present.



9.2.5.3.3 Length of Growing Season

The length of the growing season is a consideration when selecting the proper herbicide. Normally, the longer the growing season the more resistant the vegetation. This necessitates higher use rates to realize an acceptable degree of control. The combination of a long growing season and a high rate of rainfall results in leaching of the residual herbicides below the root zone. Multiple applications are therefore required.

9.2.5.3.4 Temperature

- a. Temperature affects the use of herbicides in a number of ways. The rate of plant growth and the length of time during the year when temperature is favorable for any plant growth are two important effects of temperature. Temperature, as it affects the factors responsible for the deterioration of the herbicide, can also be important. High temperatures generally accelerate these processes, while low temperatures delay this effect.
- b. A general rule valid with most herbicide use is that most herbicides are more successfully used when plants are sensitive and vigorously growing. The systemic products have a substantially reduced effect when applied to plants approaching dormancy, and practically no effect when applied to dormant plants.

9.2.5.3.5 Soil Microorganisms

- a. Microorganisms use all types of organic matter, including organic herbicide, as a food source. They are a major factor in the breakdown of residual herbicide. These organisms, which live in the soil, attack the applied herbicide, as they do any other organic matter, for nutritional elements that are contained in the product. Eighty to ninety percent of the product disappears from the soil during the first growing season due to these organisms.
- b. Two factors which are favorable are: 1) microorganisms do not build up as a result of normal repeated application of these products and do not present a limiting factor to their use on an annual basis and 2) the products do not destroy the microorganisms and therefore do not change the flora of the soil.

9.2.5.3.6 Toxicity

Toxicity is the capacity of a substance to produce injury or death. It may be a factor in the herbicide selection process. Both oral and dermal toxicity should be considered. The LD 50 system of rating oral toxicity is explained in various manuals. For simplicity the toxicity of a product can be determined by looking for the signal word printed on the label. The signal words and a description is listed below.

DANGER This word signals that the product is highly toxic. A taste to a teaspoonful taken by mouth could kill an average sized adult. Any product that is highly toxic oral, dermal, or through inhalation or causes severe eye or skin burning will be labeled "DANGER". Any product classified as highly toxic with the DANGER signal word will also carry the word POISON printed in red and the skull and crossbones symbol.

WARNING This word signals that the product is moderately toxic. As little as a teaspoonful to a tablespoonful by mouth could kill the average sized adult. Any product that is moderately toxic oral, dermal, or through inhalation, or causes moderate eye and skin irritation will be labeled WARNING.

CAUTION This word signals that the product is slightly toxic. An ounce to more than a pint taken by mouth could kill the averaged sized adult. Any product which is slightly toxic oral, dermal, or through inhalation, or causes slight eye and skin irritation will be labeled CAUTION.



9.2.5.3.6.1 Special Toxicity Statements

If a product is especially hazardous to wildlife, that hazard will be stated on the label. For example:

- This product is highly toxic to bees.
- This product is toxic to fish.
- This product is toxic to birds and other wildlife.

9.2.5.3.7 Government Regulations

The Federal Environmental Pest Control Act provides guidelines and authority for regulating and enforcing the sale and proper use of herbicides. Railroads engaged in vegetation control programs should be sure that proper licensing in the states in which work is to be performed has been obtained. Consult the State Department of Agriculture for information on the proper licensing procedures.

9.2.5.4 Herbicide Selection

There is no single ideal herbicide for applications. There may be two or more compounds of comparable suitability. At this point, relative economy may be a decisive factor. Even the most economical herbicide (or combination) may cost more than the funds available. In such a situation a review of the desired degree of control may be in order. If the original proposals are to be adhered to, low priority items should be eliminated from the program, rather than apply insufficient rates over the entire territory.

9.2.6 EQUIPMENT SELECTION (1994)

9.2.6.1 Controlled Burning

The primary equipment consists of on-track weed burners and hand carried torches, utilizing various petroleum products. When this method is used, adequate fire protection must be provided and permits acquired if necessary.

9.2.6.2 Mechanical Control

9.2.6.2.1 Weeds and Grasses

On and off-track, sickle-bar and rotary type equipment is available. The proper selection is dependent upon finances available and the topography of the area to be treated.

9.2.6.2.2 Brush

Rotary type, on-track, off-track, and hy-rail equipment is readily available. All equipment is available with varying lateral swath widths. This equipment is available in both single and double boom styles. Off-track equipment may be rubber tired or caterpillar type and brush cutters may be under slung or towed. Manual equipment consists of axes, chain saws, and rotary saws. It is suitable for terrain inaccessible to heavy equipment and for spot removal of large standing trees.



9.2.6.3 Chemical Control

9.2.6.3.1 Spray Trains

Spray trains are generally used for herbicide applications to the mainline areas. The trains can be either pushed or pulled and are generally run as a work train, enabling the train to make movements in both directions. In general a spray train is comprised of; a spray car, several large tank cars, and a box car for chemical concentrate storage. The productivity is very good for mainline applications. It loses much of its efficiency in terminal areas and on short branch lines. Spray trains provide multi-system capabilities, an opportunity for treatment of several different chemical formulations in a single pass.

9.2.6.3.2 Hy-Rail Trucks

The widespread use of hy-rail trucks with tank capacities ranging from 150 to 3,000 gallons is now available. The trucks are used for yard and terminal applications. The trucks can be used to treat branch lines, bridges, off track areas, and are becoming more popular for use on mainline applications. Production is somewhat less than that of a spray train, but hy-rail trucks are more mobile and require fewer operating personnel.

9.2.6.3.3 Dry Material Spreaders

These are used to distribute granular and pellet type material. They are available for use in areas not readily accessible to other types of application equipment. Dry applications are quite labor intensive.



SECTION 9.3 EXECUTING A VEGETATION CONTROL PROGRAM

9.3.1 PROGRESS REPORTS (1994)

- Accurate application records can serve a variety of useful purposes. These are:
 - Provide a day to day monitoring of work completed and material usage.
 - Provide a means for developing mile by mile costs, to be used in developing future programs.
 - Provide data on actual productivity which can be used for developing schedules for future programs.
 - Provides evidence for legal cases and claims.
 - Facilities compliance with State and Federal laws.
- Guidelines for establishing a record keeping system:
 - Determine the purpose of the report, and design the forms to conform to these purposes.
 - Determine whether it is practical to obtain the information desired.
 - If a contract application, determine if the contractor's report meets railroad criteria.
 - Transmit daily reports promptly to the proper personnel.

9.3.2 TECHNIQUES OF CHEMICAL CONTROL (2001)

9.3.2.1 Herbicides for Liquid Formulations

Herbicides are available in various formulations. Field personnel should be familiar with these formulations and their characteristics. The formulations in use are:

- Water Soluble Concentrate.* Forms a solution when added to water and applied with water as a carrier. This formulation usually has an amine or metallic salt in the molecule which enables water solubility. Agitation is not necessary to maintain the pesticide in solution. The product usually contains two to eight pounds of active ingredient per gallon.
- Water Dispersible Granule or Dry Flowable.* Prepared as a granule sized particle. The product pours easily without associated dust. It readily disperses in water and forms a suspension. Constant agitation is required to keep the material in solution. The product usually contains a 70% to 90% active ingredient per pound.
- Wettable Powder.* A dry preparation which may contain 5% to 95% active ingredient per pound or product. Wettable powders form a suspension rather than a true solution.
- Soluble Powder.* A dry formulation which may contain 15% to 95% active ingredient per pound of product. Soluble powders look like wettable powders but they form a true solution when added to water.
- Emulsifiable Concentrate.* (E or EC) An emulsifiable concentrate formulation usually contains the active ingredient, petroleum solvents and an emulsifier. These concentrates are soluble in oil and form an emulsion in water. The oil droplet containing the pesticide is dispersed in water (oil in water emulsion). The milky colored appearance when mixed with water is typical of emulsifiable concentrates. Usually by-pass agitation is sufficient to keep the emulsion from separating.

The emulsifiable concentrate formulation (ester) is generally more phytotoxic than its water soluble (amine) counterpart. The ester formulation is more toxic to fish than the amine formulation. The ester formulation has a potential to be volatile and the suggested maximum soil and air temperatures may appear on the label.
- Flowable.* A flowable (F or L) consists of a finely ground solid material suspended in a liquid. Liquid flowables usually contain a high concentration (4 pounds or more per gallon) of active ingredient and are mixed with water for application. The mixture forms a suspension when added to water. Spray nozzles seldom clog and only moderate agitation is needed.



9.3.2.2 Formulations for Dry Applications

- Granule.* A ready to use dry mixture containing 1% to 15% of active ingredient per pound of product. Granules are never mixed with water.
- Pellets.* Are similar to granules in that they are ready to use. They contain 10% to 20% of active ingredient per pound of product. Pellets are larger than granules and are never mixed with water.

9.3.2.2.1 Mixing and Agitation

Most formulation solutions applied for weed control are prepared in the field. The concentrated chemicals are added to the spray tank and mixed thoroughly with an agitation system. All label information concerning mixing procedures should be read and understood before any mixing ensues. Good agitation; hydraulic or by-pass, should be used. Agitation should be maintained at all times if dry products are used. All herbicide formulations should be applied with properly calibrated application equipment.

9.3.2.2.2 Calibration

- To insure the proper rate of application of the prescribed chemicals, a calibrated meter must be included in the system and the following must be taken into account:
 - Number of outlets.
 - Size and capacity of nozzles (orifice size).
 - Dilution ratio of chemicals.
 - Operating pressure.
 - Speed of application equipment.
- A check of the proper calibration should be made before the initial spraying operation begins and rechecked daily to assure continuity of the proper chemical application rates.



9.3.2.2.3 Speed and Pressure Control

Speedometers and pressure gages should be integral parts of any application equipment. A change of speed will disrupt the calibrated rate of chemicals unless the operating pressure is also changed at the same time, i.e. an increase in speed will reduce the rate of materials, therefore, the operating pressure must be increased to offset this difference.

9.3.2.2.4 Clogging of System

Clogging, or any obstruction in the spraying system, is detrimental to good vegetation control practices. To counteract this possibility, strainer units are placed in the system, preferably ahead of the intake side of the pump. In some cases, strainers are provided in the nozzle assembly. Sources of clogging include:

- Accumulation of rust from distributing containers and chemical pipe lines.
- Silt, sticks, and stones from water sources.
- Precipitation of chemicals caused by improper mixing techniques.
- Accumulation of improperly agitated, insoluble residuals in the chemical pipe line and/or pump.

9.3.3 PRECAUTIONS (1994)

9.3.3.1 Controlled Burning

Control of vegetation by burning introduces a number of hazards. Before burning is undertaken sufficient protection should be on hand to prevent the spread of fires to adjacent property. Burning should be avoided in the vicinity of wood bridges and other wooden structures. A less obvious but potentially serious hazard is the possibility of fires becoming established underground in cinders, peat, and wood chips, which may go undetected until well established. They can be difficult to extinguish and may result in collapse of the roadbed. Air pollution caused by burning is of increasing concern and burning is sometimes prohibited by law.

9.3.3.2 Mechanical Control

In the selection of equipment for a particular job, consideration should be given to its suitability for the use contemplated. Some of the more common safety hazards are:

- a. Overturning on slopes.
- b. Flying objects from cutting blades.
- c. Presence of stone, scrap, cable, wire, etc.
- d. Stumps and stubble.
- e. Hand tools (chain saws, etc.) – exposure to cutting edges.
- f. Danger of falls during manual work on steep slopes.



9.3.3.3 Chemical Control

- a. When applying vegetation control chemicals, the possibility of wind causing drift of the spray mix materials should be considered. Spray drift can cause damage to susceptible crops and ornamentals adjacent to the right-of-way and may result in litigation. Application should immediately cease if the herbicide cannot be confined to the target area. Individual state statutes should be considered regarding wind velocity. Application techniques, mechanical devices, and/or drift control agents may be utilized to control drift.
- b. Rain can be both beneficial and harmful. Rain provides the moisture necessary to maintain the plants in an active, growing state, which permits the uptake of the herbicides, and the carrying of residual chemicals to the root section of the plants. Rain immediately after treatment can wash the chemical from the plants (as in the case of contact herbicides) and cause run-off of the chemicals out of the target area.

SECTION 9.4 EVALUATING RESULTS OF A VEGETATION CONTROL PROGRAM

9.4.1 FIELD INSPECTIONS (1994)

9.4.1.1 Controlled Burning

The principal field evaluation of a controlled burning program is to determine the extent to which the programmed territory was covered and to identify any damage resulting from such a program. As the results of such a program are of relatively short duration, such an evaluation should be made fairly soon after the burning is accomplished.

9.4.1.2 Mechanical Control

Field evaluation of mowing weeds and grasses can determine whether the frequency of such operations is consistent with the results desired and the degree of effectiveness of such procedures on the terrain involved. Brush cutting operations should be evaluated on the basis of rate of regrowth and increased brush density due to suckering.

9.4.1.3 Chemical Control

9.4.1.3.1 Rating Extent of Control Obtained

9.4.1.3.1.1 Brush

Inspection at the end of the first growing season should be made to determine whether coverage is uniform throughout the target area. All brush should show typical herbicide response. Brush height and density may necessitate spraying in two consecutive years in order to obtain effective control of all brush when using on track spray equipment. Final evaluation should be made at the end of the second growing season following application of the herbicide. At that time it can be determined if the degree of control is consistent with requirements.



9.4.1.3.1.2 Weeds and Grasses

Evaluation should be made near the end of the growing season during which the treatment is made, but prior to frost. The evaluation should be made on the basis of percentage of effectiveness.

9.4.1.3.2 Identifying Problem Species

It is possible that any remaining will be composed of a limited number of species which are resistant to the treatment used. Even if these species represent a small problem at the time of inspection, it's likely they may proliferate due to the elimination of competing species. Future programs should be designed to control these remaining species.

9.4.1.3.3 Relating Results to Original Goals

The results of a spray program should be consistent with the needs as described in Article 9.2.2 and Article 9.2.3.1. Photographs of representative areas taken prior to the application of the herbicides can be valuable aid in making evaluations. The pictures should be identified as to location and date.

9.4.1.3.4 Contributing Factors

If it is determined that results are not consistent with what might reasonably be expected, one or any combination of the following may be contributing factors.

9.4.1.3.4.1 Chemicals

- a. Improper mixing procedures.
- b. Incompatibility between herbicides and/or their carriers.

9.4.1.3.4.2 Weather

- a. Rain too soon after application can wash the herbicide from the plant or the soil surface.
- b. Heavier than normal rainfall can leach and dilute soil applied herbicides.
- c. Rainfall may be inadequate to activate soil applied herbicides.
- d. Wet brush will not accept oil carrier spray solutions.
- e. Extended periods of dry weather reduce the effectiveness of foliar applied herbicides.

9.4.1.3.4.3 Equipment

- a. Improper calibration.
- b. Inadequate agitation.
- c. Clogging of nozzles.

9.4.2 ECONOMIC ANALYSIS (1994)

In addition to costs of material and contracts, labor and equipment cost can be a significant part of the total expense of vegetation control. Labor and equipment unit costs will vary with productivity. Well designed and properly completed daily reports can be an invaluable tool in determining costs and evaluating the efficiency of the operation. Thorough analysis of daily reports may indicate that changes should be considered in future programs in factors such as scheduling, type of equipment used, coordination with train operations, personnel assigned, and type of treatment applied.

SECTION 9.5 GLOSSARY (1994)

The following terms are for general use in Part 9. Refer to the Glossary located at the end of the chapter for definitions.

Absorption	Concentration	Labeling	Solution
Acre	Contact Herbicide	LC 50	Species
Active Ingredient	Deciduous	LD 50	Suckering
Acute Oral Toxicity	Defoliant	Leaching	Surfactant
Adjuvant	Degradation	Material Safety Data Sheet	Systemic Herbicide
Adsorption	Dermal Toxicity		Toxicity
Agitation	Dilute	Necrosis	Translocated
Amine	Dormant Application	Non-selective Herbicide	Vines
Amine Salt	Drift	Oral Toxicity	Volatility
Annual	Dry Flowable	Orifice	Weed
Basal Treatment	Emulsion	Pellet	Wettable Power
Biennial	Emulsion Agent	Perennial	
Broad Leaf Weeds	Emulsion Concentrate	Photosynthesis	
Broadcast Application	EPA	Post-emergence Treatment	
Brush	Ester		
Carcinogen	Foliar Application	Pre-emergence Treatment	
Carrier	Granule		
Chlorosis	Grassy Weeds	Residual	
Chronic Toxicity	Herbaceous Plant	Selective Herbicide	
Common Chemical Name	Herbicide Label	Soil Application	
		Soil Persistence	



SECTION 9.6 LEAD AGENCIES (1994)



Agricultural Chemical & Plant Protection
P.O. Box 3336
Montgomery, AL 36193
(205) 242-2656

Alaska Dept. of Environmental Conservation
Pesticide Use Specialist
Box 2309
Palmer, AK 99645
(907) 745-7348

Division of Feeds, Fertilizer & Pesticide State Plant Board
P.O. Box 1069
Little Rock, AR 72203
(501) 225-1698

CDFA Pesticide Branch
1220 N. Street Room
Sacramento, CA 95814
(916) 322-5032

Pesticide Section
Colorado State Department of Agriculture
700 Kipling Street
Lakewood, CO 80215-5894
(303) 239-4140

Pesticide Control
165 Capitol Avenue
Hartford, CT 60106
(203) 566-5148

Division of Consumer Protection
Delaware Department of Agriculture
2320 S. Dupont Highway
Dover, DE 19901
(302) 739-4811

Florida Dept. of Agriculture & Consumer Service
3125 Conner Blvd.
Tallahassee, FL 32399-1650 MD1
(904) 488-6838

Georgia Department of Agriculture
Capitol Square, Room 500
Atlanta, GA 30334
(404) 656-4958

Idaho Department of Agriculture
P.O. Box 790
Boise, ID 83701
(208) 334-3243

Illinois Department of Agricultural Office Admin. 1V
P.O. Box 19281
Springfield, IL 62794
(217) 785-2427

Indiana State Chemist Office
170 Purdue University
West Lafayette, IN 47907
(317) 494-1598

Iowa Department of Agriculture Pesticide Division
Wallace State Office Building
Des Moines, IA 50319
(515) 281-4339

Pesticide Use Law Adm.
901 S. Kansas Avenue
Topeka, KS 66612-1281
(913) 296-2142

Division of Pesticide
Kentucky Department of Agriculture
7th Floor 500 Mero Street
Frankfort, KY 40601
(502) 564-7274

Louisiana Department of Agriculture Certification Programs
Box 44153, Capitol Station
Baton Rouge, LA 70804-4153
(504) 925-3796

Regulation Section
Maryland Department of Agriculture
Harry S. Truman Parkway 50
Annapolis, MD 21401
(410) 841-4134

Department of Food & Agriculture
Leverette Sandstall Bldg., 21st Floor
Govt. Center, 100 Cambridge St.
Boston, MA 02202
(617) 727-7712 ext. 128

Roadway and Ballast

Board of Pest Control
Licensing Specialist
Station 28
August, ME 04333
(207) 289-2731

Mgr. Pest Applicators
Pesticide & Plant Pest Mgmt. Division
Michigan Department of Agriculture
6110 West Ottawa
P.O. Box 30017
Lansing, MI 48909
(517) 373-1087

Pesticide Regulatory Specialist
Minnesota Department of Agriculture
90 W. Plato Blvd.
St. Paul, MN 55107
(612) 297-2746

Supervisor of Pest Control Section
Mississippi Department of Agriculture
P.O. Box 5207
Mississippi State, MS 39762
(601) 325-3390

Missouri Department of Agriculture
P.O. Box 630
Jefferson City, MO 65102-0630
(314) 751-2462

Montana Department of Agriculture Capitol Station
Helena, MT 59620-0201
(406) 444-2944

Nebraska Environmental Protection Agency
726 Minnesota Avenue
Kansas City, KS 66101
(913) 551-7020

Nevada Department of Agriculture
P.O. Box 11100
350 Capital Hill Avenue
Reno, NV 89510-1100
(702) 789-0180

Division of Pesticide Control
New Hampshire Department of Agriculture
Caller Box 2042
Concord, NH 03301
(603) 271-3550

New Jersey Bureau of Pesticide Op.
CN 411
Trenton, NJ 08645-0411
(609) 530-4134

Division of Pest Control
New Mexico Department of Agriculture
P.O. Box 3005, Dept. 3150
Las Cruces, MN 88003
(505) 646-3208

Pesticide Control Specialist
Dept. of Environmental Conservation
50 Wolf Road
Albany, NY 12233-42512
(518) 457-7482

North Carolina Department of Agriculture
P.O. Box 27647
Raleigh, NC 27611
(919) 733-3556

Pesticide Program Specialist
North Dakota State University
Extension Service
Fargo, ND 58105
(701) 237-7180

Control Specialist
Oklahoma Department of Agriculture
2800 North Lincoln Blvd.
Oklahoma City, OK 73015-4298
(405) 521-3864

Oregon Department of Agriculture
635 Capitol Street NE
Salem, OR 97310-0110
(503) 378-3776

Pennsylvania Department of Agriculture
2301 North Cameron Street
Harrisburg, PA 17110-9408
(717) 787-4843

Rhode Island division of Agriculture
William's Building
22 Hayes Street
Providence, RI 02908-5025
(401) 277-2781

South Carolina Department of Fertilizer & Pest
Control
256 Poole Agricultural Center
Clemson University
Clemson, SC 29634-0394
(803) 656-3171



Vegetation Control

South Dakota Pesticide Program Supervisor
Anderson Bldg.
455 Pierre SD 57501-3188
(605) 773-3724

Tennessee Department of Agriculture
P.O. Box 40627
Melrose Station
Nashville, TN 37204
(615) 360-0130

Texas Department of Agriculture
Certification/Training Specialist
P.O. Box 12847
Austin, TX 78711
(512) 463-0013

Pesticide & Fertilizer Inspection
350 North Redwood Road
Salt Lake City, UT 84116
(801) 538-7100

Vermont Department of Agriculture
State Office Building
116 State Street
Montpelier, VT 05602
(802) 828-2431

Virginia Department of Agriculture
Office of Pesticide Regulations
P.O. Box 1163
Richmond, VA 23209
(804) 371-0152



Washington State Department of Agriculture
Certification and Training Coordinator
406 General Administration Building
Olympia, WA 98504-0641
(206) 753-5064

Cerification Coordinator
2100 Martin Luther King, Jr. Ave. S.E., Suite 203
Washington, DC
(202) 404-1167

West Virginia Department of Agriculture
Pesticide Division
Charleston, WV 25305
(304) 348-2209

Wisconsin Department of Agriculture
P.O. Box 8911
801 West Badger Road
Madison, WI 53708
(608) 266-9502

Wyoming Department of Agriculture
Agricultural Pest Control
2219 Carey Avenue
Cheyenne, WY 82002-0100
(307) 777-6590

Roadway and Ballast

SECTION 9.7 COMMENTARY (1994)

- a. Like other areas of engineering maintenance, vegetation control has become complex. Since the days when section gangs grubbed weeds, and simple one-system cars applied diesel fuel, the field has become mechanized and the herbicides regulated by federal and state laws. The term "management" has been substituted for "control". Such a change implies a concept greater than that of prevention or removal. As yet, the possibility of farming rights-of-way remains untried and falls outside our current concerns.
- b. To what extent can railroad employees still apply herbicides? Federal and state certification requirements differentiate between "commercial" and "private" (not for hire) applicators. In most areas the latter may still use general use pesticides on their own or their employer's property without passing state examination. Since only a few are restricted use products, most railroads make use of their own personnel for at least some of their granular or pellet applications. Other railroads have crews who are Certified Private Applicators in several states, and who can buy and apply restricted use products if necessary. It is probable that the list of states requiring all users to be certified and the list of restricted use herbicides will grow.
- c. It will be increasingly important for railroad personnel to gain proficiency through contact with a number of sources. For example, the Weed Science Society is an excellent source of information about products. The Federal Environmental Protection Agency and its various state branches are the ultimate sources of the most up-to-date regulations, State and county departments of agriculture and county and university extension agents can also be good sources, especially for species identification, The National Railroad Contractors Association can provide a list of companies with specialized equipment and certified applicators. State and County Health Boards may have special ordinances affecting local usage and of course the manufacturers themselves can provide technical data regarding their own products.



COMMISSIONERS
 JOSEPH B. C. FITZSIMONS
 CHAIRMAN
 SAN ANTONIO
 ALVIN L. HENRY
 VICE-CHAIRMAN
 HOUSTON
 J. ROBERT BROWN
 EL PASO
 NED S. HOLMES
 HOUSTON
 PETER M. HOLT
 SAN ANTONIO
 PHILIP MONTGOMERY
 DALLAS
 JOHN D. PARKER
 LUFKIN
 DONATO D. RAMOS
 LAREDO
 MARK E. WATSON, JR.
 SAN ANTONIO
 LEE M. BASS
 CHAIRMAN-EMERITUS
 FORT WORTH
 ROBERT L. COOK
 EXECUTIVE DIRECTOR

March 2, 2005

Surface Transportation Board
 Case Control Unit
 Washington, DC 20423
 Attention: Rini Ghosh
 STB Docket No. FD 34284

RE: Amended comments regarding fence height
 Draft EIS for Southwest Gulf Railroad Company construction and
 operation of a seven mile line of railroad in Medina County, Texas.

Dear Ms. Ghosh:

I was contacted by Thomas Ransdell, Vulcan Materials Company, on February 28, 2005 regarding comments Texas Parks and Wildlife Department (TPWD) provided to the Surface Transportation Board in a letter dated January 10, 2005 following a review of the Draft Environmental Impact Statement (DEIS) prepared to identify the impacts associated with the construction and operation of a seven mile line of railroad in Medina County, Texas. Based on information contained within the DEIS, TPWD recommended a wildlife exclusion fence, at least nine feet high, to prevent potential wildlife mortality caused by wildlife wandering onto the railroad tracks. Mr. Ransdell provided additional information that has resulted in TPWD amending that original recommendation.

Specifically, Mr. Ransdell has indicated that trains would be traveling at or less than 30 miles per hour (MPH). The Department concurs that the species of wildlife that would have been kept off the tracks by a nine foot tall fence (*i.e.*, deer) would under normal circumstances be able to avoid a train moving ≤ 30 MPH. Therefore, TPWD agree that a fence of standard height (approximately four feet) commonly used to contain livestock, would be suitable in the present project. A fence of this height would prevent livestock from wandering onto the tracks, yet allow deer to continue to move through the area as they can easily jump a four foot high fence.

TPWD does maintain the original recommendation that at least the bottom half of the fence should consist of fine mesh wire to prevent small animals (*e.g.*, Texas tortoise, a state-listed threatened species) from accessing and possibly becoming stranded on the tracks. It may be more cost effective for the entire fence to be constructed with a single mesh wire or woven wire with openings that are 1x1, 2x2, or 2x4 inches in size.

Also, as mentioned in the original response letter, project plans should incorporate wildlife crossings (under bridges or through culverts) wherever possible along the



Take a kid
 hunting or fishing
 • • •
 Visit a state park
 or historic site

To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations.

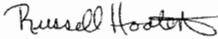
4200 SMITH SCHOOL ROAD
 AUSTIN, TEXAS 78744-3291
 512-389-4800
 www.tpwd.state.tx.us

Ms. Ghosh
Page 2
March 2, 2005

proposed route. TPWD understands that these design features will be fully developed as project planning continues.

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

Sincerely,



Russell Hooten
Wildlife Habitat Assessment Program
Wildlife Division

/rh

cc: Thomas Ransdell, Vulcan Materials Company



United States Department of the Interior

FISH AND WILDLIFE SERVICE
10711 Burnet Road, Suite 200
Austin, Texas 78758
512 490-0057
FAX 490-0974



#E1-1479
R9

MAY 19 2005

Victoria Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
Washington, DC 20423

Consultation # 2-15-03-I-0276

Dear Ms. Rutson:

This responds to your May 12, 2005, concurrence request for the construction of Southwest Gulf Railroad Company's (SGR) proposed rail line (Surface Transportation Board (STB) Finance Docket No. 34284) near the town of Quihi, Medina County, Texas. We understand STB has determined that the proposed construction is not likely to adversely affect the endangered golden-cheeked warbler (*Dendroica chrysoparia*), pursuant to section 7 of the Endangered Species Act of 1973, as amended (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

Effects to the environment from the construction of the 7-mile (11-kilometer) proposed rail line were analyzed in STB's November 5, 2004, draft Environmental Impact Statement (EIS). The EIS summarizes field surveys initiated by STB that indicate that no habitat for the golden-cheeked warbler or the endangered black-capped vireo (*Vireo atricapilla*) exist along the rail line route. However, a proposed loading track that connects with the rail line on the adjacent proposed Vulcan quarry property may contain habitat for the golden-cheeked warbler. Vulcan performed three years of presence/absence surveys for the warbler in this area, and found no individuals of this species. Therefore, we agree the project as proposed is not likely to adversely affect the golden-cheeked warbler.

Projects in Medina County also have the potential to affect species associated with the Edwards Aquifer, particularly in the recharge zone. It appears that most of the rail line occurs downgradient of the recharge zone. The loading track is within, or in close proximity to, the aquifer recharge zone, but all fueling of rail cars and other activities that can result in release of hazardous materials will occur outside of the recharge zone.

No karst invertebrate species are listed in Medina County. However, they do occur in adjacent Bexar County. We appreciate the willingness of STB to use caution during work around karst features, as they may contain connections to karst features in Bexar County that can support the endangered species.

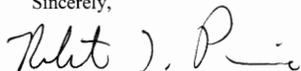
TAKE PRIDE
IN AMERICA 

Ms. Rutson

2

We thank you for your concern for endangered and threatened species and other natural resources, and we appreciate the opportunity to comment on the proposed project. If we can be of further assistance or if you have any questions about these comments, please contact Jana Milliken at 512-490-0057, extension 243.

Sincerely,



Robert T. Pine
Supervisor

STEPTOE & JOHNSON LLP
ATTORNEYS AT LAW

#E1-1664
RJ

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

September 7, 2005

VIA HAND DELIVERY

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.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 respond to your July 8, 2005 letter posing a series of questions to applicant Southwest Gulf Railroad (“SGR”) in connection with the environmental review of SGR’s proposed rail line.

- 1. SEA recognizes that SGR may not have the detailed information requested in Numbers 2-8 for MCEAA’s Modified Medina Dam Route, since information previously submitted by SGR did not provide the cut and fill numbers for this route, and this route has been proposed by MCEAA, not SGR. Therefore, if the information provided in response to Numbers 2-8 does not include information regarding MCEAA’s Modified Medina Dam Route, SEA requests SGR to provide a discussion of SGR’s assessment of this route in general terms.**

This question correctly assumes that SGR does not have any detailed information concerning “MCEAA’s Modified Medina Dam Route.” Nonetheless, SGR can offer the following observations. MCEAA submitted a map with alternative routes to SEA on January 9, 2005 as part of its comments on the Draft EIS. MCEAA’s map set forth two “eastern” routes, one with an orientation that is further east and more faithful to at least a portion of the route followed by the early twentieth century Medina Dam rail line than the other. This more eastern of the two routes is described as the “Medina Dam route” and is generally similar (but not identical) to the modified Medina Dam route described by SGR in its June

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

6, 2005 submission to SEA.

The more westerly of the two MCEAA routes, described by MCEAA as the "Medina Dam Alternative" is generally similar (but not identical) to the "Eastern Route" route that SGR has described in its June 6, 2005 submission to SEA. In that regard, we note that MCEAA's Alternative Medina Dam route exits the escarpment (on which these routes commence at their southern terminus) at about the same point as SGR's Eastern Route. From the point of exit of the escarpment traveling north, MCEAA's route follows a more northerly and then westerly orientation than does SGR's Eastern Route, which by contrast follows a generally shorter (northwesterly) orientation from the point of exit from the escarpment to the quarry.

MCEAA has not explained the criteria that it used to arrive at either of its routes or how the routes would traverse the flood plain areas, and has not provided cut/fill data relevant to either of its proposed routes. SGR does not have such information, but given the general similarity described above between the MCEAA alternatives and the comparable Medina Dam and Eastern Routes described by SGR, SGR believes that the cut/fill data relative to the MCEAA routes would be generally similar to those of the respective comparable routes described by SGR. Thus, the MCEAA Medina Dam route could be expected to cause the largest volume of cut/fill, while the MCEAA Medina Dam Alternative (like the Eastern Route has SGR has described) would result in somewhat less cut/fill, but still significantly more than any of the alternatives previously proposed by and analyzed in the Draft EIS.

As SGR has explained previously, there are several reasons why the Eastern Route is less attractive, and indeed suffers from substantial infirmities, in comparison to any of the routes considered in the Draft EIS. These are as follows:

(1) Following the receipt of SEA's July 8 letter, SGR reviewed the estimated cut/fill volumes for each of the routes for which SGR had previously supplied estimates with its June 6, 2005 letter to SEA. In its initial presentation of cut/fill data in that letter, SGR had assumed that all excavation would be in rock or a consolidated material capable of supporting vertical benches 10 feet wide by 20 feet high, resulting in a slope calculation of 0.5:1 (the equivalent of a 63° slope). Upon further review of this assumption and discussion with qualified engineers who reviewed surface geological maps of the area, SGR has now concluded that somewhat more refined data on the cut volumes would be generated by assuming side slopes of 1.5:1 (the equivalent of a 33° slope). Accordingly, cut volumes have been recalculated based on this revised assumption. See Exhibit 1 to this letter, which shows the previously estimated cut/fill volumes in cubic yards, the revised cut/fill volumes in cubic yards, and the differences between the previous and revised estimates for the cut volumes for each alignment discussed in the Draft EIS and for the Eastern and Modified Medina Dam Routes. These revised calculations were based in part upon a typical roadbed cross-section template as shown in accompanying Exhibit 2. The fill calculations previously presented by SGR (which assume stopping fill at the flood plain and using

trestles to cross streams) were not affected by this change in the underlying slope assumption for cut areas as no revision was deemed warranted to the 2:1 (26.5°) slope assumed for the fill calculations.¹

As shown in Exhibit 1, for each of the alignments the estimated cut volume has increased as a result of the change in slope stability assumptions used in the cut calculations, i.e., the assumed wider cut areas result in a higher volume of cut material. The differences between the previous and revised cut estimates are greater for the Eastern and Medina Dam alternatives due to the greater depth of the cuts required as one moves east, a reflection of the steeper escarpment that needs to be traversed by the more eastern alignments. Accordingly, the revisions to the cut/fill data presented here do not alter SGR's original conclusion that the Eastern Route and the Medina Dam Route would entail much more cut/fill than the Proposed Route and the three other alternatives assessed in the Draft EIS, rendering the eastern routes less attractive. As Exhibit 1 shows, the cut volumes for the Proposed Route would approximate 317,000 cubic yards compared to 834,000 cubic yards for the Eastern Route. The fill volume for the Proposed Route is estimated to be 102,000 cubic yards compared to a much greater 446,000 cubic yards for the Eastern Route. Increased cut and fill volume will necessarily result in more adverse impacts to the area from a visual/aesthetic standpoint. It will also result in more land use impacts because more land surface will be disturbed during construction and as a result of the embankments that will be needed for the right-of-way. Greater disruption to agricultural and other land uses in the area can thus be expected. Were reduced slope criteria employed in place of the criteria assumed here, the land use impacts would be even greater due to the resulting larger footprint of the right-of-way.

As SGR has discussed above and in previous correspondence, one of the key disadvantages of shifting the alignment to the east is the need to traverse steeper grades, requiring significantly more cut and fill, as well as higher operational costs for SGR to the extent that either of the eastern routes will have somewhat steeper grades than the generally flatter Proposed Route even after the described significant cut and fill work is completed. In this regard, it bears note that the SGR line will be used to transport unit trains that will often consist of approximately 100 loaded cars up the escarpment from the quarry to the UP line. To accommodate these trains, the line will have to meet the grade (no more than 1%) and curve criteria that SGR has previously described. See design criteria spelled out in TRAX Report, reprinted at page G-20 of the DEIS. By contrast, the early twentieth century railroad that was built to facilitate the construction of the Medina Dam was designed to carry construction materials only downhill off the escarpment to the Dam site and to return empty cars. The engineering considerations for that railroad were drastically different than those that would confront SGR with respect to transporting much longer and heavier loaded unit trains up the escarpment.

(2) The Eastern Route is considerably longer (about 1.5 miles) than the Proposed Route -- 9.01 miles versus 7.5 miles. It is also longer than alternatives 2 (7.23) and 3 (7.9). The increased

¹ SGR is of course aware of proposed mitigation measure 32 in the Draft EIS, which contemplates that graded embankments in wetlands areas will not exceed a 4:1 slope. SGR has previously commented on this measure, suggesting that it retain the flexibility to use a modified slope in wetlands areas upon consultations with the Texas Department of Parks and Wildlife.

length means a longer construction period, substantially greater cost, greater noise and air quality impacts, more fuel usage, less efficient operations, and additional land use and visual impacts. Alternatives 1 (10.6 miles) and the Medina Dam route suffer from the same infirmity (11.24 miles).² See attached Exhibit 3, which shows the length of the Proposed Route and each alternative.

(3) Based on its review of relevant land ownership records, SGR has determined that the Eastern Route will traverse at least 17 separate properties. In contrast, the Proposed Route would traverse 10 properties. Some of the 17 property owners are persons who have signed a covenant in which they have agreed with others not to sell property to SGR, evidencing that their would be opposition to any Eastern Route by persons in the area of that Route. Further, the Eastern Route will also traverse a subdivision under development known as Castroville West, which is identified on the USGS map attached as Exhibit 4 and the FEMA floodplain map attached as Exhibit 5. According to public plat records that SGR has reviewed and that are available at the Medina County Courthouse, approximately 20 separate tracts of land have been surveyed and sold in this subdivision and 13 to 15 homes have been constructed and are presently occupied in that subdivision. (SGR would be pleased to supply a copy of these records should SEA be interested in reviewing them.)

(4) The Eastern Route traverses significantly more prime, irrigated farmland which lies between stations 130 + 00 and 220 + 00, as shown on the maps of that route which are attached as part of the booklet of maps and materials which constitute Exhibit 6 to this letter.

(5) The Eastern Route crosses one more county road than the Proposed Route (CR 4643) and several private roads and driveways. The number of private roads and driveways is not known because of access limitations but a review of aerial photographs reveals at least four and possibly five. Further, the Eastern Route crosses FM 2676 (the most heavily traveled road crossed) at a less optimal place than the proposed route. Specifically, there is a shorter sight line for drivers approaching the crossing than in the case of the proposed alignment.

(6) The Eastern Route has a generally diagonal alignment whereas property boundaries in the area are generally north/south and east/west oriented. Thus, the Eastern Route is much more likely to disrupt land use, including prime farmland, because it will cut directly through many properties. This is in contrast to the proposed route, which was carefully aligned to traverse along property boundaries as much as possible and thus not disrupt land use.

² In its June 6, 2005 letter to SEA, SGR stated that the Eastern Route was approximately 1.6 miles longer than the proposed or alternative routes considered in the DEIS. That statement should have noted that Alternative 1 (which SEA has tentatively determined in the Draft EIS suffers from several infirmities) is in fact longer than the Eastern Route. The data provided here offers a more precise view of the length of each alternative, reflecting further analysis undertaken by SGR. SGR does not favor either Alternative 1 or the Eastern Route due in part to their length and associated higher operating costs and greater impacts.

(7) The Eastern Route will also have cultural resources impacts. In a report that SGR will submit to SEA under separate cover, SGR's cultural resources consultant identifies several historic structures in or adjacent to the APE of the Eastern Route. Further, there are also areas along the Eastern Route where there is a heightened likelihood of archeological sites.

(8) The Eastern Route, which would cross Quihi Creek at a wider point on the Creek and thus cross more floodplain, sacrifices the benefits of crossing Quihi Creek at the narrow point at which it would be crossed by the Proposed Route. The Proposed Route's would cross the Creek at a point of minimal flow, upstream from a point where the Creek intersects with other creeks. SGR has previously described the advantages of the crossing at the point in its August 4, 2003 letter to SEA. Further, in the DEIS, SEA concluded "that there would be fewer impacts to wetlands from the Proposed Route than the other rail alternatives" that were assessed in the DEIS.

2. **Please provide the back up calculations that SGR used to support the cut and fill volumes provided in the April 4, 2005 and June 6, 2005 letters to SEA. Please include any drawings showing cross-sections with stationing, from which end areas would have been determined for use in calculating volumes.**

The methodology used to determine cut and fill volumes previously reported by SGR was described at page 6 of SGR's April 4, 2005 letter to SEA. As noted in that letter, the cut/fill volumes reported by SGR are based on preliminary engineering data, as final engineering will not be undertaken until a route has been approved by the STB. While actual cut/fill volumes may thus be somewhat different from those reported by SGR, the data offered by SGR nonetheless was based on a sophisticated modeling technique and provides a sound basis for comparing the cut/fill volumes as between the different routes under consideration. It should be noted, however, that these data are subject to refinement based on final engineering design.

SGR is prepared to provide SEA with a full set of the calculations underlying its cut/fill analyses and to work with SEA's contractor to set forth in detail how the analyses were done. Given that there is a huge volume of data underlying its calculations, SGR is (by pre-agreement with SEA staff) providing a sampling of such data for verification by SEA. See Exhibit 7 to this letter, which shows cut/fill data at specific stations drawn from SGR's analysis of the Proposed Route and sets forth a description of the process by which the cut/fill data was derived, using a civil engineering computer program.

3. **Please provide the typical roadbed cross-section template SGR used in modeling the proposed roadbeds showing roadbed widths, side slopes, ditches, and berms. If more than one typical template was used, please provide all templates and the corresponding station limits along which the templates were applied to determine the cut and fill quantities. Please specify the type of material(s) that were used for the rail bed (soil, rock, etc).**

In its preliminary engineering analysis of the Proposed Route and the alternatives, and in the absence of subgrade material data that will not be available until the final engineering stage, SGR

applied widely accepted engineering practices in assuming a suitable, consolidated formation, with sufficient bearing capacity for the intended tracks. SGR has utilized a typical cross-section of an industry track as a template for modeling the proposed roadbed. The cross section appears in Exhibit 2.

SGR intends to utilize crushed limestone base for the rail bed and a combination of trap rock and limestone aggregate for the ballast material.

4. **Please provide any plans showing areas anticipated to be undercut along with the extent of undercutting to be done and the source material used to determine those areas requiring undercutting.**

We understand this question to be inquiring about areas that SGR has identified that may need to be cut either for grading or other rail engineering purposes, i.e., due to any inadequacy of bearing capacity of the existing soil for supporting the rail bed and track. The profiles set forth on the USGS maps provided for each route in Exhibit 6 show those areas that SGR believes will require cutting for grade purposes. SGR does not have more detailed plans showing areas anticipated to be undercut and does not know the precise extent of any undercutting to be done. These are determinations that can only be made once final engineering is accomplished utilizing data from geotechnical studies. Such work will be undertaken only after a final route has been chosen at the end of the environmental review and STB exemption processes. At this stage of the regulatory process, SGR has presented the best information reasonably available to it based on preliminary engineering. It has done so, and will continue to do so, consistent with its obligations under NEPA so that SEA can make an informed assessment of impacts. However, for the reasons stated, the data requested by this question is simply not available at this time.

5. **Please provide grade profiles of each of the alternative rail routes. The profiles should show the existing grade (ground elevations at the present time) and where SGR plans for the sub grade (roadbed elevation at the earth and sub-ballast interface) of the rail line to be (proposed construction grade). Please indicate on these profiles the locations where cut and fill would be needed.**

See Exhibit 6, which includes aerial photos of each route, as well as USGS maps displaying each route. The USGS maps also set forth grade profiles for the Proposed Route and the alternatives considered in the Draft EIS, as well as for the Medina Dam route and the Eastern Route described by SGR. The charts attached to each set of maps/profiles in that Exhibit show the extent of the cut or fill that would be required at each station identified on the accompanying maps.

6. **Please provide one map with the following features: existing and proposed topography (using five foot contours and a 1:24000 scale map or larger (1 inch = 1000 feet scale is preferable); 100-year floodplain; streams; proposed alternatives; and limits of grading/disturbance. Each alternative rail route should be clearly marked and stationed, and contour lines clearly visible and legibly annotated. Please also provide the most recent**

aerial photograph (with map scale) showing the rail alignments.

See attached USGS map (Exhibit 4), which depicts the various alternative routes with 10 foot contours. SGR does not have a map that shows five foot contour information for "spot elevations." Also see attached map (Exhibit 5) which shows 100 year floodplains based on FEMA data. The floodplain data shown on Exhibit 5 is the only official data in the public domain available at this time.

7. **Please provide the top of rail bed elevation at the point where the proposed track would leave the existing UP track and the proposed top of rail bed elevations for the track as it would enter the quarry, using the location of the assumed gate over the tracks as the entry point. Also, please provide the length of the rail for each alignment so that the average gradient change can be determined throughout each alignment. We note that SGR has previously provided information indicating that the Proposed Route and Alternative 2 would each be approximately seven miles in length, Alternative 1 would be nine miles in length, and Alternative 3 would be 7.5 miles in length.**

See Exhibit 3, which shows the top of the rail bed elevation at the point of connection with the UP line and at the quarry entrance, as well as the length of the Proposed Route, the alternatives assessed in the Draft EIS, as well as the Eastern Route and the Medina Dam route.

8. **In addition to the berms called for in the typical cross section requested in item 2, please provide information regarding the proposed location of any earthen berms that would be used for storm water runoff or flood control and their height relative to the existing elevation at their points of construction along the various alignments.**

SGR does not have this information and will not have it until the final engineering stage for the route ultimately approved by STB and as to which SGR decides to build its rail line. However, SGR can state at this point that it will design its rail bed, and any earthen berms, using best practices so as to control erosion, storm water runoff and reduce any risk of flooding caused by the location of the rail line.

Details Regarding Construction and Operation of SGR's Proposed Rail Line:

Numbers 9-22 raise specific questions regarding the construction and operation of SGR's proposed rail line. Please provide the requested information for all alternatives identified to date (i.e. the proposed route, Alternative 1, Alternative 2, Alternative 3, SGR's Modified Medina Dam Route, MCEAA's Modified Medina Dam Route, and the Eastern Bypass Route) to the extent available.

9. **Has SGR developed more detailed engineering plans regarding the proposed stream crossings for the various alternative rail routes, such as the location and design of bridges and culverts for each crossing? If so, please provide this information as well as the existing 100-year water surface elevations for all crossings.**

SGR has not developed detailed engineering plans at this stage, and will not do so until a specific route is chosen. In all cases, however, SGR will use best practices to minimize the volume of fill in flood plain crossings and the placement of structures in the floodplain, to the extent possible. Please note, however, that SGR cannot commit to avoid placing fill or structures in the floodplains. Accordingly, the fact that SGR's preliminary cut/fill data provided to SEA assumes that fill would not be placed in floodplains reflects SGR's intentions, but should not be viewed as a commitment. Further, SGR notes that waterways (river, streams, creeks), wetlands and flood plains are regularly crossed by roadways and rail lines having properly designed structures which do not negatively impact the flow of water. SGR is proposing nothing exceptional relative to the type of good, standard engineering design and construction practices that have been in use for decades. To any extent that fill is placed in the floodplains, SGR commits that it would consult with, and seek appropriate permits from, the Corps of Engineers or any other agency that might have jurisdiction over the matter. See SGR Comments on the Draft EIS, submitted on January 10, 2005 at 3.

10. **Comments have indicated concern regarding the potential for rail operations to block emergency evacuation routes during flooding events. If SGR has developed any plans to address these concerns, please provide this information.**

SGR has not yet developed such plans and will not do so until a final route is chosen since the plans will be geared to the specific route. SGR is prepared, as a matter of voluntary mitigation, to develop emergency evacuation plans prior to constructing the railroad, following the completion of final engineering on whatever route is chosen for construction. SGR would include in its operational plans for the line language that requires the routine monitoring of weather reports and conditions so that it will be in a position to temporarily cease operations along the line as may be warranted by weather conditions. The plan will also provide that rail operations would not resume until any flooding has ceased and an inspection made of the rail line to ensure that it is safe to resume operations. Further, trains using the SGR line will not be parked so as to block emergency evacuation routes.

11. **Please provide copies of any written correspondence from Duke Energy and Koch Pipeline regarding the pipeline crossings. Please provide the width of the Duke Energy pipeline. Does SGR have any additional information on the allegedly ruptured pipeline discussed on Page 3-3 of the Draft EIS?**

The Proposed Route and alternatives considered in the Draft EIS cross two pipeline right of ways. The pipeline nearest the south end of the route (previously operated by Koch Pipeline) was removed in 2004. The pipeline right of way on the north end of the route, originally owned by Duke Energy has recently been sold to Texas Field Services ("TFS"). That pipeline right of way is 30 feet wide and the pipeline is 10" diameter. Prior to the sale, all contact with Duke Energy relating to this project had been verbal, and thus there is no correspondence that can be shared with SEA. In recent discussions with representatives of TFS, SGR has requested specifications for construction requirements for crossing the pipeline right of way with the rail line. SGR has been advised that such specifications are under development by TFS and will be supplied when they are completed. SGR does not have any information on the allegedly ruptured pipeline.

12. **Does SGR have any information on the location of existing water lines, sewer lines, and electrical utility lines potentially crossed by each alternative?**

SGR does not have any information on existing water, sewer or utility lines potentially crossed by each alternative. Such information would be gathered at the time of final engineering. SGR does not perceive any problems with crossing these utility lines. SGR is prepared to accept as voluntary mitigation a requirement that it work with local utilities, and review crossing protocols that may already be in place for each such utility, to ensure that its rail line does not interfere with the operation of any utility line that might be crossed.

13. **Has a Spill Containment and Countermeasures Plan (SPCC) been developed for the proposed rail line or the fueling and maintenance area? If so, please provide a copy of the SPCC Plan. As indicated in the comments of the U.S. Environmental Protection Agency (#EI-1313), any SPCC Plan should include a map showing recharge features in the Edwards Aquifer Recharge Zone (EARZ) in the vicinity of the proposed rail line, and indicate measures to protect groundwater from contamination through those features.**

An SPCC for the fueling and maintenance area has not yet been developed and will not be developed until the project moves into the final engineering stage. Once developed, the SPCC will address spill prevention and countermeasures to protect groundwater from contamination. The SPCC will be prepared and implemented in compliance with the EPA's regulations at 40 CFR Part 112, including the map requested by EPA in its comments noted above. Neither the rail line (except for the loading area near the quarry) nor the fueling/maintenance facility are located on the Edwards Aquifer Recharge Zone. See SGR September 2, 2003 letter to SEA and Exhibit 1 attached to that letter.

14. **In the Draft EIS, SEA recommended mitigation that would require SGR to utilize Best Management Practices to minimize the impacts of construction and operation to groundwater and surface water resources. Comments have requested specific information regarding the Best Management Practices that would be taken. If SGR has developed specific measures and Best Management Practices that would be taken to minimize impacts to groundwater and surface water resources, particularly for operations on and off the EARZ, please provide this information.**

SGR has not yet developed specific Best Management Practices ("BMPs") to minimize impacts to groundwater and surface water resources. These best practices will be developed as part of the storm water protection plan and permitting process, and can only be developed once final engineering has been completed on the approved rail line since the BMPs will take into account the specifics of the route to be constructed. When BMPs are developed, SGR will first assess the risks of contamination of groundwater and surface water resources to determine necessary controls and safeguards, as well as the actions to be taken if there is a spill. As the rail line (other than the loading loop in the vicinity of the quarry) will be south of the Edwards Aquifer Recharge Zone (EARZ) these BMPs will only deal with SGR's operations off of the EARZ. The Water Pollution Abatement Plan (WPAP) that will be submitted by Vulcan with respect to the quarry (see response to question 25, below) will address

practices to be undertaken on the EARZ. This application is currently in the process of being formulated.

15. **Please provide more detailed information on how the planned fueling facility would operate (e.g. storage and management of fuel, the thickness of the confining layer in the area, and safeguards against drainage of spills onto the recharge zone).**

As SGR has previously reported, the fuel maintenance area will not be located on the recharge zone. Above ground fuel and oil storage tanks will be utilized and located in concrete containments of adequate height, volume and thickness to prevent leakage into the ground should the tanks integrity be breached.

In addition, a Spill Prevention and Countermeasures Plan to be developed by SGR and Vulcan will address containment of fuel consistent with applicable regulations governing the storage of fuel, as discussed above. There will be fencing and/or other security measures for the containment area as required by the SPCC rules. The tanks will have fill gauges to prevent overfilling and procedures will be in place to clean up incidental spills. The WPAP permit that Vulcan will seek to obtain will address the BMPs to be applied and drainage matters.

16. **Based on oral representations from SGR, SEA has assumed that SGR's rail operations would take place during daytime hours (7 a.m. to 10 p.m.) for the purposes of SEA's noise analysis in the Draft EIS. Please verify that these operations would take place during daytime hours.**

SGR plans to operate its rail line during daytime hours (7 am to 10 pm) to the extent possible, and anticipates that most rail movements will take place during these hours. However, SGR is not prepared to represent that all rail movements will occur during these hours. In that regard, SGR has determined that there may be times when, to satisfy the operational needs of the Class I railroads and Vulcan's customer needs, including any emergency needs, trains may need to move over the SGR line during nighttime hours. SGR cannot at this point quantify the number or percent of train operations that may be conducted during nighttime hours

17. **Would the water that SGR plans to use for construction, operation, and maintenance activities be obtained from local or other sources? Are there any applicable water appropriations requirements?**

SGR will obtain water for construction, operation and maintenance from the most economical and environmentally safe source. This could be from local water authorities or private land owners. Also, Vulcan owns Edwards Aquifer water rights and other water rights that can be transferred from Bexar County operations and other Vulcan operations in Medina County to adequately supply the needs for construction, operation, and maintenance of the SGR rail line.

18. **Please provide a description of how the proposed rail loading operations would take place**

at the rail loading track on the quarry site.

The rail cars would be loaded in one of two ways. Rubber tired, front end loaders will load material directly into the cars from finished product stockpiles in the vicinity of the loading track or the rail cars will be loaded from an elevated loading bin filled by a conveyor(s) located under large finished product stockpiles. It is anticipated that loading of each train will be a continuous process taking about eight (8) hours and that locomotive power will be used to "spot" the railcars for loading.

19. **Has SGR determined whether the rail loading track on the quarry site would be a series of straight parallel tracks or a loop?**

While SGR is leaning toward the loading loop that has been depicted on maps of its proposed line, there is still the possibility that it may use a system of straight tracks in lieu of a loading loop. A final decision will be made in the final design process after a route has been chosen for construction.

20. **Would construction activities for the proposed rail loading track differ from construction activities for the construction of the rest of the rail line? If so, please describe how.**

Construction activities for the proposed loading track would not differ in comparison to those for the rest of the rail line.

21. **Please provide information regarding the number of private roadways and driveway crossings for each alignment and whether SGR has developed specific plans for these crossings.**

SGR is aware that its Proposed Route would not cross any private roadways or driveways. The modified Medina Dam Route and the Eastern Route would each cross about four to five private roadways and driveways, but due to access limitations a definitive number cannot be determined. SGR does not have specific information on the number of private roadway or driveway crossings for Alternatives 1, 2 or 3. To the extent that SGR were to build its railroad on an alignment that would cross private roads or driveways, SGR has not to date developed specific plans for addressing such crossings, but would take reasonable steps consistent with any applicable regulatory requirements to ensure safety.

22. **Additional information regarding the proposed rail operations would be helpful in responding to comments. Commenters have requested the following information:**

How long would loaded rail cars stand idle? As it would be impossible to anticipate weather, scheduling and mechanical issues impacting the idle time, SGR is designing the system to load a 100 car unit train in 8 hours from the time it arrives at the quarry loading area. SGR does not know the answer to this question relative to other traffic it may handle for shippers that might locate on its line.

Ms. Victoria Rutson
September 7, 2005
Page 12

How many cars would accumulate before shipment? With respect to the Vulcan shipments, SGR plans to ship approximately 100 loaded cars per unit train. Maximum number? SGR's plans include a loop loading system that could hold up to approximately 200 loaded cars for Vulcan. SGR does not know the answer to this question relative to other traffic it may handle for shippers that might locate on its line.

Where would these unattended, loaded cars be parked? SGR currently plans that the cars handling Vulcan shipments will be parked on the loop track in the loading area and that these cars would be attended by SGR's load out crew. SGR does not know the answer to this question relative to other traffic it may handle for shippers that might locate on its line.

How would dust be controlled in this area? We assume that this question refers to the quarry area. Best Available Control Technology (BACT) will be utilized by Vulcan to control dust emissions at the facility. The BACT practices used are derived from the TCEQ Technical Guidance for Rock Crushing Plants (RG 058, February 2002).

Emissions from the first section of the plant will be controlled by operating water sprays at the inlet and outlet of the crushers, screens, and conveyors. Partial enclosures will also be used at the locations where material is transferred from crushers to conveyors to reduce emissions from cross winds.

The second section of the plant consists of wash screens, conveyors, and processes where the material is drenched with or submerged in water. This method of processing the material inherently controls emissions well beyond BACT requirements because it is saturated. The crushers in this section will be equipped with water sprays at the inlet and outlet points.

Emissions from the roads, active work areas, and stockpiles will be controlled by the use of an 8000 gallon water truck. The water truck will apply water to the road and work areas; a side cannon on the truck will be used to water stockpiles as needed. In addition, the entry/exit road will be paved, watered, and washed to control dust. A wheel wash will be installed at the location where trucks enter the paved road from the unpaved area, minimizing track out onto the paved road. In addition, signs will be posted, limiting product trucks to 15 mph on the facility property.

Would the diesel locomotives be idling during loading? We assume that this question refers to loading Vulcan shipments. Locomotives will be utilized to position the railcars when being loaded and their engines will not be stopped during this process. If so, for how long? SGR has not developed an estimate of the length of time that the engines of the locomotives would be at idle speed during the loading process.

If SGR plans to operate trains at speeds ranging from 12 to 25 miles per hour, why does the track design need to accommodate speeds of 40 miles per hour? If SGR could use speeds of 12 miles per hour going up one-degree grades, why could not speeds of 12 miles per hour be used to round curves? The track design is based on safety considerations. SGR expects that the average speed of trains

Ms. Victoria Rutson
September 7, 2005
Page 13

operating on the line may be 25 miles per hour and therefore top speeds are expected to exceed 25 miles per hour. The speed to be used on curves will vary based on the degree of curvature and grade considerations.

How long would a train sit on the rail line waiting to be transferred to the Union Pacific Railroad Company (UP) rail line? How would operations be coordinated with UP? Would cars be marshaled? How many trains would be on the rail line at one time? The amount of time a train will sit on the SGR line awaiting interchange to the UP line will vary based on the schedules of trains operating on the UP line. SGR personnel will coordinate regularly with UP personnel regarding train interchange with respect to scheduling and other operational considerations. SGR cannot estimate how many trains will be on the rail line at any given time however, it is highly unlikely that there will be more than one train in transit on the SGR line at any one time due to the fact that it will be a single track line. As stated in the DEIS, SGR anticipates that there will be two movements of empty trains and two movements of loaded trains on a daily basis when the quarry is operating at design capacity. SGR will coordinate its operations with the UP or other Class I railroads to provide for the most efficient handling of cars on the SGR line.

How would SGR connect to and move trains to and from the UP line? These details will be worked out with the Class I railroads in the future.

Would SGR move directly from the quarry to the main line without pausing? It is currently anticipated the unit trains would move directly between the main line and loading area without stopping. SGR does not know the answer to this question relative to other traffic it may handle for shippers that might locate on its line.

What would be the average speed of the train entering or exiting the quarry at County Road 353? This would be determined after final engineering of the crossings and the development of an operating plan for the line after a final route has been chosen and the grades and lines of sight have been determined. However, SGR does not anticipate that speed of trains at this point would exceed 10 mph.

What would be the estimated speed of the train entering or exiting the UP line? This has not yet been determined because the type of switch (manual or automatic) and the design of the line at the point of intersection has not yet been engineered.

How much time would be required for a loaded train to accelerate from rest to 20 miles per hour? This would depend on the number of and type of engines and the grade and curvature of the track.

What would be the average speed of the train as it crosses County Road 353 from the quarry? This will be determined after final engineering of the crossing and the development of an operating plan for the line, after a final route has been chosen and the grades and lines of sight determined. As noted above, SGR does not anticipate that the speed of the trains at this point will exceed 10 mph.

What would be the days and hours of the train movements? SGR plans to operate 7 days per week. The exact hours of train movements are subject to several factors, which include the schedules established by the Class I Railroads and the needs of any other shippers that might locate on the SGR line.

Would UP's "fall peak" period affect the quarry movements? Based on SGR's consultations with UP, UP does not believe that the fall peak period will have any impact on traffic originating on the SGR line. It is possible that the "fall peak" period may have some short term impact on SGR operations, but SGR believes that this will diminish over time as the UP increases its system efficiency.

Would crossings near the loading area experience very slow or stopped cars? We assume that the reference is to the loading area near the quarry. The speed of SGR trains will be subject to a variety of considerations noted above, e.g., grade, curvature, operating demands. SGR's operating plan will be developed once a final route is chosen and final engineering completed. SGR does not intend to block crossings for any longer than is needed for the trains to pass. As noted, cars will be located on the loading tracks during loading operations, not on the portion of the SGR line that crosses any public roads.

Trucks: Numbers 23-24 refer to the use of trucks being analyzed by SEA as part of the "no action" alternative.

23. **How long would it take to construct the truck-to-rail remote loading facility proposed as part of trucking operations if SGR's rail line were not built? How many workers would be needed for the construction and operation of this facility?**

It will take approximately six months to construct this facility were it needed. Approximately fifteen to twenty workers would be needed for this project.

24. **SEA has assumed that the truck traffic to local markets, assessed as part of SEA's analysis of cumulative noise impacts in the Draft EIS, would take place during daytime hours (7 a.m. to 10 p.m.). Please verify that this is correct.**

This is correct. However, it is possible that customers such as the State of Texas, Medina and surrounding counties as well as contractors working for these agencies can have emergencies that could from time to time require truck shipments on a 24 hour basis.

Proposed Quarry: Numbers 25 — 31 refer to specific questions that have been raised regarding VCM's proposed quarry, which SEA is assessing, at a minimum, as part of the cumulative impacts analysis.

Vulcan is providing answers to these quarry-related questions in connection with the cumulative impacts analysis that SEA is undertaking in connection with the SGR rail line.

25. **In a letter dated February 15, 2005, you submitted information regarding several**

permitting processes for Vulcan Construction Materials, LP's (VCM) new quarry. You stated that VCM had received an air quality permit for a temporary rock crusher from the Texas Commission on Environmental Quality (TCEQ), was in the process of applying for a water pollution abatement plan (WPAP) from TCEQ, and would be applying for a storm water permit from TCEQ. Please provide an update on the permitting processes for the quarry.

Vulcan submitted an air quality permit for quarry operations to the TCEQ on July 7, 2005, and that application is pending before the TCEQ. That submission was independent of the portable rock crusher operations application previously described in a letter to SEA dated February 15, 2005. That July 7 application conservatively assumes, for purposes of air emissions projections, the use of truck transport of the aggregate extracted from the quarry. The application also notes, however, that the rail option (which is the option favored by Vulcan for safety, efficiency, environmental and other reasons) remains under regulatory review.

Vulcan is working on the hydrological and floodplain studies to support a WPAP application, which accordingly has not yet been submitted. Vulcan has not yet submitted an application for a storm water permit, but will do so prior to initiating quarry operations.

26. **According to information provided by the Medina County Floodplain Administrator, Medina County's floodplain permitting process follows the requirements of the Federal Emergency Management Agency's National Flood Insurance Program, set forth at 44 CFR 60.3, which was developed to implement the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4001 et. seq. Has VCM begun consultation with the Floodplain Administrator to determine whether a floodplain permit would be required for the quarry? According to our review of the applicable regulations and a recent telephone conversation with the Floodplain Administrator, it appears that the Floodplain Administrator would need to make a determination that no permit is needed or would need to issue a permit prior to VCM beginning construction activities at the quarry.**

Vulcan has not to date consulted with the Medina County Floodplain Administrator concerning whether a floodplain permit would be required for the quarry. Vulcan does not believe that a permit will be required since it does not intend to construct any structures in the floodplain. If that situation were to change, Vulcan will take appropriate regulatory action. Accordingly, at the appropriate time, and to the extent warranted by the circumstances and the relevant legal requirements, Vulcan will conduct such consultations relative to the quarry.

MCEAA has alleged that the Vulcan quarry will increase flood risks by (1) removing all vegetation from the quarry site near Polecat and Elm Creeks, (2) altering hydrological characteristics of the area by excavating, blasting into ledges, and piling debris; (3) paving or rendering impermeable large portions of the site and (4) pumping significant amounts of groundwater for site use and dust control upgradient and then redepositing that water in a concentrated fashion to the groundwater table

downgradient.

MCEAA's flooding concerns are not well grounded. As to point 1, Vulcan will only remove vegetation in the quarry area at the site of the quarry pit and as necessary for quarry operations. Vulcan intends in fact to retain as much vegetation as reasonably possible as a best management practice, and has no current intention to remove all vegetation in the area of Polecat or Elm Creeks. Further, Vulcan expects that its storm water permit will impose conditions designed to reduce erosion, including the retention of vegetation.

As to point 2, while it is true that there will be some changes to the hydrological characteristics of the area as a result of excavation, the impact should not be adverse relative to the flooding concern since the pit that will be excavated will not reduce the level of recharge into the Aquifer. The Water Pollution Abatement Plan will ensure that Vulcan's activities do not result in undue runoff from the quarry area. Vulcan will maintain retention and/or detention ponds into which excess rainwater will drain and will follow other best management practices, the nature of which will be determined following further hydrological studies, now ongoing. The impact of any debris piles will be taken into account in the WPAP process.

As to point 3, Vulcan intends to pave only the entrance/exit road to/from the quarry. Doing so will improve air quality by controlling dust from truck operations. The remaining quarry area will not be paved.

As to point 4, Vulcan does not understand MCEAA's concern. All water extracted from wells for use at the quarry will be recycled. Thus, there will be no discharge of water used in quarry operations. The only water that will exit the quarry site will be excess rainwater and that water will leave only after being filtered and sediment has been removed. Further, such water will be discharged in a controlled manner so as to eliminate any flooding risk.

It also bears reiteration that, in response to MCEAA's concerns about quarry-induced flooding, that Vulcan will be subject to the conditions imposed on it by the WPAP permit for which it will be applying. Further, as noted Vulcan will consult as appropriate with the Medina County Floodplain Administrator should it take actions requiring that it do so.

Further, as Vulcan observed in its March 22, 2005 letter to SEA (at page 7), SEA determined based on its consultations with FEMA, Corps of Engineers and Medina County Floodplain Administrator that any of the alternative routes could give rise to some impacts on flooding and stream sedimentation. See DEIS 4-29 through 4-41. SEA then determined that a combination of the extensive mitigation volunteered by SGR (in the form of hydrological testing and design studies), and the extensive additional mitigation proposed by SEA (proposed mitigation measures 13-29), would adequately address these impacts. These proposed mitigation measures require, among other actions, that SGR comply with FEMA requirements prior to commencing construction activities in the 100 year floodplain; that SGR conduct a floodplain study and coordinate with the Medina County Floodplain Administrator; that SGR obtain any required Section 404 permits from the Corps of Engineers and that

SGR use best management practices to minimize erosion and reduce the potential for oil and fuel spills. SGR intends to adhere to all reasonable mitigation measures ultimately imposed by SEA.³

27. **Please provide a georeferenced digital map of the footprint of the quarry as well as a drainage plan for the quarry. This plan should show how flows that would enter the pit would be diverted, and where these diverted flows would be discharged downstream or adjacent to the quarry. Please provide the design capacities of the diversion structures.**

Vulcan has not yet developed the information called for by this question. Should such a map become available during the course of this proceeding, Vulcan will advise SEA. In connection with the preparation of its WPAP permit, Vulcan is in the process of developing the drainage data needed to prepare the information called for by this question.

28. **Please provide specific information about blasting activities at the quarry, including the approximate frequency and duration of blasting activities. This should include information about how blasting activities would be regulated and information about the distances at which blasting effects could affect sensitive structures (e.g. historic structures, wells). Please provide any information about the specific location of sensitive structures in relation to the quarry site. Any methodology used or information provided should be clearly explained and referenced.**

Blasting at the quarry will occur approximately five times per week when the quarry facility is operating at its design capacity. The duration of any given blast will be from 350 milliseconds to 1,500 milliseconds.

Vulcan will design all blasts using best available control technology, as it does at all of its quarries across the country. Further, Vulcan will design its blasts so as to comply with the widely applied blast-induced vibration guidelines set forth in report RI 8507 issued in 1980 by the U.S. Bureau of Mines. These guidelines take into account distances to the nearest sensitive structures, to ensure that vibrations and corresponding frequencies do not exceed the threshold for damage criteria as defined by the U.S. Bureau of Mines. Vulcan is not aware of any local regulations governing blasting activities in Medina County.

Beyond the information on historic structures set forth in the Draft EIS, Vulcan at this time has no information on the location of any historic structures near its quarry. Vulcan will take into account the information on historic structures (of which there are a very limited number in the area of the quarry) in designing its blasts. Vulcan also has no information on the location of wells that may be near its quarry. However, one of the proposed mitigation measures in the DEIS would require SGR to consult

³ In a January 10, 2005 submission to SEA, SGR offered some modest comments on Mitigation Measure No. 24, concerning coordination with the Medina County Floodplain Administrator.

Ms. Victoria Rutson
September 7, 2005
Page 18

with property owners located adjacent to the rail right of way to identify the location of any wells in order to ensure that the railroad is constructed so as to retain the integrity of those wells. Vulcan will have access to information developed through that means and will take that information into account in designing its blasts. Vulcan will of course take into account the location of all other structures in the area as well in designing its blasts.

29. **Will the quarry be dewatered during mining operations? If so, how will storm water and wastewater be treated? Please provide an update on the WPAP application process. Also, please provide all technical reports and supporting documents and maps used for the WPAP application, as well as agency and consultant contact information.**

Normally, the quarry will not be dewatered as the quarry is on a recharge zone and is not expected to hold any significant amount of water. Vulcan operates several quarries on this Aquifer and does not normally dewater them. The quarry will be dewatered only after an unusually large rain event and only in the exceptional circumstances in which such action is needed to continue quarry operations. Any such dewatering will occur slowly and serve, in effect, as a flood control mechanism preventing a sudden or instantaneous surge of water in the event of a heavy rain. The outfall or location where water will be discharged in the event pit dewatering takes place will be identified in the storm water pollution prevention plan when developed.

There will be no discharge of wastewater as no wastewater will be discharged from the quarry. All such wastewater will be recycled within quarry boundaries. Under the storm water permit that it will seek and presumably receive, Vulcan will be permitted to discharge rainwater without treatment as long as the water meets required quality standards. Samples will be taken, as required by the permit. These samples will be inspected and tested according to the permit to ensure that the water meets applicable quality requirements. Vulcan is not yet in a position to share any technical reports or supporting documents relative to its WPAP application. That application is still in process, but Vulcan will advise the SEA when it is filed if that happens during the course of this proceeding.

30. **SEA's analysis of cumulative transportation and traffic safety impacts in the Draft EIS estimated that about 100 quarry employee cars would use roadways in the project area each workday, based on information provided by SGR. Please verify that this is correct.**

This is correct.

31. **Please provide information on the purpose and design of the proposed buffer zones around the quarry site.**

While a buffer zone surrounding the quarry site is not required by any regulations, Vulcan will maintain a minimum 100 foot buffer zone (set back) between the area to be quarried and the boundaries of all adjoining properties for safety and aesthetic purposes. Vegetation will be retained in the buffer zones as a BMP for storm water quality and to prevent erosion. Because the quarry pit will only advance at approximately 50 acres per year, the 1800 acre site will have significant unutilized area for

Ms. Victoria Rutson
September 7, 2005
Page 19

many years to come. Those areas not being utilized for quarrying purposes will likely serve as a wildlife habitat.

We would be pleased to respond to any questions that you might have concerning the above.

Respectfully,



David H. Coburn
Attorney for Southwest Gulf Railroad Company

cc: Ms. Rini Ghosh
Ms. Jaya Zyman-Ponebshek

SGR - Proposed & Alternate Routes
 Cut/Fill Volumes Comparison
 (assumes stopping fill at flood plain and using trestles to cross streams)
 August, 2005

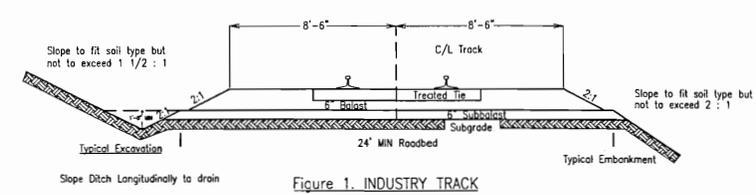
Route	New Volumes (Cubic Yards)		Original Volumes (Cubic Yards)		Difference in volumes between New and Original Calculations (Cubic Yards)	
	2 : 1 Slope		0.5 : 1 Slope		2 : 1 Slope	
	Cut	Fill	Cut	Fill	Cut	Fill
Proposed	316,721	101,973	167,683	101,973	149,038	-
Alternate 1	27,126	187,430	22,456	187,430	4,670	-
Alternate 2	101,613	123,775	69,562	123,775	32,051	-
Alternate 3	176,696	425,865	109,882	425,865	66,814	-
Mod. Medina Dam	1,333,112	928,248	729,778	928,248	603,334	-
Eastern Route	834,106	445,533	336,566	445,533	497,540	-

EXHIBIT 1

TOLERANCES—UNLESS NOTED
 FRACTIONAL: ± 1/16"
 DECIMAL: ± 0.01"
 ANGLE: ± 1°

THE COMPANY IS SOLELY RESPONSIBLE FOR THE PROPERTY OF WALCH MATERIALS COMPANY AND MUST BE REFERENCED TO THE COMPANY. THIS DRAWING MUST NOT BE COPIED, REPRODUCED, OR USED WITHOUT PERMISSION.

EXHIBIT 2



- Notes:
- 6" Min. Granular subballast or as required per local subgrade conditions
 - For Industry Track Balast section to be level with top of tie where walking required, 8'-6" Min. from center line

D			Industry Track	Southwest Gulf Railroad
C			Typical Cross Section	REV
B				DATE
A				August 2005
INITIAL RELEASE				None
DATE		REVISION	BY	SHEET 1 OF 1

EXHIBIT 3

Southwest Gulf Railroad Company
 Preliminary Proposed and Alternative Rail Routes Data

Description	Approx. top of rail bed elevation		Length of Rail (miles)
	UPRR Track	Quarry Entry	
Proposed Route	980.50	931.20	7.50
Alternative 1	959.50	931.20	10.60
Alternative 2	933.20	931.20	7.23
Alternative 3	979.80	931.20	7.90
Modified Medina Dam Route	981.10	931.20	11.24
Eastern Route	981.00	931.20	9.01

Exhibits 4, 5, and 6 are oversized and in color. Please contact the Section of Environmental Analysis to view a copy.

EXHIBIT 7

Southwest Gulf Railroad Company
Proposed and Alternate Railroad Routes

Sample Cut/Fill volume calculations¹

Station	Areas Square Feet		Volumes Cubic Yards		Cumulative Cubic Yards	
	Cut	Fill	Cut	Fill	Cut	Fill
0+00	0.00	0.00	0.00	0.00	0.00	0.00
0+50	2.00	1.25	34.32	1.15	34.32	1.15
1+00	35.06	0.00	137.90	0.00	172.22	1.15
1+50	113.87	0.00	243.24	0.00	415.46	1.15
2+00	148.84	0.00	261.80	0.00	677.26	1.15
2+50	133.91	0.00	178.07	0.00	855.33	1.15
3+00	58.41	0.00	110.62	0.00	965.95	1.15
3+50	61.07	0.00	123.34	0.00	1089.29	1.15
4+00	72.14	0.00	128.41	0.00	1217.70	1.15
4+50	66.54	0.00	125.67	0.00	1343.37	1.15
5+00	69.18	0.00	136.19	0.00	1479.56	1.15

The preliminary Cut/Fill volumes calculations were developed utilizing a civil engineering computer software program (Land Development Desktop). The application calculates the areas by establishing the extents of the areas to be developed (i.e., length and width)². The depth of the cuts and/or height of fill is determined by comparing the existing contours with the proposed elevations of the area(s) being considered for development.

This iterative process is based on the simple mathematical equation:

$$V = (L \times W \times D) \div 27$$

Where:

- V = Volume in Cubic Yards
- L = Length in Feet
- W = Width in Feet
- D = Depth or Height in Feet

1. Actual volume calculations from the proposed route alignment
2. Average End Area method



U.S. Department
of Transportation

Pipeline and
Hazardous Materials
Safety Administration

E1-1717
RJ

400 Seventh St. S.W.
Washington, D.C. 20590

October 17, 2005

Ms. Rini Ghosh
Attorney-Adviser
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423

*FD 34284
received 10/24/05*

Dear Ms. Ghosh:

This letter is a response to your e-mail of October 6, in which you requested confirmation of the information on potential safety and environmental issues posed by rail lines that cross pipeline rights-of-way that I provided to Ms. Jaya Zyman-Ponebshek of URS Corporation. We understand you are preparing a response to comments on a Draft Environmental Impact Statement (DEIS) for a proposed rail line in Medina County, Texas that would cross two gas pipelines.

On October 5, Ms. Zyman-Ponebshek provided me with her summary of our previous communications on this subject. This summary, which I edited as shown below, represents my views on the issues posed by the intersections of pipelines and railroads:

Mr. Richard Hurlaux (Director, Technical Standards) of the U.S. DOT's Office of Pipeline Safety indicated that pipeline owners and operators are responsible for ensuring the safety of pipelines that are near or cross railroads. In other words, they are responsible for keeping pipelines safe and buried and capable of handling mechanical forces imposed on them. Railroads should be encouraged to work with the owners of the pipeline easements to ensure that both the railroad and any pipelines crossing or running along the right-of-way are built, operated, and maintained to maintain the safety of all facilities.

In general, railroads tend not to be a threat to pipeline integrity because railroads ride on top of their own structures and their load is distributed over a large area. Additionally, vibration from trains is not a problem for a properly designed pipeline. In the past, pipeline owners were often

Page 2
Ms. Rini Ghosh

required by the railroad operator to install 'casings' to carry the gas or hazardous liquid pipeline under the railroad structure. Casings, however, are not required by the pipeline safety regulations. In fact, casings may contribute to corrosion of the pipeline if they are filled with water or are electrically shorted. In any case, casings are not required by the Federal pipeline safety regulations and are not generally necessary for the protection of the pipeline from the forces imposed by the railroad.

You may want to consult with the pipeline division of the Texas Railroad Commission, which is responsible for enforcing the Federal and state pipeline safety regulations in that state.

If you have any further questions about the pipeline safety regulations, please contact me at 202-366-4565 or by e-mail at richard.huriaux@dot.gov.

Sincerely,



Richard D. Huriaux, P.E.
Director, Technical Standards
Office of Pipeline Safety

#E1-1728
RG



COMMISSIONERS
JOSEPH B. C. FITZSIMONS
CHAIRMAN
SAN ANTONIO
ALVIN L. HENRY
VICE-CHAIRMAN
HOUSTON
J. ROBERT BROWN
EL PASO
NED S. HOLMES
HOUSTON
PETER M. HOLT
SAN ANTONIO
PHILIP MONTGOMERY
DALLAS
JOHN D. PARKER
LUFKIN
DONATO D. RAMOS
LAREDO
MARK E. WATSON, JR.
SAN ANTONIO
LEE M. BASS
CHAIRMAN-EMERITUS
FORT WORTH
ROBERT L. COOK
EXECUTIVE DIRECTOR

October 28, 2005

Phil Ponebshek
Senior Project Manager
URS Corporation
9400 Amberglen Blvd
Austin, TX 78720

RE: SRG Rail line: Tortoise and other small animal exclusion devices

Dear Mr. Ponebshek:

This letter is in response to the October 04, 2005 meeting notes you prepared regarding potential impacts to small animals, particularly tortoises and box turtles, associated with the proposed Southwest Gulf Railroad (SGR) line in Medina County. Texas Parks and Wildlife Department (TPWD) appreciates the opportunity to meet and discuss the project and potential alternatives to address our concerns.

As stated in the meeting and reflected in the meeting notes, TPWD is concerned with the physical and behavioral barriers created by railroads that result in fragmenting the habitat. Also, and more specifically, TPWD is concerned with direct impacts to the threatened Texas Tortoise (*Gopherus berlandieri*) as well as the Western Ornate Box Turtle (*Terrapene ornata ornata*) becoming trapped between rail lines. Mitigative measures to address these issues were discussed during the meeting.

To avoid or minimize fragmentation impacts, TPWD strongly recommends including corridors at intervals equal to or less than one-eighth of a mile that link habitats in the project area. TPWD concurs with the proposed measure that these corridors may result from bridges or culverts constructed to cross waterbodies or topographic features or from the installation of culverts through the railroad ballast.

Potential impacts regarding tortoises and other small animals consist primarily of becoming trapped between rail lines where they are susceptible to predation and physiological stresses including: 1) the core body temperature reaching the critical thermal maximum (the point at which tortoises are incapable of coordinated locomotion), 2) dehydration and 3) death. TPWD staff recommended surveying the project corridor to determine the presence/absence of tortoises near the project area. Because the Texas Tortoise is crepuscular (*i.e.*, most active at twilight) and hibernates (or more correctly "brumates") generally from October through March or April, determining their actual presence in the area with any degree of



Take a kid
hunting or fishing
• • •
Visit a state park
or historic site

4200 SMITH SCHOOL ROAD
AUSTIN, TEXAS 78744-3291
512-389-4500
www.tpwd.state.tx.us

To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations.

Mr. Ponebshek
Page 2
October 28, 2005

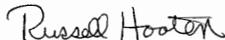
confidence could be extremely difficult and expensive. Surveys would also have to be postponed until Spring 2006 at the earliest.

TPWD strongly recommends employing more cost effective mitigative measures to avoid potential tortoise entrapment impacts. Such measures include installing either escape devices at intervals along the tracks or barriers at at-grade crossings. Beveled escape ramps described by TPWD staff placed at intervals along the rail would provide stranded tortoises a means of escape in multiple places. Alternatively, a flexible barrier described by Mr. Mase, a consultant on the project, installed at at-grade crossings would prevent tortoises from entering the intra-rail space. Other alternatives discussed at the meeting included a cattle-guard type device between the tracks or a pit-fall into a culvert under the tracks to prevent tortoises from becoming trapped between the tracks. It is the opinion of TPWD staff that any of these devices could be engineered to avoid potential conflicts (*i.e.*, entanglements or snagging) with hoses hanging from rail cars.

While no one exclusion device is endorsed over another, TPWD strongly encourages one of the measures to be incorporated into project plans to avoid impacts to the state listed Texas Tortoise. TPWD staff appreciates your interest in Texas' wildlife resources and this agency's efforts to protect them.

Thank you for the opportunity to provide comments on this portion of the SGR Rail Line project. Please contact me at (361) 825-3240 if we may be of further assistance.

Sincerely,



Russell Hooten
Wildlife Habitat Assessment Program
Wildlife Division

/rh

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

David 5/3/06

May 3, 2006

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.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 update you concerning developments with respect to the permitting of the Vulcan quarry that will be served by the rail line proposed by Southwest Gulf Railroad. While the quarry is not the subject of the Environmental Impact Statement that your office is preparing on the rail project, we assume that the Final EIS in this matter (like the Draft EIS) will address cumulative impacts associated with the quarry and thus thought it appropriate to further update you on the quarry status.

As you know, Vulcan has recently filed with the Texas Commission on Environmental Quality (TCEQ) an application for a Water Pollution Abatement Plan (WPAP) relative to the quarry. As we have previously advised (see my February 15, 2005 letter), a WPAP application is required for any TCEQ-regulated activity that occurs on the Edwards Aquifer Recharge Zone, including the construction of roads or buildings, excavations, etc. See Texas Admin. Code, Title 30, Chap. 213, Rule 213.5. The purpose of the WPAP is to address any water pollution issues that may result from activities, such as rock crushing, that are subject to TCEQ regulation.

Vulcan's WPAP application sets forth a geological assessment of the area, which was completed following an extensive study of the site's geological features. In addition to the geologic assessment, Vulcan's WPAP application includes, as per the regulations governing WPAP permits, a technical report which addresses a variety of data concerning, e.g., stormwater runoff, area of the quarry site expected to be disturbed, and a description of best management practices to be adopted by the quarry to address any potential pollution issues and ensure no detriment to the aquifer.

Ms. Victoria Rutson
May 3, 2006
Page 2

Vulcan's WPAP application is in draft form and is currently pending for review before the TCEQ. That agency has the authority to require changes to the draft WPAP or to request the submission of additional information. Once the application process is completed, and any final WPAP issued for the quarry, as a matter of information we will supply SEA with a copy of any such approved WPAP issued by the TCEQ.

Further, we note your office has been copied on an April 21, 2006 letter written by MCEAA's attorney to the TCEQ in response to Vulcan's WPAP application relative to the quarry. That letter, which is primarily focused on issues relating to Vulcan's WPAP application submitted to the TCEQ, makes inaccurate and unsubstantiated claims about the Vulcan WPAP application. Vulcan will address those issues in a response that will be submitted directly to the TCEQ.

However, seemingly in an effort to inject unrelated issues concerning the proposed SGR rail line into the TCEQ proceeding, MCEAA's letter to the TCEQ is also critical of SGR and SEA's environmental review of the rail line as reflected in the Draft EIS issued in this proceeding. Curiously, the MCEAA letter directs all of these criticisms to Vulcan. For example, the letter claims at pages 4-5 that Vulcan (1) argues that it has no responsibility to assess cumulative impacts from the quarry; (2) "pretend[s]" that the rail line is a common carrier line and that the quarry could be truck-served; and (3) maintains that the quarry and rail line are not connected actions under NEPA. Further, MCEAA states that Vulcan was wrong in "submitting a Draft EIS" which MCEAA claims is deficient in several respects, including its analysis of vibration from the quarry and rail line, of flooding that might result from trestle bridges and of impacts to historic properties.

MCEAA's contentions relative to the rail line and SEA's Draft EIS in its April 21 letter to the TCEQ are both misdirected and wide of the mark. For example, MCEAA's suggestion in its letter to the TCEQ that Vulcan prepared or submitted the Draft EIS on the SGR rail line is grossly wrong. As MCEAA well knows, the Draft EIS was prepared by SEA, with the assistance of a third party contractor, not by either Vulcan or SGR. To the extent that MCEAA disagrees with conclusions reached by SEA in the Draft EIS (as it clearly does), it has had ample opportunity to bring those to the attention of SEA, and has in fact submitted comments on the Draft EIS. MCEAA will continue to have opportunity to comment on rail line issues once SEA issues its Supplemental EIS on some additional rail alignments now under consideration.

Contrary to another MCEAA contention, SGR (and Vulcan) recognize that a cumulative impacts analysis by SEA of the rail line and the quarry is appropriate. SGR in fact fully supports SEA's determination, as reflected in the Draft EIS, to undertake a cumulative impacts analysis and has submitted a great deal of data to SEA to support that analysis. SGR will continue to cooperate with SEA in providing any additional information that may be needed for SEA's further environmental efforts.

In addition, as SEA has previously recognized -- MCEAA's views notwithstanding -- the development of the quarry (unlike the rail line) is not an action that requires federal approval and thus not an action that triggers environmental review under NEPA. In that regard, SEA should continue to reject MCEAA's contentions that the quarry would not operate but for the rail line and that the quarry

Ms. Victoria Rutson
May 3, 2006
Page 3

and rail line are "connected actions" warranting NEPA review of both. Substantial data has been submitted to SEA to show that the quarry could and would be truck-served were there no rail line. The air quality permit submitted by Vulcan to the TCEQ in fact assumes for purposes of its air quality calculations that the quarry will be truck served. These and other rail-related NEPA issues raised by MCEAA in its April 21 letter have been previously addressed in detail by SGR and will not be further addressed here.

Please let me know if you have any questions concerning any of these matters.

Sincerely,



David H. Coburn
Attorney for Southwest Gulf Railroad

cc: Mr. Richard Garcia, TCEQ
Mr. Robert Potts, EAA
Ms. Rini Ghosh
Ms. Jaya Zyman-Ponebshek

STEPTOE & JOHNSON LLP
ATTORNEYS AT LAW

#E1-2525
RH

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

September 14, 2006

VIA HAND DELIVERY

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20590

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

Dear Ms. Rutson:

As previously reported by petitioner Southwest Gulf Railroad ("SGR") in connection with SEA's assessment of cumulative impacts related to the planned SGR rail line, Vulcan Materials Company ("Vulcan") submitted an application to the Texas Commission on Environmental Quality ("TCEQ") for approval of a Water Pollution Abatement Plan ("WPAP") relative to the quarry that Vulcan is planning for Medina County. That quarry will be served by the planned SGR line. By the attached August 24, 2006 letter, the TCEQ has now approved the WPAP application, subject to various conditions.

The core purpose of the WPAP, which was developed following the completion of sophisticated hydrological and floodplain studies of the area, is to ensure that practices at the Medina quarry will protect the Edwards Aquifer. The WPAP thus sets forth a plan designed for protection of this important water resource. The TCEQ's approval of the WPAP references the various best management practices that Vulcan will follow in connection with its operations at the quarry, including practices relating to the control of stormwater runoff through a variety of means, the construction of sedimentation/filtration basins and the disposal of sediment, the regulation of hydrocarbons and hazardous materials in the area, the disposal of domestic wastewater, the management of wells in the area, the retention of a vegetated buffer around the quarry and streambeds, and the management of stream crossings.

Adherence to the approved WPAP will prevent any runoff from the quarry plant area into the surrounding area, including the area outside the quarry plant where the SGR line will be located. While

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

Ms. Victoria Rutson
September 14, 2006
Page 2

the WPAP does not directly address flooding, it will help ensure that stormwater is not directed from the quarry area into local streams and therefore that the quarry operations will not contribute to flooding in the area. SGR also intends to consult further with the Medina County Flood Administrator and the U.S. Army Corps of Engineers as necessary to ensure that its rail line has no adverse impact on flooding in the area, regardless of the final alignment that is approved for construction.

The WPAP permit, coupled with a permit previously received from TCEQ allowing the operation of a temporary crusher, will allow Vulcan to undertake some crushing on the site of its planned Medina quarry using a temporary crusher. Plans for initiating such crushing are now being finalized. Large scale crushing cannot commence until an air quality permit is issued for the quarry operations. As previously reported, Vulcan Construction Materials, L.P. has applied to the TCEQ for such a permit. The TCEQ, which published an initial decision and notice with respect to the air quality permit application on July 22, 2006, has decided (with Vulcan's concurrence) to move forward with a contested case hearing on the permit application. A preliminary public hearing on the application was held in Hondo on September 12.

We would be pleased to answer any questions you might have on these matters.

Sincerely,



David H. Coburn
Attorney for Southwest Gulf Railroad

cc: Ms. Rini Ghosh
Ms. Jaya Zyman Ponebshek

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 24, 2006

Ms. Aleisha Knochenhauer
Vulcan Construction Materials, LP
800 Isom Road, Suite 300
San Antonio, Texas 78216

Re: Edwards Aquifer, Medina County
NAME OF PROJECT: Vulcan Materials Medina Quarry; Located north of County Road 353 and east of County Road 351; Medina County, Texas
TYPE OF PLAN: Request for Approval of a Water Pollution Abatement Plan (WPAP); 30 Texas Administrative Code (TAC) Chapter 213 Edwards Aquifer; Edwards Aquifer Protection Program ID No. 2502.00, Investigation No. 462519, Regulated Entity No. RN104921630

Dear Ms. Knochenhauer:

The Texas Commission on Environmental Quality (TCEQ) has completed its review of the WPAP application for the referenced project submitted to the San Antonio Regional Office by Overby Descamps Engineers, Inc. on behalf of Vulcan Construction Materials, LP on March 22, 2006. Final review of the WPAP submittal was completed after additional material was received on June 28, 2006, July 11, 2006, and July 18, 2006. As presented to the TCEQ, the Temporary and Permanent Best Management Practices (BMPs) and construction plans were prepared by a Texas Licensed Professional Engineer to be in general compliance with the requirements of 30 TAC Chapter 213. These planning materials were sealed, signed, and dated by a Texas Licensed Professional Engineer. Therefore, based on the engineer's concurrence of compliance, the planning materials for construction of the proposed project and pollution abatement measures are hereby approved subject to applicable state rules and the conditions in this letter. The applicant or a person affected may file with the chief clerk a motion for reconsideration of the executive director's final action on this Edwards Aquifer protection plan. A motion for reconsideration must be filed no later than 23 days after the date of this approval letter. *This approval expires two (2) years from the date of this letter unless, prior to the expiration date, more than 10 percent of the construction has commenced on the project or an extension of time has been requested.*

COMMENTS

Comments regarding the proposed quarry were provided, on April 24, 2006, August 3, 2006 and August 23, 2006, by the Medina County Environmental Action Association (MCEAA), The Gardner Law Firm, and Mr. Joseph F. Manak. The MCEAA provided a petition with 104 signatures of persons in opposition to the quarry. These comments were considered in the application review and the major concerns were discussed in the associated investigation report (CEEDS #462519). On July 12, 2006, The Gardner Law Firm requested 30 additional days to respond to Vulcan Materials' response to the TCEQ's request for information. On August 3, 2006, additional comments were received from The Gardner Law Firm that included a table entitled, "MCEAA Party of Contested Case Hearing Signature List". This table included 77 signatures of members of MCEAA, their addresses, proximity of their property to the proposed quarry site, current medical conditions, and current land use of their property.

Reply To: REGION 13 • 11250 Judson Rd. • SAN ANTONIO, TEXAS 78233-1480 • 210/490-3096 • Fax 210/515-4329

P.O. Box 13087 • Austin, Texas 78711-3087 • 512/239-1000 • Internet address: www.tceq.state.tx.us

Ms. Aleisha Knochenhauer
August 24, 2006
Page 2

At the request of the TCEQ, comments supporting the subject quarry and/or related railroad were provided by Vulcan Materials from the Hondo ISD, City of Hondo, Medina County Historical Society, 26 individual letters, and a petition with 215 signatures. These comments were also considered in the application review.

PROJECT DESCRIPTION

The proposed commercial project is a limestone quarry that will have an area of approximately 1,776 acres on three tracts of land. As presented, approximately 1,070 acres will be quarried in four pits. The pits will be excavated and separated by existing ephemeral stream channels. As presented, the ephemeral stream channels will only be quarried with prior approval from all appropriate jurisdictional agencies. A plant site of 171 acres will include equipment for crushing, processing, washing, water recycling, settling ponds, stockpiling and distribution operations, including electric crushers, screens, material conveyors, scrubbers (wet and dry), screeners (wet and dry), load-out hoppers, a rail line, an access road, and haul roads. The impervious cover for the 1,776 acre site will be 39.27 acres (2.21 percent). No on-site sewage facility is proposed at this time. Project wastewater (domestic) will be collected in portable toilets and disposed of two times per week by a TCEQ registered waste disposal service. Blasting agents will be used in the mining process. The mining will proceed through the Edwards Limestone no deeper than 25 feet above the potentiometric surface of the Edwards Aquifer.

During the estimated 40 year life of the quarry, the first three phases of operation listed below may occur sequentially and/or simultaneously:

1. Site preparation,
2. Excavation and processing,
3. Pit closure, and
4. Site closure/reclamation.

POLLUTION ABATEMENT MEASURES

The Permanent Stormwater Section of the application states, "For water quality load calculations, the plan areas do not fall into the obvious categories of paved and grassed areas. The only true impervious cover on site is the paved entrance road (in area 2) which discharges off of the recharge zone. However, it is recognized that other areas will be packed down, thereby creating a runoff condition which is somewhere between pervious and impervious."

However, stormwater treatment was provided for impervious cover, which includes but is not limited to, "pavement including streets, driveways, parking lots, etc. . . . compacted road base, such as that used for parking areas. . . other surfaces that prevent the infiltration of water into the soil." (RG-348, Section 3.3.2)

The total suspended solids (TSS) generated by the increase in impervious cover is 37,385 pounds/year. The required load to be treated is 80% of the total, or 29,908 pounds per year. To prevent pollution of stormwater runoff originating on-site or up-gradient of the site and potentially flowing across and off the site after construction, the measures listed below will be provided to treat 32,591 pounds per year from

the on-site impervious cover outside of the quarry pits. No impervious cover in the quarry pits is proposed.

The retention basins are designed in accordance with the 2005 edition of the TCEQ's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices." The basins will incorporate sedimentation as described below. In lieu of irrigation of vegetation, the captured water will be pumped to the plant area and water treatment plant to be used in processing.

The full sedimentation/filtration basins are designed in accordance with the 2005 edition of the TCEQ's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices." The basins will incorporate sedimentation and filtration as described below.

1) During Site Preparation:

A) Prior to creating pits by excavation, stormwater runoff from the plant site and quarried areas will be controlled by silt fences and rock berms as shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1) signed by the project engineer on 6/28/06, hereafter referred to as Exhibit 2.1.

2) During Excavation and Processing:

A) Two retention basins and eight sand filter basins will be constructed, operated and maintained to insure that 80% of the incremental increase in the annual mass loading of Total Suspended Solids from the site caused by the long-term regulated activity is removed. These quantities are calculated in accordance with technical guidance prepared or accepted by the executive director. For the two retention basins, in lieu of irrigation of vegetation, the captured water will be pumped to the plant area and water treatment plant to be used in processing.

B) Plant Site:

i) Area A (Processing/shipping area): To prevent pollution of stormwater runoff originating on-site or up-gradient of Area A and potentially flowing across and off the site after construction, three water quality basins (two retention basins and one sand filter basin) will be constructed.

(1) Basins A1 and A3 are retention basins designed in accordance with the 2005 edition of the TCEQ's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices," and are summarized in Tables IA and IB below.

Watershed Area/Basin	Drainage Area (acres)	Imperv. Cover (acres)	Required Capture Volume (ft ³)	Design Capture Volume (ft ³)	Minimum Target TSS Removal (lbs/yr)	Design TSS Removal (lbs/yr)
A1	39.74	8.61	27,094	32,513	6,557	8,196
A3	30.76	12.09	39,534	39,903	9,208	11,510
Total	70.50	20.70	---	---	15,765	19,706

Basin	Runoff Depth	Impervious Liner
A1	0.89"	Concrete
A3	0.97"	Concrete

Basin	Runoff Depth	Impervious Liner
A1	0.89"	Concrete
A3	0.97"	Concrete

(2) Basins A4 and B are full sand filter basins designed in accordance with the 2005 edition of the TCEQ's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices," and are summarized in Tables IIA and IIB below.

Watershed Area/Basin	Drainage Area (acres)	Imperv. Cover (acres)	Required Capture Volume (ft ³)	Design Capture Volume (ft ³)	Required Sand Filter Surface Area (ft ²)	Design Sand Filter Surface Area (ft ²)	Minimum Target TSS Removal (lbs/yr)	Design TSS Removal (lbs/yr)
A4	6.45	2.99	13,683	14,374	760	788	2,277	2,625
B	6.28	2.46	11,435	11,537	635	643	1,874	2,172
Total	12.73	5.45	--	--	--	--	4,151	4,797

Basin	Runoff Depth	Surface Area of Sand Filter	Sand Thickness	Underdrain Piping	Impervious Liner
A4	1.44"	788	18"	Yes	Concrete
B	1.38"	643	18"	Yes	Concrete

ii) Area B (Draining to Basin B): To prevent pollution of stormwater runoff originating on-site or up-gradient of Stockpile B and potentially flowing across and off the site after construction, a full sedimentation/filtration basin will be constructed. It is designed in accordance with the 2005 edition of the TCEQ's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices," and is summarized in Tables IIA and IIB above.

iii) Stockpile Areas: Per the note on the plan sheet entitled "Temporary Storm Water Controls and Long Term Temporary Best Management Practices" (Sheet 3 of 3), "stockpile areas outside of the railroad loop will be cleared only as product is available. Not more than 10 acres will be cleared at a time. A long term [temporary] rock berm with silt fence will be placed down gradient of the disturbed area. Once stockpile material is placed over the cleared area it will be considered as reestablished and a new area of not more than 10 acres may be cleared. A long term temporary rock berm with silt fence will be placed down gradient of the stockpile. Long term BMPs must be in place before any stockpiling can begin."

C) Quarry Pits:

- i) The quarry pits will have a 200' wide vegetated buffer adjacent to the site perimeter, as shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1).
- ii) Until each quarry pit area is mined below its lowest surface elevation, a temporary earthen berm will be constructed to prevent stormwater runoff from leaving the disturbed area. When the final limit of the quarry is reached, the temporary berm will then become a permanent berm.
- iii) Lift Stabilization: Quarry stabilization is defined in the application as "when all loose rock material has been compacted or removed to solid rock."
- iv) Surface Stream Crossings: Until each quarry pit area is mined below its lowest surface elevation, a temporary earthen berm, or rock berm with silt fence, will be constructed to prevent stormwater runoff from entering the stream channels. When the quarry pit is excavated below the stream channel, the berms will no longer be necessary. A detail is shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1). Stream channel crossings for vehicles are addressed below.
- v) Six full sand filter basins (summarized in the Table IIAs and IIB below) will be constructed, operated and maintained to insure that 80% of the incremental increase in the annual mass loading of Total Suspended Solids from six assembly/staging areas for staff and vehicles is removed. Their locations are shown on Exhibit 2.1.

Watershed Area/Basin	Drainage Area (acres)	Imperv. Cover (acres)	Required Capture Volume (ft ³)	Design Capture Volume (ft ³)	Required Sand Filter Surface Area (ft ²)	Design Sand Filter Surface Area (ft ²)	Minimum Target TSS Removal (lbs/yr)	Design TSS Removal (lbs/yr)
Pit 1 to Pit 2	2.67	2.67	17,446	17,990	969	1,003	2,033	2,302

Pit 2 to Pit 1	2.67	2.67	17,446	17,990	969	1,003	2,033	2,302
Pit 2 to Pit 3	0.67	0.67	4,378	9,007	243	506	510	538
Pit 3 to Pit 2	0.67	0.67	4,378	9,007	243	506	510	538
Pit 1 to Pit 4	1.35	1.35	8,821	9,007	490	506	1,028	1,164
Pit 4 to Pit 1	1.35	1.35	8,821	9,007	490	506	1,028	1,164
Total	9.38	9.38	---	---	---	---	7,142	8,088

Basin	Runoff Depth	Surface Area of Sand Filter	Sand Thickness	Underdrain Piping	Impervious Liner
Pit 1 to Pit 2	1.5"	969	18"	Yes	Concrete
Pit 2 to Pit 1	1.5"	969	18"	Yes	Concrete
Pit 2 to Pit 3	1.5"	243	18"	Yes	Concrete
Pit 3 to Pit 2	1.5"	243	18"	Yes	Concrete
Pit 1 to Pit 4	1.5"	490	18"	Yes	Concrete
Pit 4 to Pit 1	1.5"	490	18"	Yes	Concrete

In lieu of capturing and treating stormwater runoff from the four haul roads crossing streams, the 2,850 pounds of TSS generated will be compensated for by the overtreatment provided in other on-site water quality structures. Treatment of the TSS is accounted for in Tables IV and V below.

Watershed Area/Basin	Drainage Area (acres)	Imperv. Cover (acres)	Required Capture Volume (ft ³)	Design Capture Volume (ft ³)	Required Sand Filter Surface Area (ft ²)	Design Sand Filter Surface Area (ft ²)	Minimum Target TSS Removal (lbs/yr)	Design TSS Removal (lbs/yr)
Haul Road	Pit 1 to Pit 2	0.65	0.65	---	---	---	495	0
	Pit 2 to Pit 3	0.16	0.16	---	---	---	122	0

	Pit 1 to Pit 4	0.31	0.31	---	---	---	---	236	0
	A4	0.43	0.43	---	---	---	---	328	0
	B	0.39	0.39	---	---	---	---	298	0
Plant Area	A1	0.37	0.37	---	---	---	---	282	0
	A3	1.43	1.43	---	---	---	---	1089	0
Total		3.74	3.74	---	---	---	---	2,850	0

Table V
 Summary of TSS Load
 (Pounds/year)

Watershed Area/Basin	Impervious Cover (Acres)	Minimum Target TSS Removal (lbs/yr)	Design TSS Removal (lbs/yr)
Table IA	20.70	15,765	19,706
Table IIA	5.45	4,151	4,797
Table IIIA	9.38	7,142	8,088
Table IV	3.74	2,850	0
Total	39.27	29,908†	32,591‡

† - Target removal is 29,908#. As shown in Table IV, seven haul road stream crossings will not be treated directly, but by compensation in other basins as presented in Tables IA, IIA, IIIA, and summarized in Table V.

‡ - Design removal exceeds target removal by 2,683 pounds/year (32,591 - 29,908 = 2,683).

- vi) Disposal of Sediment from Water Quality Basins: Sediment is to be collected and tested for TPH (TX-1005) and BTEX (8021 or 8260). Per Vulcan Materials' letter dated July 19, 2006, "Analytical results will be compared to published action levels defined by TCEQ pursuant to applicable Texas Risk Reduction Program (TRRP) rules (30 TAC 350). Action levels will be utilized as a basis for comparison to evaluate potential hydrocarbon impacts to sediments. By definition, actions levels are constituent-specific and correspond to maximum concentrations that can remain in affected environmental media within a residential land use setting. On the basis of analytical testing data, sediment will be properly classified and subject to the following procedures:

"Sediments that do not exhibit measurable concentrations of hydrocarbon contaminants or are at concentrations below TCEQ action levels will not be subject to further special handling procedures and will be used onsite as part of the earthen perimeter berm."

"Sediments that exhibit hydrocarbon concentrations in excess of TCEQ action levels will be staged and subject to onsite treatment in order to reduce hydrocarbon concentrations to acceptable levels prior to use."

"As part of the treatment process, sediments will be evenly distributed within the containment area to facilitate the rapid volatilization and natural attenuation of residual hydrocarbons constituents. If necessary, the treatment process may be enhanced by the periodic addition of hydrocarbon degrading microorganisms. Hydrocarbon concentrations will be monitored throughout the treatment process by periodic sampling and analysis. Once a determination is made that residual hydrocarbon concentrations are below TCEQ action levels, sediments will be used onsite as part of the earthen perimeter berm."

A detail of the encapsulated sediment is shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1).

- D) Hydrocarbons and Hazardous All regulated quantities of hydrocarbons and hazardous substances will be stored on a separate site to the south of and off the Recharge Zone.
- E) Scheduled vehicle maintenance will be conducted on a separate site to the south of and off the Recharge Zone.
- F) Minor maintenance such as repair or replacement of tires, wheels, faulty bed sensors on haul equipment, broken windshields, communication equipment, broken hoses and belts, welding of equipment or parts, etc. may be conducted on-site. All other vehicle maintenance will be conducted on a separate site to the south of and off the Recharge Zone.
- G) Wastewater: Project wastewater (domestic) will be and disposed of twice per week a TCEQ registered waste disposal service.
- H) Sensitive Features. All geologic features are proposed to be mined out. Protective measure to be provided for the features during plant operation and/or excavation are listed below.
 - i) Plant Site Area A: The Wurzbach well (WZ-S45) will be converted to a piezometer (an instrument used to measure the change of pressure of a material subject to hydrostatic pressure).
 - ii) Plant Site Area B: No sensitive features are present in Plant Site Area B.
 - iii) Quarry Pits: As pits are mined out, a positive slope will be maintained away from all sensitive features to prevent flows from entering them. A detail drawing is shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1).
 - iv) Wells in Quarry Areas: The two other wells (Schweers well & Boehme/Belzen well) will be properly plugged when and if mining progresses to within 100 feet of them.

- I) **Vegetated Buffer:** A 200 foot wide buffer will be provided around the property boundaries, as shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1). For the internal ephemeral streams, a 200 foot buffer, as measured from the center line of the stream, will be provided, as shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1).

- J) **Vertical Separation Between Quarry Floor & Potentiometric Surface:**

A vertical separation distance of 25 feet above the water table has been approved by the TCEQ at the Deep Creek Quarry (Medina County) and the Adkins Ranch Quarry (Williamson County), however, the applicant has committed to mine no deeper than 25 above the potentiometric surface.

The on-site wells will be used to measure the water elevation. If the wells cannot be entered, they will be properly plugged and replaced with piezometers.

- K) **Quarry Pit Stabilization:** The application states that conventional stabilization practices are not practical in a quarry. When mining lifts are excavated, and at the completion of the excavation for each pit, stabilization will be defined as, "when all loose rock material has been compacted or removed to solid rock."

- 3) **Pit Closure:**

An exception was requested to the requirement to provide permanent best management practices (BMPs) for the quarry pits after completion of quarrying. The justification offered for granting the exception was that there will be no increase in impervious cover and there will be no runoff from the site. Equivalent protection will be provided by the quarry pits because it will retain 100% of the sediment loading without discharging to surface water.

- 4) **Site Closure/Reclamation:**

The quarry pits will be addressed as described in 3) above. The plant area will be dismantled and removed from the site.

The proposed measures described above are presented to meet the required 80 percent removal of the increased load in total suspended solids (TSS) caused by the project.

A request was made for an exception to the requirement of permanent BMPs for this project after pit closure and/or site closure/reclamation. The justification provided was that "the normal procedure for sizing permanent BMPs (i.e. 80% removal of TSS from impervious cover areas before they discharge from the site) is not applicable to the floor of the quarry pits. This is because they have no impervious cover and no surface water discharge from said pits." Equivalent water quality protection is presented to be provided because, 1) the quarry operator will report any sensitive features discovered during mining, 2) stormwater does not surface discharge from the quarry pit, and 3) since the TCEQ regards this (single family residential subdivisions with 20% or less impervious cover) as equivalent protection of the aquifer, the quarry pits with no impervious cover and no surface water runoff are actually better than a residential subdivision with less than 20% impervious cover."

The excavation and processing phase, where the long-term temporary BMPs described above will be provided, is analogous to a retail, office or residential project where permanent BMPs are required after completion of construction. The site closure/reclamation phase of a quarry is not analogous to "completion of construction" for non-quarry types of commercial development.

Point 1 of the equivalent water quality protection presented above [the quarry operator will report any sensitive features discovered during mining] is irrelevant at the stage of pit closure or quarry closure/reclamation because all mining will have been completed.

Point 2 of the equivalent water quality protection presented above [stormwater does not surface discharge from the quarry pit] is irrelevant. The TCEQ agrees that stormwater will not leave the quarry pits, however, the quarry floor will become the surface, albeit disturbed, of the Edwards Aquifer Recharge Zone.

Point 3 of equivalent water quality protection presented above [since the TCEQ regards this (single family residential subdivisions with 20% or less impervious cover) as equivalent protection of the aquifer, the quarry pits with no impervious cover and no surface water runoff are actually better than a residential subdivision with less than 20% impervious cover.] is an invalid comparison. The stabilization of a residential subdivision with vegetation is not the same as quarry stabilization ("when all loose rock material has been compacted or removed to solid rock.").

GEOLOGY

According to the geologic assessment included with the application, the Georgetown Formation and the Devil's River Formation (upper and lower) are exposed at the site. Transects of 15 meters revealed 99 geologic and manmade features on the project site. A total of 12 features were assessed as sensitive (3 wells, 6 faults, 1 sinkhole, and 2 caves). The San Antonio Regional Office conducted a site investigation on May 26, 2006. The plant area and areas to be quarried were observed. The site was mostly covered with thick vegetation (juniper, oak, brush, and grass) and was accessible by ranch roads and walking. The following features were observed - three on-site water wells (WZ-S45, SC-S7, B-S11), six faults (WZ-S71, WZ-S72, SC-S22, SC-S23, B-S30, B-S31), one sinkhole (SC-S2), three closed depressions (WZ-S8, WZ-S56, B-S5), five solution enhanced fractures (WZ-S68, SC-S15, SC-S18, B-S15, B-S17), two caves (SC-S14, B-S19), and one solution cavity (B-S20). The site is generally as described in the geologic assessment. The features will be mined out. Protective measures during plant operation or excavation that will be provided for the features are listed above in Paragraph F of the Pollution Abatement Measures Section.

SPECIAL CONDITIONS

Plant Operations & Quarrying:

- I. The BMPs for the plant site and stockpile area shall be operational prior to any crushing, processing, washing, water recycling, stockpiling, etc.
- II. The BMPs for the stream crossings shall be operational prior to site preparation, overburden removal, excavation, etc. in each quarry pit.
- III. Project wastewater (domestic) will be collected twice per week by a TCEQ registered waste

- disposal service for appropriate disposal off of the site. This approval does not authorize domestic wastewater disposal on the site.
- IV. Exhibit 2.1 shows a greywater disposal pipe at the cabin on the Boehme/Belzen property. All other on-site sewage facilities shall comply with the applicable requirements of 30 TAC 285. Within 90 days of the date of this letter, provide documentation from the Medina County Authorized Agent for OSSF that wastewater disposal at the site complies with the applicable requirements of 30 TAC 285.
 - V. The surface vegetation is to be disposed of by incineration. The ash shall be properly disposed of according to 30 TAC 330 or 30 TAC 335, as applicable.
 - VI. No part of the quarry floor shall be any closer than 25 feet above the potentiometric surface. Prior to September 1, 2007, and every five years thereafter, the potentiometric surface for the entire site shall be derived from three seasonal measurements, in each of the three on-site wells concurrently, and reported to the TCEQ as a potentiometric map for the site. The surface elevations and depths to water shall also be reported on the map for each well and each collection event. For uniformity, the collection times should be coordinated with regional data collection conducted by such agencies as the EAA, USGS, Medina County Underground Water Conservation District or other relevant agencies. The quarry floor shall stay 25 feet above the highest elevation of the potentiometric surface.
 - VII. All sediment and or media removed from the retention basins and the full sedimentation/ filtration basins during maintenance activities shall be properly disposed of according to 30 TAC 350, as applicable. Treatment and disposal records shall be kept on site and available for review by Commission staff for the life of the project.
 - VIII. Perimeter berms shall be inspected and maintained annually, or more often if necessary, to ensure functionality. Maintenance records shall be kept on site and available for review by Commission staff for the life of the project.
 - IX. A 200 foot buffer, as measured from the centerline of the dry stream channels shall be provided. The dry stream channels shall not be quarried without a modification to this approved WPAP.
 - X. The quarry will excavate along the stream channels that pass through the site, thus creating an aqueduct of the natural channels. Authorization from the TCEQ's South Texas Watermaster may be required pursuant to Chapter 11.121 of the Texas Water Code to divert surface water from the streams to the quarry pits. This letter does not provide authorization for any requirements of the TCEQ's Watermaster Program for stream crossings for the haul roads and railroad.
 - XI. Based on the plan review, the nature of the regulated activity (site closure/reclamation), the BMPs provided during the excavation and processing phase, commission regulations, and consistency with previous quarry approvals pursuant to 30 TAC 213, and not the justifications provided, the TCEQ grants the exception requested for not providing BMPS after the plant site and quarrying operations have been completed.
 - XII. This approval does not authorize manufacturing of explosives on the site.

- XIII. Exhibit 2.1 shows car bodies, and existing structures to be demolished before quarrying. The car bodies and demolished structures shall be disposed of according to all applicable state and federal regulations.
- XIV. Perform quarterly geologic inspections of the site for sensitive features.
- XV. Provide feature recognition training for plant and quarry operators.
- XVI. This project shall conform to all applicable local, state, and federal requirements.

Post Plant Operations & Post Quarrying:

- XVII. At the conclusion of quarrying, and pursuant to 30 TAC 213.4(j)(2&3), the holder of any approved Edwards Aquifer protection plan must notify the appropriate regional office in writing and obtain approval from the executive director prior to initiating any change in the nature or character of the regulated activity from that which was originally approved or a change which would significantly impact the ability of the plan to prevent pollution of the Edwards Aquifer; and any development of land previously identified as undeveloped in the original water pollution abatement plan.
- XVIII. The water quality basins shall remain operational as long as impervious cover remains on the site.
- XIX. Unless authorized by a modification to the WPAP, maintenance records shall be maintained for the impervious cover, retention basins, sedimentation/filtration basin, and plant area operations still present after site closure/reclamation.

STANDARD CONDITIONS

1. Pursuant to Chapter 7 Subchapter C of the Texas Water Code, any violations of the requirements in 30 TAC Chapter 213 may result in administrative penalties.

Prior to Commencement of Construction:

2. Within 60 days of receiving written approval of an Edwards Aquifer protection plan, the applicant must submit to the San Antonio Regional Office, proof of recordation of notice in the county deed records, with the volume and page number(s) of the county deed records of the county in which the property is located. A description of the property boundaries shall be included in the deed recordation in the county deed records. A suggested form (Deed Recordation Affidavit, TCEQ-0625) that you may use to deed record the approved WPAP is enclosed.
3. All contractors conducting regulated activities at the referenced project location shall be provided a copy of this notice of approval. At least one complete copy of the approved WPAP and this notice of approval shall be maintained at the project location until all regulated activities are completed.

4. Modification to the activities described in the referenced WPAP application following the date of approval may require the submittal of a plan to modify this approval, including the payment of appropriate fees and all information necessary for its review and approval prior to initiating construction of the modifications.
5. The applicant must provide written notification of intent to commence construction, replacement, or rehabilitation of the referenced project. Notification must be submitted to the San Antonio Regional Office no later than 48 hours prior to commencement of the regulated activity. Written notification must include the date on which the regulated activity will commence, the name of the approved plan and program ID number for the regulated activity, and the name of the prime contractor with the name and telephone number of the contact person. The executive director will use the notification to determine if the approved plan is eligible for an extension.
6. Temporary erosion and sedimentation (E&S) controls, i.e., silt fences, rock berms, stabilized construction entrances, or other controls described in the approved WPAP, must be installed prior to construction and maintained during construction. Temporary E&S controls may be removed when vegetation is established and the construction area is stabilized. If a water quality pond is proposed, it shall be used as a sedimentation basin during construction. The TCEQ may monitor stormwater discharges from the site to evaluate the adequacy of temporary E&S control measures. Additional controls may be necessary if excessive solids are being discharged from the site.
7. All borings with depths greater than or equal to 20 feet must be plugged with non-shrink grout from the bottom of the hole to within three (3) feet of the surface. The remainder of the hole must be backfilled with cuttings from the boring. All borings less than 20 feet must be backfilled with cuttings from the boring. All borings must be backfilled or plugged within four (4) days of completion of the drilling operation. Voids may be filled with gravel.

During Construction:

8. During the course of regulated activities related to this project, the applicant or agent shall comply with all applicable provisions of 30 TAC Chapter 213, Edwards Aquifer. The applicant shall remain responsible for the provisions and conditions of this approval until such responsibility is legally transferred to another person or entity.
9. If any sensitive feature (caves, solution cavities, sink holes, etc.) is discovered during construction, all regulated activities near the feature must be suspended immediately. The applicant or his agent must immediately notify the Regional Office of the discovery of the feature. Regulated activities near the feature may not proceed until the executive director has reviewed and approved the methods proposed to protect the feature and the aquifer from potentially adverse impacts to water quality. The plan must be sealed, signed, and dated by a Texas Licensed Professional Engineer.
10. Three wells exist on the site. All water wells, including injection, dewatering, and monitoring wells must be in compliance with the requirements of the Texas Department of Licensing and Regulation under Title 16 TAC Chapter 76 (relating to Water Well Drillers and Pump Installers) and all other locally applicable rules, as appropriate.

11. If sediment escapes the construction site, the sediment must be removed at a frequency sufficient to minimize offsite impacts to water quality (e.g., fugitive sediment in street being washed into surface streams or sensitive features by the next rain). Sediment must be removed from sediment traps or sedimentation ponds not later than when design capacity has been reduced by 50 percent. Litter, construction debris, and construction chemicals shall be prevented from becoming stormwater discharge pollutants.
12. The following records shall be maintained and made available to the executive director upon request: the dates when major grading activities occur, the dates when construction activities temporarily or permanently cease on a portion of the site, and the dates when stabilization measures are initiated.
13. Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, and construction activities will not resume within 21 days. When the initiation of stabilization measures by the 14th day is precluded by weather conditions, stabilization measures shall be initiated as soon as practicable.

After Completion of Construction:

14. A Texas Licensed Professional Engineer must certify in writing that the permanent BMPs or measures were constructed as designed. The certification letter must be submitted to the San Antonio Regional Office within 30 days of site completion.
15. The applicant shall be responsible for maintaining the permanent BMPs after construction until such time as the maintenance obligation is either assumed in writing by another entity having ownership or control of the property (such as without limitation, an owner's association, a new property owner or lessee, a district, or municipality) or the ownership of the property is transferred to the entity. The regulated entity shall then be responsible for maintenance until another entity assumes such obligations in writing or ownership is transferred. A copy of the transfer of responsibility must be filed with the executive director through the San Antonio Regional Office within 30 days of the transfer. A copy of the transfer form (TCEQ-10263) is enclosed.
16. Upon legal transfer of this property, the new owner(s) is required to comply with all terms of the approved Edwards Aquifer protection plan. If the new owner intends to commence any new regulated activity on the site, a new Edwards Aquifer protection plan that specifically addresses the new activity must be submitted to the executive director. Approval of the plan for the new regulated activity by the executive director is required prior to commencement of the new regulated activity.
17. An Edwards Aquifer protection plan approval or extension will expire and no extension will be granted if more than 50 percent of the total construction has not been completed within ten years from the initial approval of a plan. A new Edwards Aquifer protection plan must be submitted to the San Antonio Regional Office with the appropriate fees for review and approval by the executive director prior to commencing any additional regulated activities.

Ms. Aleisha Knochenhauer
August 24, 2006
Page 15

18. At project locations where construction is initiated and abandoned, or not completed, the site shall be returned to a condition such that the aquifer is protected from potential contamination.

If you have any questions or require additional information, please contact John Mauser of the Edwards Aquifer Protection Program of the San Antonio Regional Office at 210/403-4024.

Sincerely,



for Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

GS/jkm

Enclosures: Deed Recordation Affidavit, TCEQ-0625
Change in Responsibility for Maintenance on Permanent BMPs, TCEQ-10263

cc: Mr. Dennis Hoyt, PE, Overby Descamps Engineers, Inc.
Mr. David Montgomery, Medina County
Mr. Robert J. Potts, Edwards Aquifer Authority
Ms. Luana Buckner, Medina County Underground Water Conservation District
Ms. Kathy Brown, TCEQ MC 173
TCEQ Central Records

Change in Responsibility for Maintenance on Permanent Best Management Practices and Measures

The applicant is no longer responsible for maintaining the permanent best management practice (BMP) and other measures. The project information and the new entity responsible for maintenance is listed below.

Customer: _____

Regulated Entity Name: _____

Site Address: _____

City, Texas, Zip: _____

County: _____

Approval Letter Date: _____

BMPs for the project: _____

New Responsible Party: _____

Name of contact: _____

Mailing Address: _____

City, State: _____ Zip: _____

Telephone: _____ FAX: _____

Signature of New Responsible Party

Date

I acknowledge and understand that I am assuming full responsibility for maintaining all permanent best management practices and measures approved by the TCEQ for the site, until another entity assumes such obligations in writing or ownership is transferred.

If you have questions on how to fill out this form or about the Edwards Aquifer protection program, please contact us at 210/490-3096 for projects located in the San Antonio Region or 512/339-2929 for projects located in the Austin Region.

Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact us at 512/239-3282.

TCEQ-10263 (10/01/04)

Deed Recordation Affidavit
Edwards Aquifer Protection Plan

THE STATE OF TEXAS §

County of _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____ who, being duly sworn by me, deposes and says:

- (1) That my name is _____ and that I own the real property described below.
- (2) That said real property is subject to an EDWARDS AQUIFER PROTECTION PLAN which was required under the 30 Texas Administrative Code (TAC) Chapter 213.
- (3) That the EDWARDS AQUIFER PROTECTION PLAN for said real property was approved by the Texas Commission on Environmental Quality (TCEQ) on _____.

A copy of the letter of approval from the TCEQ is attached to this affidavit as Exhibit A and is incorporated herein by reference.

- (4) The said real property is located in _____ County, Texas, and the legal description of the property is as follows:

LANDOWNER-AFFIANT

SWORN AND SUBSCRIBED TO before me, on this __ day of _____, _____.

NOTARY PUBLIC

THE STATE OF _____ §

County of _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed same for the purpose and consideration therein expressed.

GIVEN under my hand and seal of office on this __ day of _____, _____.

NOTARY PUBLIC

Typed or Printed Name of Notary

MY COMMISSION EXPIRES: _____

Medina County Judge
James E. Barden

1100 16th Street
Room 101
Hondo, Texas 78861-1841

(830) 741-6021 Fax (830) 741-6025



#E1-2561
R2

October 13, 2006

Ms. Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20402-0001

*Received
10/16/06*

Re: STB Finance Docket 34284

Dear Ms. Rutson:

Medina County has been negotiating with the Vulcan Materials representatives and the proposed owners of the applicant railroad company on the above project. While no firm agreement has been reached which addresses all of our concerns, both sides are approaching the issues in a good faith and reasonable manner. Some of the delay in reaching conclusions can be placed on this office which has a staff of one.

The County's concerns continue to remain the safety of our citizens on roadways, particularly at any crossings by the rail line which is, of course, your agency's focus. We are seeking state-of-the-art crossings at a minimum to be installed and maintained at no cost to Medina County. While it is highly desirable to have grade separated crossings where any rail line crosses the state highway (FM 2676), the county recognizes that is the domain of Texas Department of Transportation.

The second major area of concern is with potential flooding that can be exacerbated by the existence of rail crossings unless those are designed with the most open flow area as possible. We want to see open span-type crossings over both the Cherry Creek and the Quihi Creek. Part of the holdup in this area of the negotiation is the absence of certainty on the yet to be approved route by your agency. In that regard I urge that if and when a route is chosen the parties be given some additional time to conclude negotiations before a final permit is issued. This will allow us to bring some certainty to the mitigation discussions.

We also have some concerns with a possible crossing over Elm Creek and its floodplain at the Southeast corner of the proposed Quarry property. As yet, however, we cannot determine with certainty what effect flooding in that location will have outside of the quarry property. I understand that Vulcan has completed some flood modeling in this crossing area. Any existing flood modeling results should be reviewed, expanded upon if appropriate, and incorporated into the environmental impact statement as appropriate.

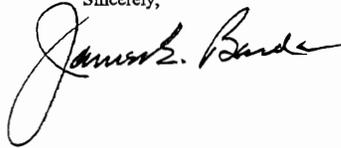
Finally, I refer you to my enclosed earlier letters addressing these and other concerns (dated June 1, 2004 and January 7, 2005) and asked that they be reviewed and incorporated herein.

My principal reason in addressing this to you now is to let you know that we are talking with the proposed rail owners and have made some progress. I don't know what your timetable may be, but I am hopeful that we can conclude some agreement on the mitigation items before any permit for a rail line is finally issued.

We are also addressing other issues such as road safety and maintenance which will be affected by increased quarry truck traffic. While we understand that is not your direct concern, it is a part of the overall package we hope to include in any agreement with the quarry owners and railroad owners. We request the opportunity to complete negotiations on this overall package, including the road improvements, prior to the issuance of any license by your agency. This can occur at any given time after you indicate that a preferred route has been selected, such as through the upcoming supplemental draft environmental impact statement.

Thank you for the care you have shown in reviewing this entire matter. We ask for your consideration of our concerns on the safety and flooding issues as well as the process surrounding your final decision.

Sincerely,



JEB/jaa

E1-2624
KJ

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

January 3, 2007

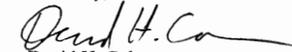
Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
Washington, DC 20590

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

Dear Ms. Rutson:

On behalf of Southwest Gulf Railroad Company ("SGR"), I am writing to bring your attention to a recent development. As you know, Vulcan Construction Materials, LP is seeking an air quality permit from the Texas Department of Environmental Quality for the Medina County quarry that would be rail-served by its affiliate, SGR. The Medina County Environmental Action Association had opposed that permit before the TCEQ. However, the parties have now reached a settlement under which MCEAA has withdrawn its opposition and Vulcan has agreed to maintain some additional buffering at the quarry acceptable to MCEAA. A joint press release reporting on the settlement is attached. The settlement agreement does not reach to the differences between MCEAA and SGR before the STB over the alignment for the rail line proposed by SGR.

Sincerely,



David H. Coburn
Attorney for Southwest Gulf Railroad

cc: Ms. Rini Ghosh, SEA
Ms. Jaya Zyman Ponebshek, URS



*The Medina County Environmental
Action Association, Inc.*

DATE: December 18, 2006

FOR IMMEDIATE RELEASE

Vulcan Contact: Clay Upchurch (210) 524-3520

MCEAA Contact: Dr. Robert Fitzgerald (830) 741-5040

**VULCAN AND MEDINA COUNTY ENVIRONMENTAL ACTION ASSOCIATION
REACH CONSENSUS ON MEDINA COUNTY QUARRY**

San Antonio, Tex. – Vulcan Materials Company (NYSE: VMC) and the Medina County Environmental Action Association (MCEAA) announced today that they have reached agreement regarding Vulcan's Medina County quarry operation. MCEAA agreed to withdraw its opposition to the environmental approvals needed for the crushing and quarrying operations, and Vulcan agreed to additional buffering at the border of the quarry site. As a result, Vulcan will soon begin its quarry construction and operation following receipt of required environmental permits. The agreement does not affect MCEAA's ongoing dispute concerning the licensing of a proposed railroad line that will serve the quarrying operations. MCEAA plans to continue its efforts to protect the community's environmental safety in the future, and Vulcan plans to continue its work to serve the economic growth of the area, while also protecting the environment.

The company has leased 1,700 acres for the quarry site, which allows for a buffer zone around the working quarry, in addition to natural landscape and wildlife habitat conservation areas. The buffer zone will allow the quarry to operate with a minimum of disruption to the surrounding community. The quarry will be part of Vulcan's Southwest Division, which has its headquarters in San Antonio.

Tom Hill, Vulcan's Southwest Division President, stated, "We are very pleased to have had this opportunity to work cooperatively and constructively with the MCEAA Board and look forward to a positive ongoing relationship with the community as our quarry begins operations."

Dr. Robert Fitzgerald, MCEAA President, stated, "By this agreement, we have achieved more than the current Texas laws for quarries provide, though some of those laws need to change. When the crusher and quarry operations begin, MCEAA will continue to be there to ensure that landowners do not bear any costs of these operations. MCEAA will also continue to provide input to the Surface Transportation Board in determining the licensing of the proposed rail line, so there is still a need for citizens to stay involved and for the community to be aware of what is going on. This is a major new land use that will be in effect for 50 years or more."

Vulcan's Southwest Division has approximately 620 employees and operates 16 stone quarries, 10 hot-mix asphalt plants and 3 ready-mixed concrete plants. Vulcan Materials Company, a member of the S&P 500 index, is the nation's foremost producer of construction aggregates and a major producer of other construction materials. For additional information about Vulcan Materials Company, see www.vulcanmaterials.com.

The Medina County Environmental Action Association (MCEAA) is a nonprofit organization of over 130 families composed of ranchers, farmers, retired civilian and military personnel, businesspersons, sportsmen and women, and other landowners in the Quihi area of Texas, adjacent and around the site of the proposed Vulcan quarry. MCEAA was founded in January 2000, and stands for progress in Medina County that will keep our water pure, our air clean, our roads and our homes safe and will preserve the tranquil way of life that is the envy of all. MCEAA is committed to preserving our Quihi area's precious historic heritage which makes it a unique and irreplaceable part of Texas history. The MCEAA website resides at www.dontmesswithquihi.com.

#####

STEPTOE & JOHNSON LLP
ATTORNEYS AT LAW

#E1-2830
RJA

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

February 16, 2007

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.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 update you in connection with the permitting for the Vulcan Construction Material L.P.'s ("Vulcan") quarry in Medina County, Texas that is proposed to be served by the Southwest Gulf Railroad ("SGR"). On February 2, 2007, the Texas Commission on Environmental Quality ("TCEQ") granted an air quality permit to Vulcan for operation of the above-referenced quarry. A copy of the permit, which includes the various conditions attached to it, is enclosed. The permit is effective for a ten year period.

Please note that the permit limits fugitive emissions from the quarry site. See Special Condition 4. In that regard, the permit requires (a) the installation of spray bars at various points at the quarry, (b) the paving and watering of the road used by trucks to enter and exit the quarry, (c) that all aggregate stockpiles and active work areas be sprinkled with water and/or environmentally sensitive chemicals and (d) that trucks be washed to remove mud and road dust. See Special Conditions 5 B, D, E and G.

Vulcan is proceeding toward the initiation of operations at the quarry. Please call me if you have any questions.

Sincerely,



David H. Coburn

Ms. Victoria Rutson
February 16, 2007
Page 2

cc: Ms. Rini Ghosh
Ms. Diana Wood
Ms. Jaya Zyman-Ponebshek

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 2, 2007

Ms. Aleisha Knochenhauer
Environmental Services Manager
Southwest Division
Vulcan Construction Materials, L.P.
P.O. Box 791550
San Antonio, Texas 78279-1550

Re: Permit Application
Permit Number: 76337
Rock Crushing Plant
Rio Medina, Medina County
Regulated Entity Number: RN104680905
Customer Reference Number: CN600355465

Dear Ms. Knochenhauer:

This is in response to your Form PI-1, entitled "General Application for Air Preconstruction Permits and Amendments," concerning the above-referenced facility. This will acknowledge that your application for the above-referenced permit is technically complete as of February 3, 2006. We appreciate your cooperation in sending us the information necessary to evaluate your proposal.

A permit for your new facility is enclosed. The permit contains several general and special conditions that define the level of operation and allowable emissions. In addition, the construction and operation of the facilities must be as represented in the application.

This permit will be automatically void upon the occurrence of any of the following, as indicated in Title 30 Texas Administrative Code § 116.120(a) [30 TAC § 116.120(a)]:

1. Failure to begin construction within 18 months of the date of issuance,
2. Discontinuance of construction for more than 18 months prior to completion, or
3. Failure to complete construction within a reasonable time.

Upon request, the Texas Commission on Environmental Quality (TCEQ) Executive Director may grant extensions as allowed in 30 TAC § 116.120(b).

This permit will be in effect for ten years from the date of approval.

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • Internet address: www.tceq.state.tx.us

printed on recycled paper with soy ink

Ms. Aleisha Knochenhauer
Page 1
February 2, 2007

Re: Permit Number: 76337

Thank you for your cooperation and interest in air pollution control. If you need further information or have any questions, please contact Mr. Larry Buller at (512) 239-1890 or write to the Texas Commission on Environmental Quality, Office of Permitting, Remediation, and Registration, Air Permits Division (MC-163), P.O. Box 13087, Austin, Texas 78711-3087.

Sincerely,

A handwritten signature in black ink, appearing to read "R. A. H. H. H." with a stylized flourish at the end.

For The Commission
Texas Commission on Environmental Quality

LB/pl

Enclosures

cc: Mr. Gary Nicholls, P.E., Vice President, Westward Environmental, Inc., Boerne
Air Section Manager, Region 13 - San Antonio

Project Number: 116642



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AIR QUALITY PERMIT

A PERMIT IS HEREBY ISSUED TO

Vulcan Construction Materials, L.P.

AUTHORIZING THE CONSTRUCTION AND OPERATION OF

Rock Crushing Plant

LOCATED AT Rio Medina, Medina County, Texas

LATITUDE 29° 27' 38" LONGITUDE 099° 01' 16"



SPECIAL CONDITIONS

Permit Number 76337

1. **Facilities covered by this permit shall be constructed and operated as specified in the application for the permit.** All representations regarding construction plans and operation procedures contained in the permit application shall be conditions upon which the permit is issued. Variations from these representations shall be unlawful unless the permit holder first makes application to the Texas Commission on Environmental Quality (commission) Executive Director to amend this permit in that regard and such amendment is approved. [Title 30 Texas Administrative Code § 116.116 (30 TAC § 116.116)]
2. **Voiding of Permit.** A permit or permit amendment is automatically void if the holder fails to begin construction within 18 months of the date of issuance, discontinues construction for more than 18 months prior to completion, or fails to complete construction within a reasonable time. Upon request, the executive director may grant an 18-month extension. Before the extension is granted the permit may be subject to revision based on best available control technology, lowest achievable emission rate, and netting or offsets as applicable. One additional extension of up to 18 months may be granted if the permit holder demonstrates that emissions from the facility will comply with all rules and regulations of the commission, the intent of the TCAA, including protection of the public's health and physical property; and (b)(1) the permit holder is a party to litigation not of the permit holder's initiation regarding the issuance of the permit; or (b)(2) the permit holder has spent, or committed to spend, at least 10% of the estimated total cost of the project up to a maximum of \$5 million. A permit holder granted an extension under subsection (b)(1) of this section may receive one subsequent extension if the permit holder meets the conditions of subsection (b)(2) of this section. [30 TAC § 116.120(a), (b) and (c)]
3. **Construction Progress.** Start of construction, construction interruptions exceeding 45 days, and completion of construction shall be reported to the appropriate regional office of the commission not later than 15 working days after occurrence of the event. [30 TAC § 116.115(b)(2)(A)]
4. **Start-up Notification.** The appropriate air program regional office shall be notified prior to the commencement of operations of the facilities authorized by the permit in such a manner that a representative of the commission may be present. The permit holder shall provide a separate notification for the commencement of operations for each unit of phased construction, which may involve a series of units commencing operations at different times. Prior to operation of the facilities authorized by the permit, the permit holder shall identify to the Office of Permitting, Remediation, and Registration the source or sources of allowances to be utilized for compliance with Chapter 101, Subchapter H, Division 3 of this title (relating to Mass Emissions Cap and Trade Program). [30 TAC § 116.115(b)(2)(B)]
5. **Sampling Requirements.** If sampling is required, the permit holder shall contact the commission's Office of Compliance and Enforcement prior to sampling to obtain the proper data forms and procedures. All sampling and testing procedures must be approved by the executive director and coordinated with the regional representatives of the commission. The permit holder is also responsible for providing sampling facilities and conducting the sampling operations or contracting with an independent sampling consultant. [30 TAC § 116.115(b)(2)(C)]
6. **Equivalency of Methods.** The permit holder must demonstrate or otherwise justify the equivalency of emission control methods, sampling or other emission testing methods, and monitoring methods proposed as alternatives to methods indicated in the conditions of the permit. Alternative methods shall be applied for in writing and must be reviewed and approved by the executive director prior to their use in fulfilling any requirements of the permit. [30 TAC § 116.115(b)(2)(D)]
7. **Recordkeeping.** The permit holder shall maintain a copy of the permit along with records containing the information and data sufficient to demonstrate compliance with the permit, including production records and operating hours; keep all required records in a file at the plant site. If, however, the facility normally operates unattended, records shall be maintained at the nearest staffed location within Texas specified in the application; make the records available at the request of personnel from the commission or any air pollution control program having jurisdiction; comply with any additional recordkeeping requirements specified in special conditions attached to the permit, and retain information in the file for at least two years following the date that the information or data is obtained. [30 TAC § 116.115(b)(2)(E)]
8. **Maximum Allowable Emission Rates.** The total emissions of air contaminants from any of the sources of emissions must not exceed the values stated on the table attached to the permit entitled "Emission Sources--Maximum Allowable Emission Rates." [30 TAC § 116.115(b)(2)(F)]
9. **Maintenance of Emission Control.** The permitted facilities shall not be operated unless all air pollution emission capture and abatement equipment is maintained in good working order and operating properly during normal facility operations. The permit holder shall provide notification for upsets and maintenance in accordance with § 101.201, 101.211, and 101.221 of this title (relating to Emissions Event Reporting and Recordkeeping Requirements, Scheduled Maintenance, Startup and Shutdown Reporting and Recordkeeping Requirements, and Operational Requirements). [30 TAC § 116.115(b)(2)(G)]
10. **Compliance with Rules.** Acceptance of a permit by an applicant constitutes an acknowledgment and agreement that the permit holder will comply with all rules, regulations, and orders of the commission issued in conformity with the TCAA and the conditions precedent to the granting of the permit. If more than one state or federal rule or regulation or permit condition are applicable, the most stringent limit or condition shall govern and be the standard by which compliance shall be demonstrated. Acceptance includes consent to the entrance of commission employees and agents into the permitted premises at reasonable times to investigate conditions relating to the emission or concentration of air contaminants, including compliance with the permit. [30 TAC § 116.115(b)(2)(H)]
11. This permit may be appealed pursuant to 30 TAC § 50.119.
12. This permit may not be transferred, assigned, or conveyed by the holder except as provided by rule. [30 TAC § 116.110(e)]
13. There may be additional special conditions attached to a permit upon issuance or modification of the permit. Such conditions in a permit may be more restrictive than the requirements of Title 30 of the Texas Administrative Code. [30 TAC § 116.115(c)]
14. **Emissions from this facility must not cause or contribute to a condition of "air pollution" as defined in TCAA § 382.003(3) or violate TCAA § 382.085, as codified in the Texas Health and Safety Code.** If the executive director determines that such a condition or violation occurs, the holder shall implement additional abatement measures as necessary to control or prevent the condition or violation.

PERMIT 76337

Date: February 2, 2007



For The Commission
Texas Commission on Environmental Quality

EMISSION STANDARDS

1. This permit covers only those sources of emissions listed in the attached table entitled "Emission Sources - Maximum Allowable Emission Rates," and those sources are limited to the emission limits and other conditions specified in the attached table.
2. All equipment shall comply with all requirements of the U.S. Environmental Protection Agency (EPA) regulations on Standards of Performance for New Stationary Sources (NSPS) promulgated for Nonmetallic Mineral Processing Plants in Title 40 Code of Federal Regulations (40 CFR) Part 60, Subparts A and OOO except as otherwise represented in the permit application.

OPACITY/VISIBLE EMISSION LIMITATIONS

3. Opacity of emissions from any transfer point on belt conveyors or any screen shall not exceed 10 percent and from any crusher shall not exceed 15 percent, averaged over a six-minute period as determined by EPA Test Method (TM) 9 or equivalent.
4. No visible fugitive emissions from the crusher, screens, transfer points on belt conveyors, material storage or feed bins, stockpiles or plant roads shall cross the property line. Visible emissions shall not exceed 30 seconds in duration in any six-minute period as determined using EPA TM 22 or equivalent. If this condition is violated, additional controls or process changes may be required to limit visible particulate matter (PM) emissions.

OPERATIONAL REPRESENTATIONS

5. The company has represented the following to comply with all Texas Commission on Environmental Quality (TCEQ) rules and regulations:
 - A. Production at this facility is limited to 1,500 tons per hour (tph) and 8,500,000 tons per year (tpy) on a rolling 12 month basis, with capacity limits for each crusher as listed in the attached table entitled "Emission Sources - Maximum Allowable Emission Rates."
 - B. Permanently mounted spray bars shall be installed at the inlet and outlet of all crushers, at all shaker screens, and at all material transfer points except those EPNs listed in Special Condition No. 5C. All water spray systems shall be operated as necessary to comply with Special Condition No. 4.

C. No visible emissions shall be observed from the saturated processes defined by EPNs 25-32, 36-40, 44-46, 51-66, 74, 75, and 76c-82 to comply with Special Condition No. 4.

D. The primary entrance and exit for product truck traffic shall be paved with a cohesive hard surface which can be cleaned by sweeping or washing. Upon detection of visible particulate emissions the paved road shall be watered to comply with Special Condition No. 4.

All other roads and vehicle traffic areas shall be sprinkled with water and/or environmentally sensitive chemicals upon detection of visible particulate emissions to comply with Special Condition No. 4.

E. All aggregate stockpiles and active work areas shall be sprinkled with water and/or environmentally sensitive chemicals to comply with Special Condition No. 4.

F. Raw material stockpile heights are site specific and shall not exceed 45 feet in height unless approved by the TCEQ Regional Office and/or any appropriate local air programs with delegation.

G. A truck wash station shall be installed and operated. This station shall direct water sprays onto the undercarriage of product trucks to remove mud and/or road dust.

INITIAL DETERMINATION OF COMPLIANCE

6. The permit holder shall comply with 40 CFR Part 60 Subparts A and OOO requirements within the specified time frame. Requests for additional time to perform observations shall be submitted in writing to the TCEQ Regional Office. Requests for additional time to comply with the applicable requirements of 40 CFR 60 requires EPA approval and shall be submitted in writing to the TCEQ Compliance Support Division.

CONTINUOUS DETERMINATION OF COMPLIANCE

7. Upon request of the TCEQ Regional Director having jurisdiction, the holder of this permit shall perform ambient air monitoring, or other testing as required, to establish the actual pattern and quantities of air contaminants being emitted into the atmosphere. The tests shall be performed during normal operation of the facilities and shall be performed in accordance with accepted TCEQ practices and procedures.

RECORDKEEPING REQUIREMENTS

8. The following records shall be maintained and kept for a rolling two-year period to demonstrate compliance with General Condition No. 7, the maximum allowable emission rates table (MAERT), and NSPS requirements, including the following:

A. Daily and annual amounts of materials processed;

B. Road watering and cleaning for paved primary entrance and exit road and application of road dust control for all unpaved roads and vehicle traffic areas; and

C. Records of all repairs and maintenance of abatement systems.

Dated February 2, 2007

EMISSION SOURCES - MAXIMUM ALLOWABLE EMISSION RATES

Permit Number 76337

This table lists the maximum allowable emission rates and all sources of air contaminants on the applicant's property covered by this permit. The emission rates shown are those derived from information submitted as part of the application for permit and are the maximum rates allowed for these facilities. Any proposed increase in emission rates may require an application for a modification of the facilities covered by this permit.

AIR CONTAMINANTS DATA

Emission Point No. (1)	Source Name (2)	Air Contaminant Name (3)	Emission Rates *	
			lb/hr	TPY
5	Crusher No. 1 (4)	PM	0.70	1.99
		PM ₁₀	0.35	0.98
15	Crusher No. 2 (4)	PM	0.07	0.21
		PM ₁₀	0.04	0.10
33	Crusher No. 3 (4)	PM	0.66	1.88
		PM ₁₀	0.33	0.92
47	Crusher No. 4 (4)	PM	0.36	1.02
		PM ₁₀	0.16	0.46
48	Crusher No. 5 (4)	PM	0.36	1.02
		PM ₁₀	0.16	0.46
3	Screen No. 1 (4)	PM	3.30	9.35
		PM ₁₀	1.10	3.15
10	Screen No. 2 (4)	PM	1.29	3.67
		PM ₁₀	0.44	1.23
25	Scrubber (Wet Screen) (4)	PM	0.29	0.82
		PM ₁₀	0.10	0.28
28	Wet Screen No. 1 (4)	PM	0.08	0.21
		PM ₁₀	0.03	0.07
29	Wet Screen No. 2 (4)	PM	0.35	0.99
		PM ₁₀	0.12	0.35
44	Wet Screen No. 3 (4)	PM	0.25	0.71
		PM ₁₀	0.09	0.25

Permit Number 76337

Page 2

EMISSION SOURCES - MAXIMUM ALLOWABLE EMISSION RATES

AIR CONTAMINANTS DATA

Emission Point No. (1)	Source Name (2)	Air Contaminant Name (3)	Emission Rates *	
			lb/hr	TPY**
51	Wet Screen No. 4 (4)	PM	0.15	0.43
		PM ₁₀	0.05	0.15
55	Wet Screen No. 5 (4)	PM	0.14	0.41
		PM ₁₀	0.05	0.14
74	Wet Screen No. 6 (4)	PM	0.19	0.32
		PM ₁₀	0.07	0.11
75	Wet Screen No. 7 (4)	PM	0.19	0.32
		PM ₁₀	0.07	0.11
1, 88	Loading/Unloading Operations (4)	PM	0.29	0.52
		PM ₁₀	0.14	0.25
MHFUG	Aggregate Handling (4, 5)	PM	7.89	16.47
		PM ₁₀	2.61	5.45
SPFUG-A	Stockpile STK A (4)	PM	-	9.68
		PM ₁₀	-	4.61
SPFUG-B	Stockpile STK B (4)	PM	-	3.18
		PM ₁₀	-	1.51
SPFUG-C	Stockpile STK C (4)	PM	-	3.25
		PM ₁₀	-	1.55
SPFUG-D	Stockpile STK D (4)	PM	-	2.10
		PM ₁₀	-	1.00
SPFUG-E	Stockpile STK E (4)	PM	-	3.54
		PM ₁₀	-	1.69
SPFUG-F	Stockpile STK F (4)	PM	-	1.37
		PM ₁₀	-	0.65

EMISSION SOURCES - MAXIMUM ALLOWABLE EMISSION RATES

AIR CONTAMINANTS DATA

Emission Point No. (1)	Source Name (2)	Air Contaminant Name (3)	Emission Rates *	
			lb/hr	TPY**
SPFUG-G	Stockpile STK G (4)	PM	-	4.05
		PM ₁₀	-	1.93
SPFUG-H	Stockpile STK H (4)	PM	-	2.53
		PM ₁₀	-	1.20
SPFUG-I	Stockpile STK I (4)	PM	-	1.23
		PM ₁₀	-	0.59
SPFUG-J	Stockpile STK J (4)	PM	-	1.30
		PM ₁₀	-	0.62
SPFUG-K	Stockpile STK K (4)	PM	-	28.91
		PM ₁₀	-	13.77
SPFUG-L	Stockpile STK L (4)	PM	-	4.63
		PM ₁₀	-	2.20
SPFUG-M	Stockpile STK M (4)	PM	-	0.58
		PM ₁₀	-	0.28
SPFUG-N	Stockpile STK N (4)	PM	-	0.58
		PM ₁₀	-	0.28
SPFUG-O	Stockpile STK O (4)	PM	-	0.79
		PM ₁₀	-	0.38
SPFUG-P	Stockpile STK P (4)	PM	-	0.14
		PM ₁₀	-	0.07
SPFUG-Q	Stockpile STK Q (4)	PM	-	0.51
		PM ₁₀	-	0.24
SPFUG-R	Stockpile STK R (4)	PM	-	0.58
		PM ₁₀	-	0.28

EMISSION SOURCES - MAXIMUM ALLOWABLE EMISSION RATES

AIR CONTAMINANTS DATA

Emission Point No. (1)	Source Name (2)	Air Contaminant Name (3)	Emission Rates *	
			lb/hr	TPY**
SPFUG-S	Stockpile STK S (4)	PM	-	0.58
		PM ₁₀	-	0.28
T1	30,000 gal Diesel Tank (4)	VOC	0.01	0.03
T2	1000 gal Gasoline Tank (4)	VOC	0.11	0.48
T3	1000 gal Motor Oil Tank #1 (4)	VOC	<0.01	<0.01
T4	1000 gal Motor Oil Tank #2 (4)	VOC	<0.01	<0.01
T5	1000 gal Trans. Oil Tank #1 (4)	VOC	<0.01	<0.01
T6	1000 gal Trans. Oil Tank #2 (4)	VOC	<0.01	<0.01
T7	1000 gal Hydraulic Oil Tank #1 (4)	VOC	<0.01	<0.01
T8	1000 gal Hydraulic Oil Tank #2 (4)	VOC	<0.01	<0.01
T9	1000 gal Gear Oil Tank (4)	VOC	<0.01	<0.01
T10	2000 gal Used Oil Tank (4)	VOC	<0.01	<0.01

- (1) Emission point identification - either specific equipment designation or emission point number from plot plan.
- (2) Specific point source name. For fugitive sources use area name or fugitive source name.
- (3) PM - particulate matter, suspended in the atmosphere, including PM₁₀.
PM₁₀ - particulate matter equal to or less than 10 microns in diameter. Where PM is not listed, it shall be assumed that no particulate matter greater than 10 microns is emitted.
VOC - volatile organic compounds.
- (4) Fugitive emissions are an estimate only.
- (5) Includes EPNs 2, 4a, 4b, 7, 9, 11a-11e, 14, 17, 20, 22, 24, 26, 27, 30a, 30b, 32, 35, 36, 38, 41, 43, 45a-45d, 46, 50, 54, 56a-56d, 57, 59, 67, 69, 70, 73a, 76a-76d, 78, 81, 84, 85, 87, 89, 91, and 93 as well as Conveyors 2a, 6, 8, 12, 12a, 13, 16, 18, 19, 21, 23, 31, 34, 37, 39, 40, 42, 49, 52, 53, 58, 60 - 66, 68, 71 - 73, 77, 79, 80, 82, 83, 86, 90, and 92.

Permit Number 76337
Page 5

EMISSION SOURCES - MAXIMUM ALLOWABLE EMISSION RATES

* Emission rates are based on and the facilities are limited by the following maximum operating schedule and production rates:

24 Hrs/day 7 Days/week 52 Weeks/year or 8,760 Hrs/year

Crusher #1:	585 Tons/hour	<u>3,315,000</u> Tons/year
Crusher #2:	<u>62</u> Tons/hour	<u>351,333</u> Tons/year
Crusher #3:	<u>553</u> Tons/hour	<u>3,133,667</u> Tons/year
Crusher #4:	<u>300</u> Tons/hour	<u>1,700,000</u> Tons/year
Crusher #5:	<u>300</u> Tons/hour	<u>1,700,000</u> Tons/year

Total Facility: 1,500 Tons/hour 8,500,000 Tons/year

Dated February 2, 2007

#EJ-3150
JAW

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

September 5, 2007

VIA FACSIMILE

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 respond to your August 17, 2007 request for information on the so-called Weiblen Modification, by which we assume you mean the alignment modification shown at Figure 2-2 of SEA's December 8, 2006 Supplemental Draft EIS. Specifically, you have inquired as to whether Southwest Gulf Railroad ("SGR") believes that this Modification is a reasonable and feasible alternative for the planned SGR rail line. This Modification has been promoted by members of the Weiblen family as a means of reducing the impacts of the Eastern Alternatives that traverse their property (the Eastern Bypass and MCEAA Medina Dam Alternative) to their sprinkler systems and farm operations.

As you know, the Supplemental Draft EIS did not undertake an intensive analysis of the Weiblen Modification, noting that it is only a slight modification of the Eastern Alternatives studied by SEA. To address the Weiblen's concerns and any similar situations involving other landowners, however, SEA recommended the adoption of Mitigation Measure 5A, which states as follows:

Where construction of the rail line would cause unavoidable property severance, damage to a home or to an irrigation system, or property demolition and/or destruction, SGR shall negotiate with the appropriate land owner(s) to ensure access to the severed property and/or replacement of the irrigation system, and, if appropriate, realign the track to avoid taking houses and/or to minimize the impacts.

Ms. Victoria Rutson
September 5, 2007
Page 2

SGR has stated its support for this recommended Mitigation Measure. Specifically, SGR advised SEA in its January 29, 2007 letter commenting on the Supplemental Draft EIS as follows:

This mitigation measure [5A] has been offered in response to the concerns expressed by the Weiblen family, whose farm would be bisected by the Eastern Bypass. SGR is prepared to negotiate a modification of the rail line to minimize impacts to their property to the extent feasible should SGR decide to build its line along the Eastern Bypass alignment. SGR has so advised the Weiblens.

While the goal of negotiations designed to avoid or minimize impacts on homes, irrigation systems or other structures is obviously a sound one, such avoidance or minimization may not always be achievable due to geographic, cost or other constraints. Thus, to clarify that this measure is not intended to prohibit SGR from proceeding with construction even where certain impacts cannot be avoided, SGR suggests that SEA add the words ", to the extent feasible," after the word "ensure" in this measure.

With respect to SEA's request for an assessment of whether the Weiblen Modification is reasonable and feasible, SGR has not undertaken an intensive engineering analysis of the proposed Weiblen Modification to make a definitive judgment in that regard. However, based on analyses that have been performed, as well as SGR's familiarity with the area, SGR has not identified any fatal flaws with the Weiblen Modification. Further, subject to consultation with the County, SGR believes that the Weiblen Modification crosses CR 4516 at a point that offers a safe location for a crossing, as in the case of the originally proposed Eastern Bypass alignment.

Accordingly, while SGR believes that Mitigation Measure 5A offers sufficient protection to the interests of the Weiblens and to other landowners, SGR would not oppose an SEA recommendation in the Final EIS allowing SGR the leeway to build its line along the Weiblen Modification. However, SGR also urges SEA to allow SGR the option to determine based on final engineering and further study of the area that it could construct its line adhering to the originally proposed Eastern Bypass should any irremediable problems arise with the Weiblen Modification.

Finally, it bears note that SGR officials have been in contact with members of the Weiblen family and have discussed possible minor alterations to the Weiblen Modification to improve the routing. SGR intends to maintain a dialogue with the Weiblen family and, assuming that the STB approves construction along the Eastern Bypass and Weiblen Modification, will work with that family under the strictures of Mitigation Measure 5A to ensure to the extent feasible that the SGR line's impact on the Weiblen farm operations is minimized.

Ms. Victoria Rutson
September 5, 2007
Page 3

We trust that this responds to the questions raised in your letter and would be pleased to answer any further questions that you might have. As you requested, we have copied a member of the Weiblen family on this letter.

Respectfully,



David H. Cobum
Attorney for Southwest Gulf Railroad

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

STEPTOE & JOHNSON LLP
ATTORNEYS AT LAW

#E1-3225
DAW

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

David H. Coburn
202.429.8063
dcoburn@steptoe.com

November 15, 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:

In a letter dated July 21, 2007 and received by SEA on August 15, 2007, MCEAA asks once again that SEA further study the environmental impacts of the quarry as a so-called "connected action." Specifically, MCEAA points to heavy rainfall and flooding that occurred in Texas in June and July, 2007 and asks that SEA study the question of whether the quarry will increase the risk or severity of flooding.

MCEAA's letter overlooks several critical points. First, SEA already did look at the implications of the quarry on potential flooding in the area as part of the extensive cumulative impacts analysis it undertook. At page 4-108 of the Draft EIS issued in this proceeding, SEA stated as follows:

The proposed quarry would be built in the topographically higher elevations of the project site. Because of this only minor run-off water and water from direct rainfall would enter the area around the quarry. In addition, the use of Best Management Practices would prevent and control any stormwater run-off from the quarry site, as well as prevent the release of suspended sediment into local surface waters. Accordingly, no potentially significant adverse cumulative effects to water quality or surface water resources in the proposed project area are expected as a result of the quarry.

STEPTOE & JOHNSON LLP

Ms. Victoria Rutson
November 15, 2007
Page 2

In the Supplemental Draft EIS, SEA re-adopted these same findings during the course of its consideration of the Eastern Alternative Routes. See SDEIS at page 3-52.

Second, MCEAA overlooks that Vulcan is required to obtain, and did obtain, from the Texas Commission on Environmental Quality, approval for a Water Pollution Abatement Plan (WPAP). In a September 14, 2006 letter to SEA reporting on TCEQ's approval of that plan (over the objection of MCEAA), Vulcan explained that the WPAP addresses stormwater runoff issues and requires the use of Best Management Practices by Vulcan at the quarry to, among other things, limit the risk of stormwater runoff at the quarry site.

Third, Vulcan is engaged in active consultations with the Medina County Floodplain Administrator about the design of the quarry so as to address any concerns that the Administrator might have. SGR has also committed to consult with the Floodplain Administrator and the U.S. Army Corps of Engineers to ensure that its rail line does not contribute to flooding, as is obligated to do so by proposed Mitigation Measures 24 (Floodplain Administrator permits required) and 25 (Corps of Engineers permits required). As noted in the SDEIS, SEA, through consultation with the Federal Emergency Management Agency (FEMA), has confirmed that Medina County participates in National Flood Insurance Program. In order for any community to participate in the program, that community must have regulations that meet the federal requirements for flood plain management and appoint a Floodplain Administrator who has the responsibility, authority and means to implement those regulations, as Medina County has done. See 44 C.F.R. § 59.22. The federal requirements for flood plain management are described in 44 C.F.R. Part 60. Consistent with these requirements, the Medina County Floodplain Administrator's duties include, but are not limited to, determining the boundaries of special flood-hazard areas and whether a project is in such an area, reviewing and acting on permits, and maintaining the carrying capacity of watercourses. See, e.g. Texas Commission of Environmental Quality, *Floodplain Administrator's Handbook* (2006). The Floodplain Administrator has detailed knowledge of the local flooding issues and the related federal, state and local regulations relevant to flood plain management. Thus, the Floodplain Administrator has both the knowledge and the authority to address any flooding issues and issue the permits that SGR must obtain for each floodplain crossing under recommended Mitigation Measure 24.

Fourth, relative to the rail line, SEA carefully studied the impacts of the line on surface water and flooding and has already imposed several mitigation measures described in the DEIS and SDEIS. In addition, SGR has offered extensive voluntary mitigation to address surface water and wetlands issues, and this mitigation has been incorporated into the proposed mitigation for the rail line. See proposed Mitigation Measures VM 2 and 20-32.

Finally, in the MCEAA letter noted above and in various other comment letters submitted to SEA, it is suggested that the rail line loading loop and the plant facility are located on a floodplain. This is also suggested by Figure 3-4 of the Supplemental Draft EIS. In fact, based on more refined engineering work done to date, neither the loading loop nor the plant facility will be located in the floodplain. The attached map makes this clear. This map reflects the

Ms. Victoria Rutson
November 15, 2007
Page 3

STEPTOE & JOHNSON LLP

actual planned location of the loading loop and maintenance facility and is fully consistent with the prior comments of Vulcan/SGR in this proceeding that it would seek to avoid placing structures in the floodplain.

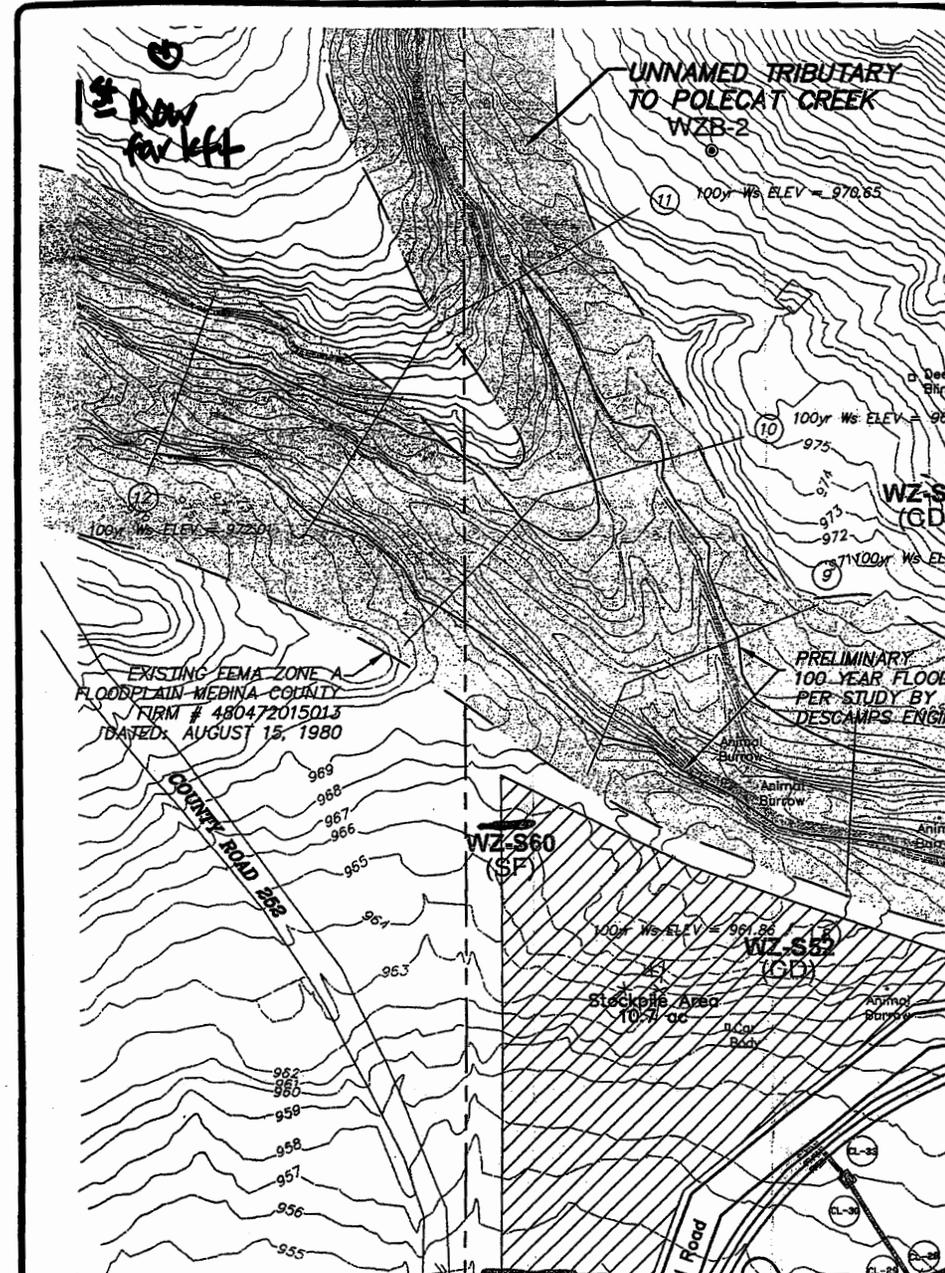
Please advise if you have any questions.

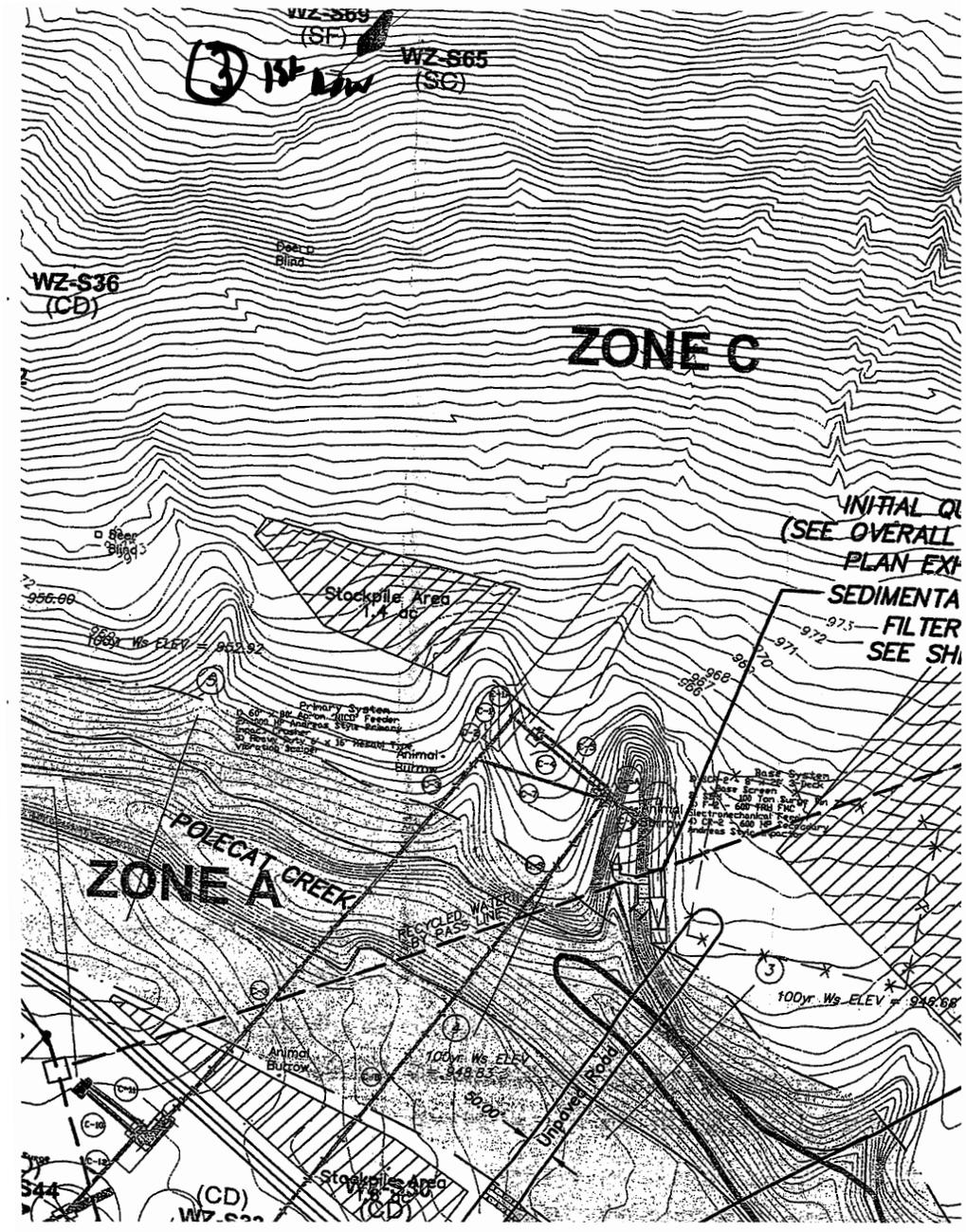
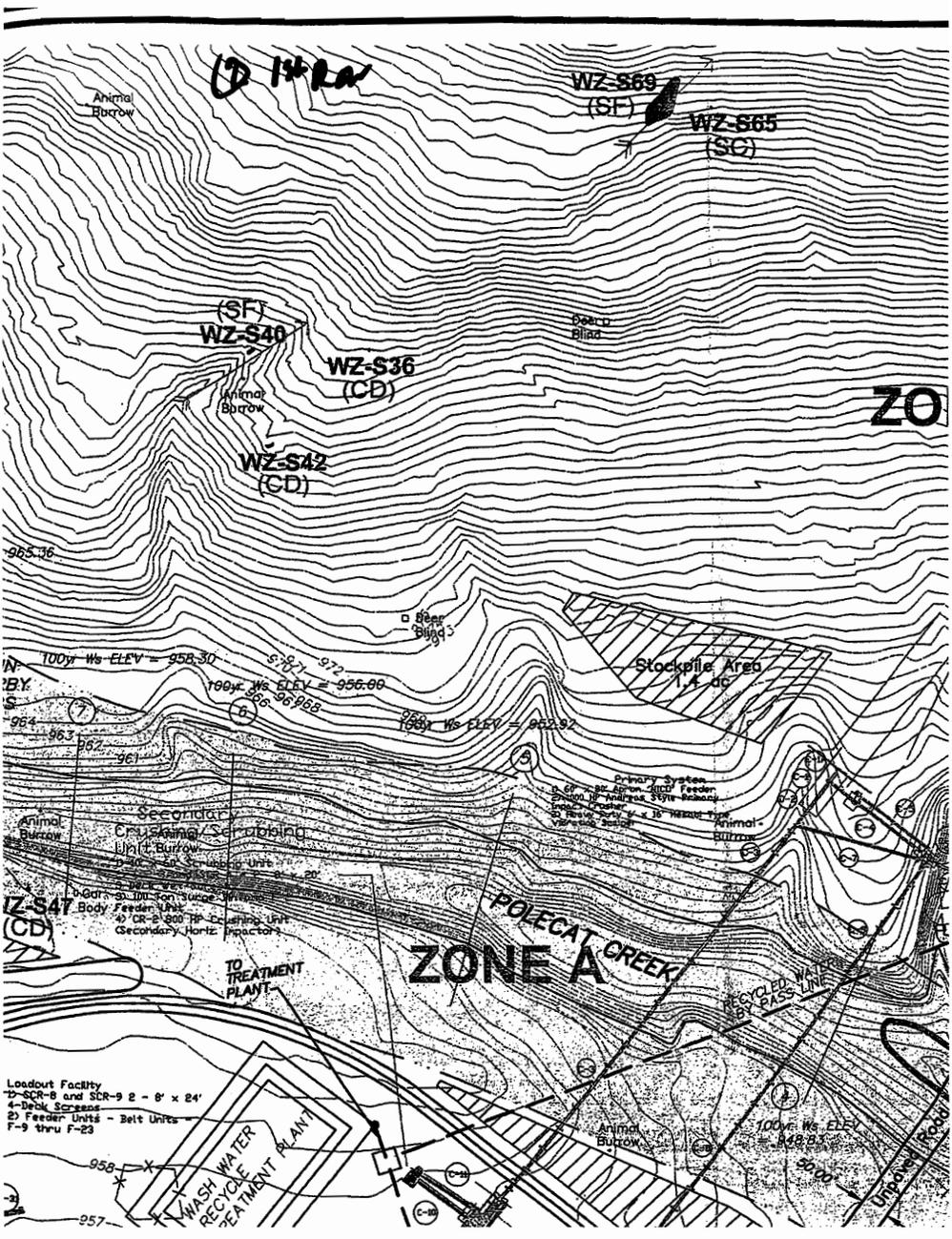
Respectfully,



David H. Coburn
Attorney for Southwest Gulf Railroad

cc: Ms. Diana Wood
Ms. Jaya Zyman-Ponebshek







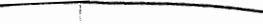
6
First Row

Dennis K Hoyt

REVISED 06/28/06
03/09/06



LEGEND

-  FLOOD STUDY SECTION
-  FLOOD STUDY SECTION LABEL
-  PRELIMINARY 100 YEAR FLOODPLAIN PER STUDY BY OVERBY DESCAMPS
-  EXISTING FEMA ZONE A FLOODPLAIN
-  WZ-S50 (CD) EXISTING GEOLOGICAL FEATURE
-  FORCE MAIN BY VULCAN

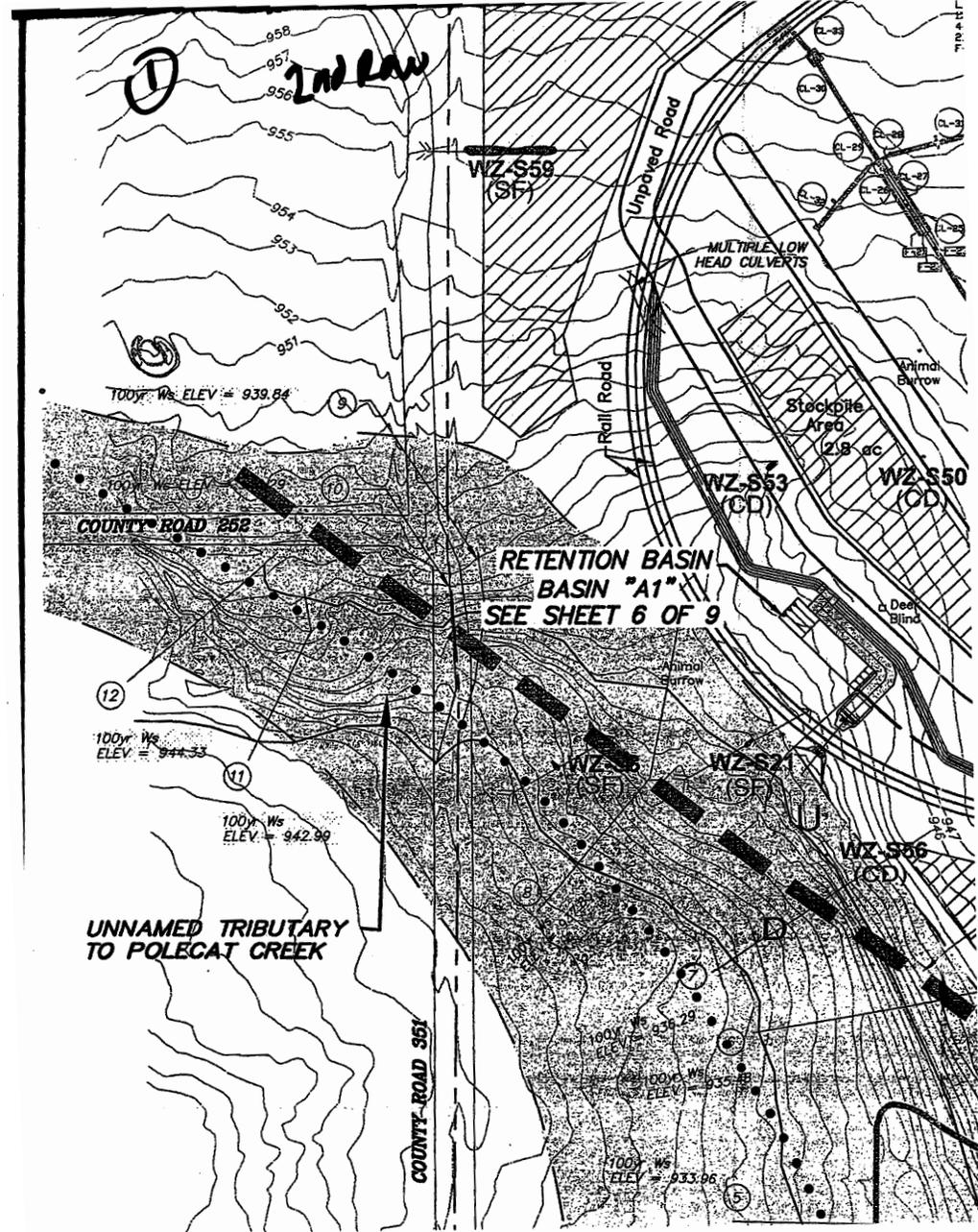
REVISIONS

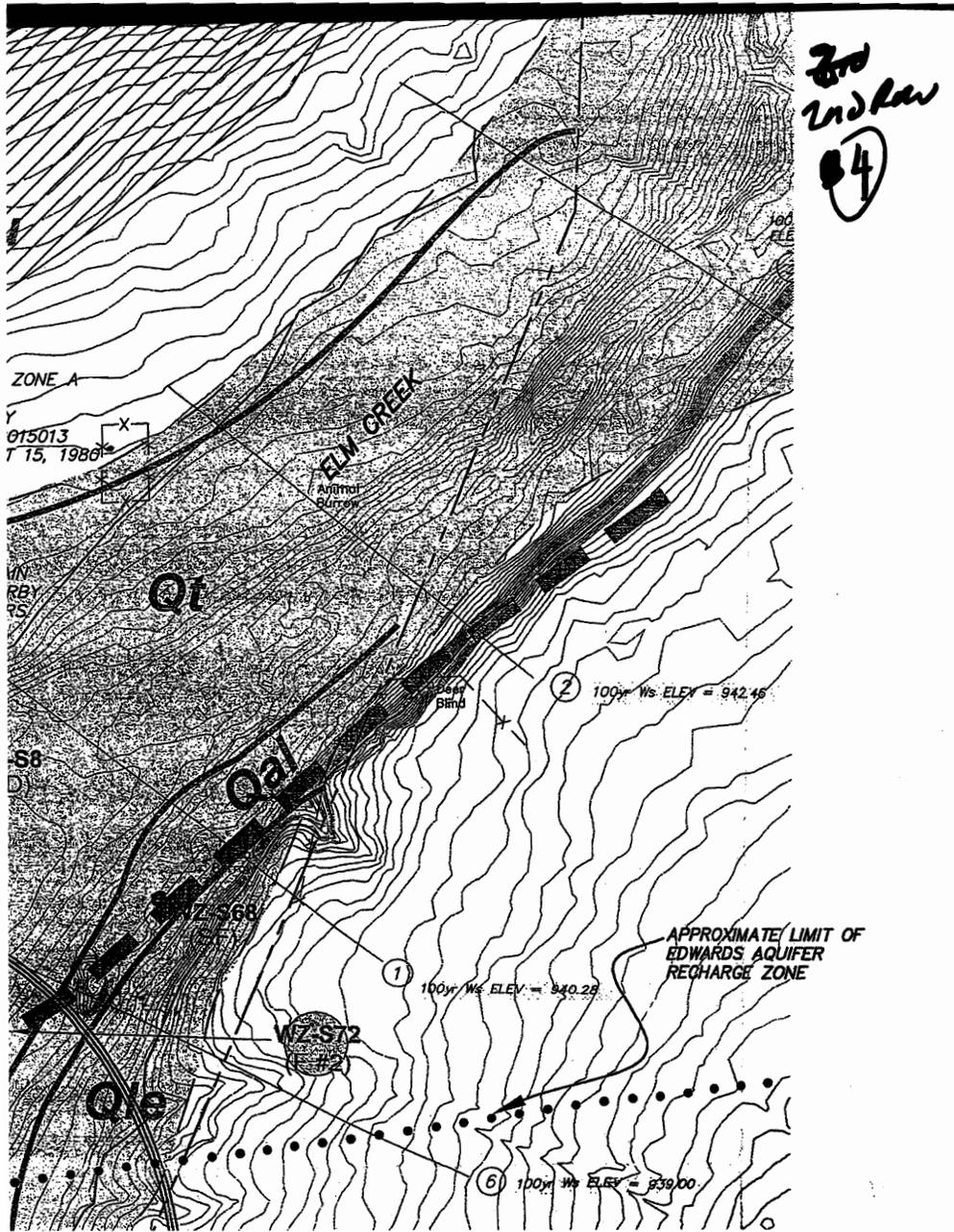
06/28/06 REVISED PER TCEQ COMMENTS

11815 WARFIELD
SAN ANTONIO, TX 78216
Tel: (210) 828-3520
Fax: (210) 828-3599
ode@overbydescamps.com

SS UNVEILING

Conveyor #	Conveyor Belt Description	Belt Size BW x Length	Belt Capacity TPH
C-1A	Dribble Collection Conveyor	48" x 25'	25
C-1	Reversible Scalping Collection Conveyor	60" x 30'	600
C-2	Crusher Discharge Conv. Belt	60" x 60'	1500
C-3	Main Transfer Belt to Scrubber	48" x 950'	1500
C-4	Main Transfer Belt to Base Plant	36" x 245'	600
C-5	Overize Base Recrush Belt	36" x 156'	600
C-6A	RIP/RAP Transfer Belt	36" x 30'	100
C-6	RIP/RAP Overize Belt	36" x 80'	300
C-7	Base Plant Return Belt to C-3	36" x 240'	600
C-8	Base Product Transfer Belt	36" x 1045'	800
C-9	Base Product Stackler	36" x 150'	800
C-10	Scrubber Overize to Secondary Crushing Feed	36" x 125'	500
C-11	Secondary Crushing Return Belt	36" x 160'	500





C-1	Reversible Scraping Collection Conveyor	60" x 30"	800
C-2	Crusher Discharge Conc. Belt	60" x 60"	1500
C-3	Main Transfer Belt to Scrubber	48" x 650'	1500
C-4	Main Transfer Belt to Base Plant	36" x 245'	800
C-5	Overize Base Recrush Belt	36" x 156'	600
C-6A	RIP/RAP Transfer Belt	36" x 30'	100
C-6	RIP/RAP Oversize Belt	36" x 60'	300
C-7	Base Plant Return Belt to C-3	36" x 240'	600
C-8	Base Product Transfer Belt	36" x 1045'	800
C-9	Base Product Stacker	36" x 150'	800
C-10	Scrubber Oversize to Secondary Crushing Feed	36" x 125'	500
C-11	Secondary Crushing Return Belt	36" x 160'	500
C-12	Main Surge Stacking Unit	42" x 230'	1500
C-13	Main Tunnel belt to Tertiary Screen (SCR-5)	42" x 460'	1200
C-14	Return Belt to Tertiary Crushing Units	36" x 200'	800
C-15	Tertiary Crushing Product to SCR-6	36" x 242'	800
C-16	Main Transfer to Quarternary Tower	36" x 390'	800
C-17	Not Available - Eliminated in Refined Plant Design		
C-18	1-1/2" x 1" Product Stacking Conveyor	30" x 285'	300
C-19	1" x 3/4" Product Stacking Conveyor	30" x 261'	300
C-20	3/4" x 1/2" Product Stacking Conveyor	30" x 348'	300
C-21	1/2" x 3/8" Product Stacking Conveyor	30" x 283'	300
C-22	3/8" x 1/4" Product Stacking Conveyor	30" x 278'	300
C-23	1/4" x 1/8" Product Stacking Conveyor	30" x 335'	300
C-24	Main Loadout Conveyor	60" x 1010'	3000
C-25	Manufactured Sand Transfer Belt	36" x 40'	400
C-26	Manufactured Sand Transfer Belt	36" x 40'	400
C-27	Manufactured Sand Radial Stacking Conveyor	36" x 150'	400
C-28	Manufactured Sand Radial Stacking Conveyor	36" x 150'	400
CL-25	Loadout Bypass Belt	60" x 160'	3000
CL-26	Transfer Belt	48" x 133'	1500
CL-27	Transfer Belt	48" x 133'	1500
CL-28	Bypass Transfer Conveyor	48" x 21'	1500
CL-29	Bypass Transfer Conveyor	48" x 21'	1500
CL-30	Transfer Belt to Loadout Bin	60" x 223'	3000
CL-31	Bypass Product Radial Stacking Conveyor	48" x 150'	1500
CL-32	Bypass Product Radial Stacking Conveyor	48" x 150'	1500
CL-33	Scale Loadout Belt	60" x 60'	3000
CL-34	ManSand/Base Rail Loading System Belt	60" x 20'	1500
CL-35	ManSand/Base Rail Loading System Belt	60" x 130'	1500

LEGEND

- X — FENCE
- OE — OVERHEAD POWER LINE
- ⚡ POWER POLE
- T — TELEPHONE LINE
- BHM-1 COREHOLE DRILLED BY VULCAN MATERIALS
- FORMATION CONTACT
- ↗ LINEATION IN EXPOSED LIMESTONE BEDROCK

GEOLOGIC FEATURES

- (CD) NON-KARST CLOSED DEPRESSION
- (F) FAULT. DASHED WHERE INFERRED. U AND D INDICATE UP THROWN AND DOWN THROWN SIDES, RESPECTIVELY.
- (MB) MANMADE FEATURE IN BEDROCK

11812
SAN
Tel:
Fax:
Ode

2nd Row
(5)

**OVERBY
DESCAMPS
ENGINEERS**

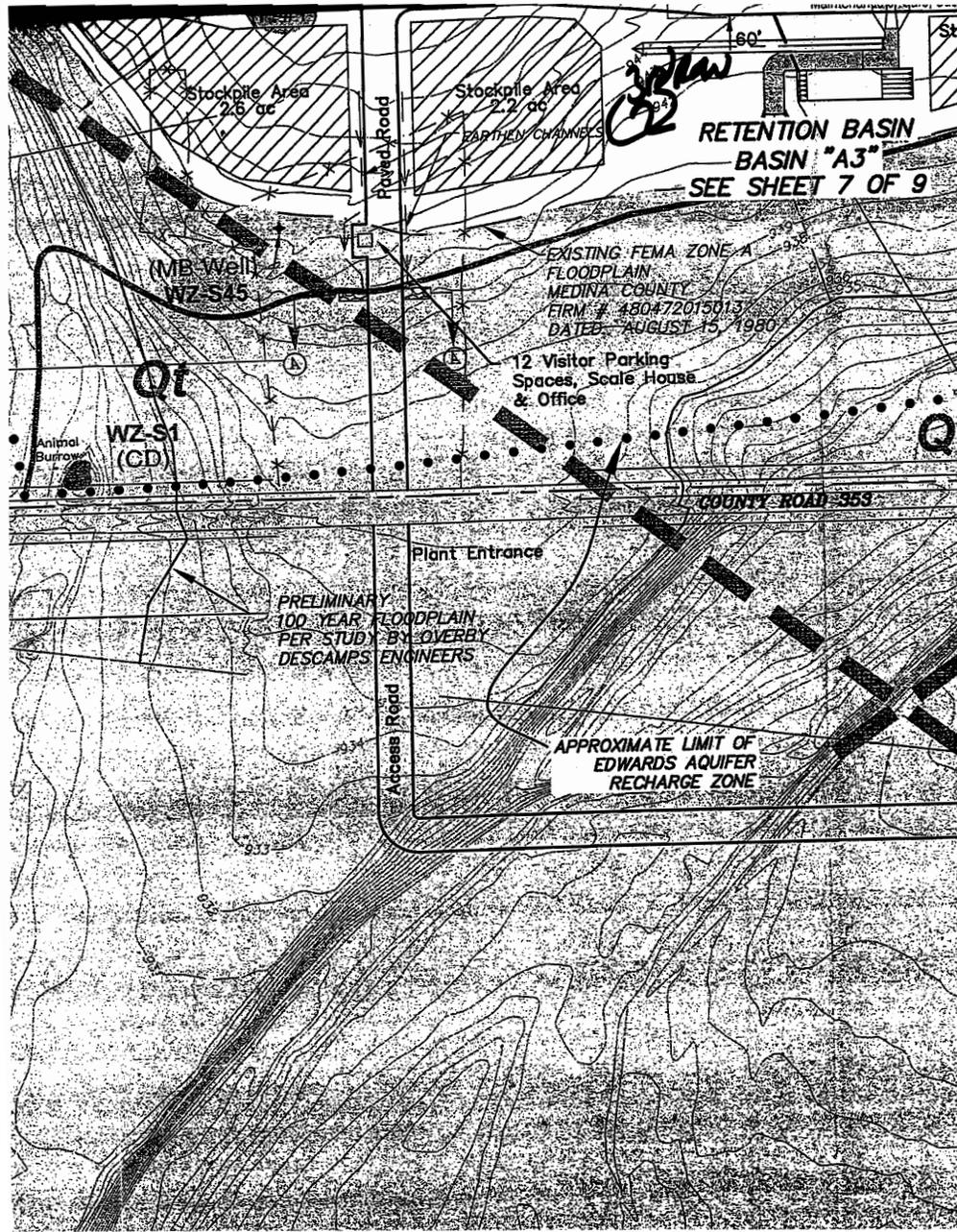
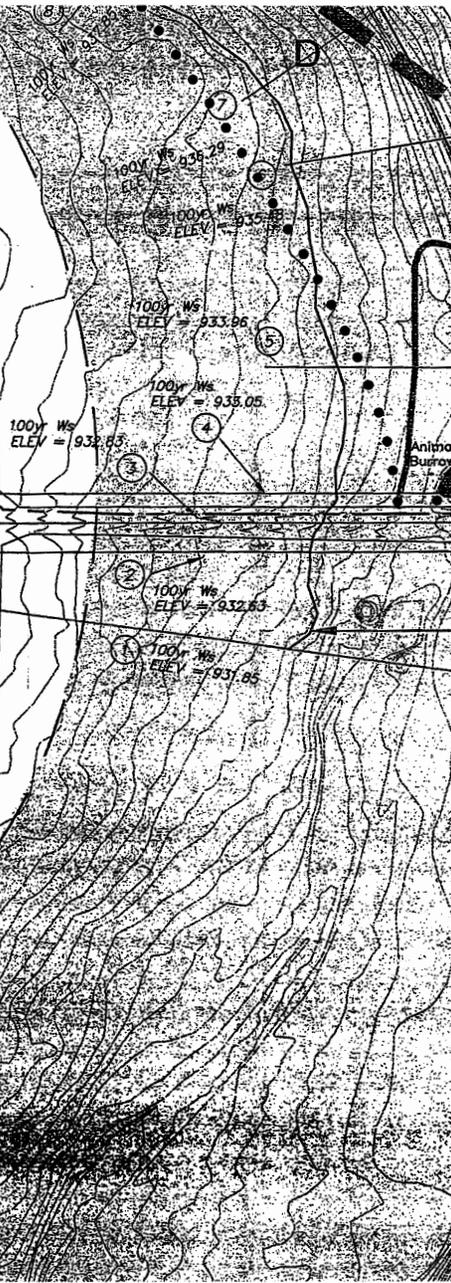
CIVIL ■ ENVIRONMENTAL ■ SURVEYING

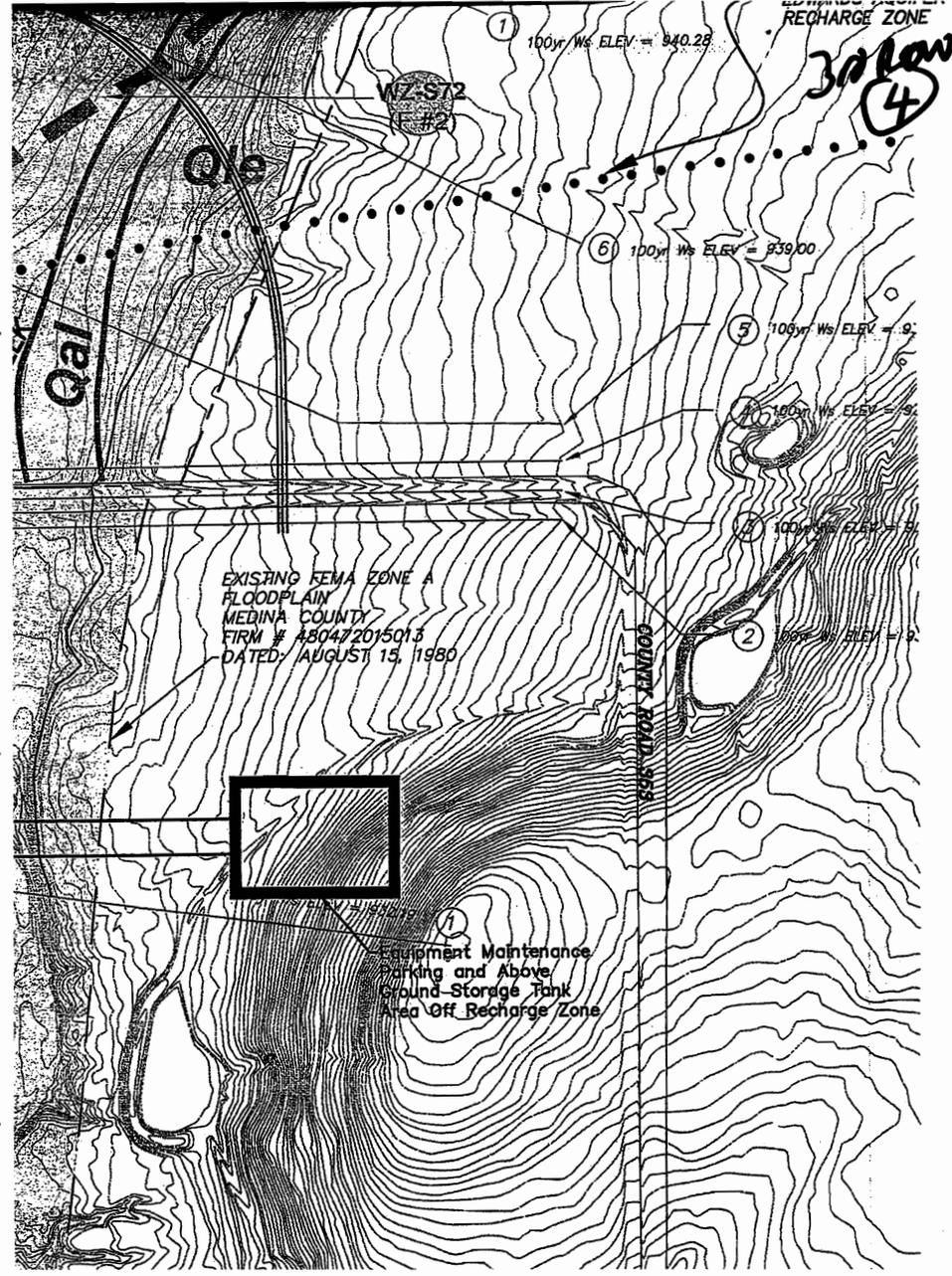
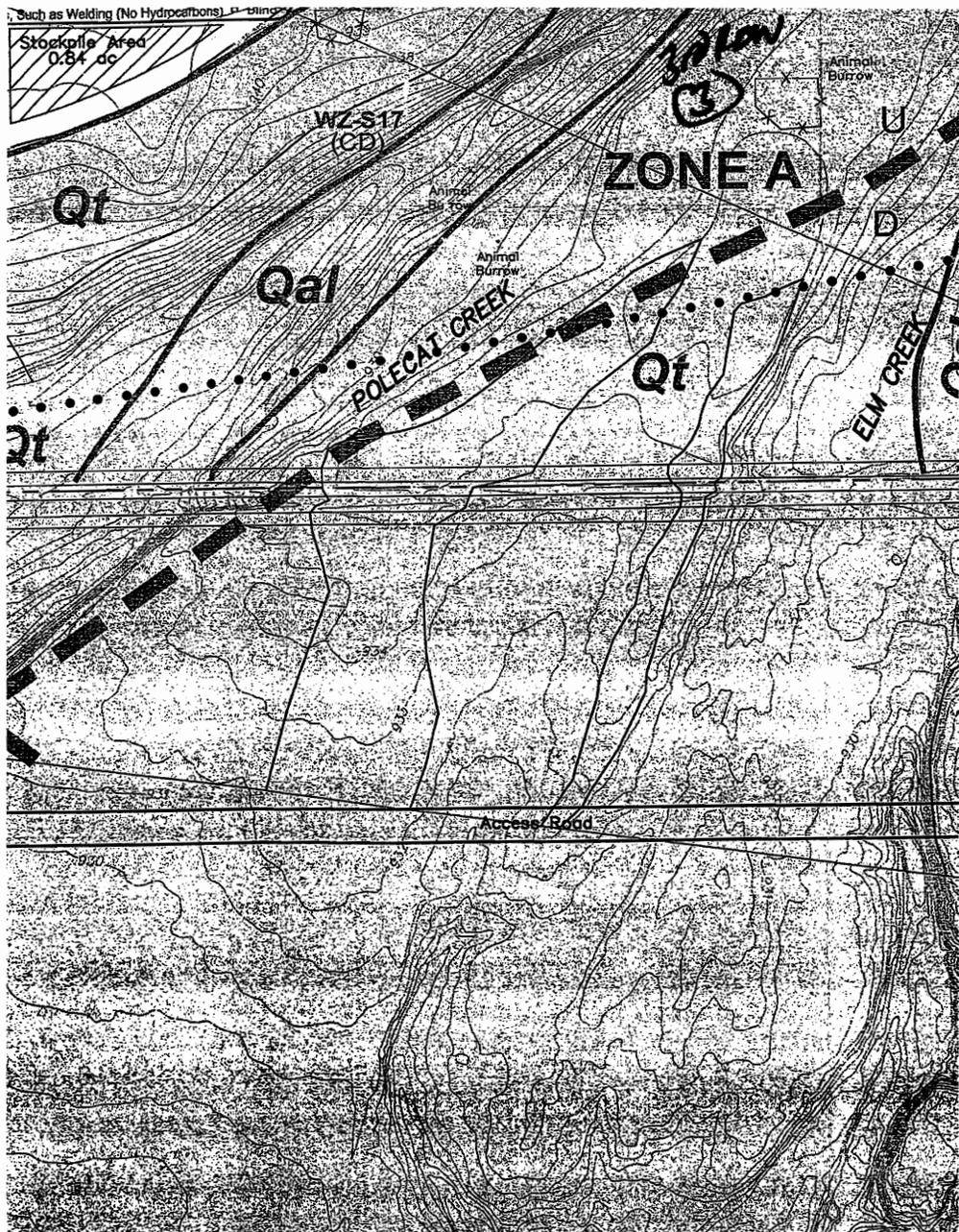
Quarry
Area

UNNAMED TRIBUTARY
TO POLECAT CREEK

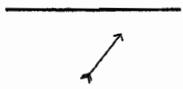
30 ROW
G

COUNTY ROAD 361





MATERIALS



FORMATION CONTACT

LINEATION IN EXPOSED LIMESTONE BEDROCK

GEOLOGIC FEATURES

(CD)

NON-KARST CLOSED DEPRESSION

(F)

FAULT. DASHED WHERE INFERRED. U AND D INDICATE UPthrown AND DOWNthrown SIDES, RESPECTIVELY.

(MB)

MANMADE FEATURE IN BEDROCK
WELL = WATER WELL
PIT = ROCK-LINED PIT

(O)

OTHER NATURAL BEDROCK FEATURES:
VUGGY ROCK, REEF DEPOSITS

(SC)

SOLUTION CAVITY

(SF)

SOLUTION-ENLARGED FRACTURE(S)



FEATURE THAT IS CONSIDERED TO BE SENSITIVE

STRATIGRAPHY

Qal

ALLUVIUM

Qt

FLUVIATILE TERRACE DEPOSITS

Qle

LEONA FORMATION

Kgt

GEORGETOWN FORMATION

Kdvru

DEVILS RIVER LIMESTONE, UPPER

Kdvrl

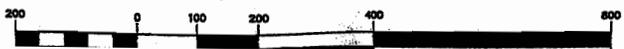
DEVILS RIVER LIMESTONE, LOWER

310 RA
5

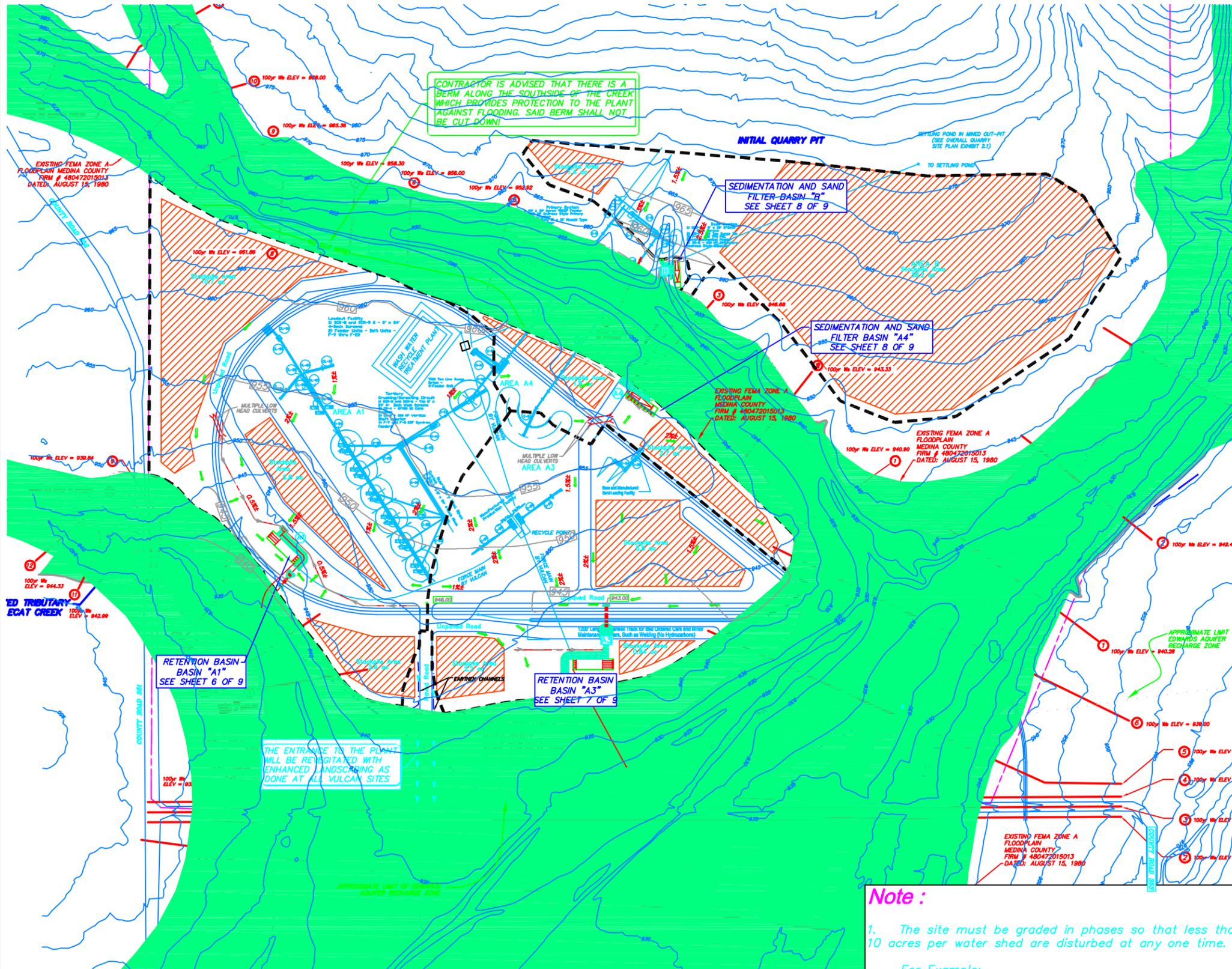
**Vulcan Materials, Medina Quarry
Site Plan For Plant Area**



GRAPHIC SCALE



PROJECT NO. —
DATE 03/



- ### LEGEND
- PLANT AREA DRAINAGE BOUNDARY
 - PRELIMINARY 100 YEAR FLOODPLAIN PER STUDY BY OVERYBY DESCAMPS ENGINEERS
 - EXISTING FEMA ZONE A FLOODPLAIN
 - WATER QUALITY BASIN
 - FAULT ZONE (FZ)
U - INDICATES UP-THROWN
D - INDICATES DOWN-THROWN
LINE DASHED WHERE INFERRRED
 - ROUGH GRADING CONTOURS

Texas Commission on Environmental Quality Water Pollution Abatement Plan General Construction Notes

1. Written construction notification must be given to the appropriate TCEQ regional office no later than 48 hours prior to commencement of the regulated activity. Information must include the date on which the regulated activity will commence, the name of the approved plan for the regulated activity, and the name of the prime contractor and the name and telephone number of the contact person.
2. All contractors conducting regulated activities associated with this project must be provided with complete copies of the approved Water Pollution Abatement Plan and the TCEQ letter indicating the specific conditions of its approval. During the course of these regulated activities, the contractors are required to keep on-site copies of the approved plan and approval letter.
3. If any sensitive feature is discovered during construction, all regulated activities near the sensitive feature must be suspended immediately. The appropriate TCEQ regional office must be immediately notified of any sensitive features encountered during construction. The regulated activities near the sensitive feature may not proceed until the TCEQ has reviewed and approved the methods proposed to protect the sensitive feature and the Edwards Aquifer from any potentially adverse impacts to water quality.
4. No temporary aboveground hydrocarbon and hazardous substance storage tank system is installed within 100 feet of a domestic, industrial, irrigation, or public water supply well, or other sensitive feature.
5. Prior to commencement of construction, all temporary erosion and sedimentation (E&S) control measures must be properly selected, installed, and maintained in accordance with the manufacturers specifications and good engineering practices. Controls specified in the temporary storm water section of the approved Edwards Aquifer Protection Plan are required during construction. If inspections indicate a control has been used inappropriately, or incorrectly, the applicant must replace or modify the control for site situations. The controls must remain in place until disturbed areas are revegetated and the areas have become permanently stabilized.
6. If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize offsite impacts to water quality (e.g., fugitive sediment in street being washed into surface streams or sensitive features by the next rain).
7. Sediment must be removed from sediment traps or sedimentation ponds not later than when design capacity has been reduced by 50%. A permanent stake must be provided that can indicate when the sediment occupies 50% of the basin volume.
8. Litter, construction debris, and construction chemicals exposed to stormwater shall be prevented from becoming a pollutant source for stormwater discharges (e.g., screening outfalls, picked up daily).
9. All spoils (excavated material) generated from the project site must be stored on-site with proper E&S controls. For storage or disposal of spoils at another site on the Edwards Aquifer Recharge Zone, the owner of the site must receive approval of a water pollution abatement plan for the placement of fill material or mass grading prior to the placement of spoils at the other site.
10. Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. Where the initiation of stabilization measures by the 14th day after construction activity temporary or permanently ceases is precluded by weather conditions, stabilization measures shall be initiated as soon as practicable. Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 21 days, temporary stabilization measures do not have to be initiated on that portion of site. In areas experiencing droughts where the initiation of stabilization measures by the 14th day after construction activity has temporarily or permanently ceased is precluded by seasonal arid conditions, stabilization measures shall be initiated as soon as practicable.
11. The following records shall be maintained and made available to the TCEQ upon request: the dates when major grading activities occur; the dates when construction activities temporarily or permanently cease on a portion of the site; and the dates when stabilization measures are initiated.
12. The holder of any approved Edwards Aquifer protection plan must notify the appropriate regional office in writing and obtain approval from the executive director prior to initiating any of the following:
 - A. any physical or operational modification of any water pollution abatement structure(s), including but not limited to ponds, dams, berms, sewage treatment plants, and diversionary structures;
 - B. any change in the nature or character of the regulated activity from that which was originally approved or a change which would significantly impact the ability of the plan to prevent pollution of the Edwards Aquifer;
 - C. any development of land previously identified as undeveloped in the original water pollution abatement plan.

Note :

1. The site must be graded in phases so that less than 10 acres per water shed are disturbed at any one time.

For Example:
 Area A1 39.74 ac / 10 ac = 4 phases
 Area A3 30.76 ac / 10 ac = 4 phases

However, since the watersheds are separate the total disturbance of A1 and A3 at any one time may be nearly 20 acres.

2. See Temporary Stormwater Controls Sheet 3 of 8 for Temporary Best management practices required prior to any grading.

CAPTURE AREA FLOW CALCULATIONS AT BASINS - PROPOSED

BASIN	Watershed Area (ACRES)	TIME OF CONCENTRATION (MINUTES)	INTENSITY (IN/HR)	RUNOFF COEFFICIENT (C)	CALCULATED FLOW Q ₁ (CFS)	STORM FREQUENCY (YEARS)
A1	39.74	32	2.83	0.80	88,233	2
A1	39.74	32	4.05	0.80	125,213	25
A3	30.76	20	3.65	0.57	87,575	2
A3	30.76	20	5.08	0.57	102,729	25
A4	6.43	20	3.85	0.80	14,350	2
A4	6.43	20	5.08	0.80	22,375	25
B	6.28	20	4.05	0.57	13,726	2
B	6.28	20	5.08	0.57	20,098	25

WATER QUALITY VOLUMES

BASIN	REQUIRED CAPTURE VOLUMES (FT ³)	BASIN CAPTURE VOLUMES (FT ³)
A1	32,213	32,847
A3	39,534	39,803.50
A4	13,683	13,740
B	11,435	11,537



REVISIONS

03/09/06 REVISED FOR TCEQ COMMENTS

03/09/06

11815 MARSHED
SAY ANTONIO, TX 78216
Tel: (210) 628-3520
Fax: (210) 628-3599
oedwards@overbydescamps.com



Vulcan Materials, Medina Quarry
 Permanent Storm Water Controls
 & Rough Grading Plan for Plant Area

PROJECT NO. 0257-20
 DATE 03/09/06
 DRAWN/ESP CHECKED/BB
 SHEET 5 OF 9



"Coburn, David"
 <DCoburn@step toe.com>
 12/13/2007 01:37 PM

To Diana.Wood@stb.dot.gov,
 Jaya_Zyman-Ponebshek@URSCorp.com

cc

bcc

Subject Southwest Gulf Railroad

#E1-3291
 FD 34284
 DW

History: This message has been replied to.

Diana/Jaya -- In response to Jaya's request for a smaller version of the map of the rail loop area supplied with our November 15, 2007 letter, I have attached a PDF version of the map. The maps in these attachments show that the loading loop will remain entirely outside the floodplain, as explained in the November 15 letter. The maps (particularly one of the attached CAD files) also show the contour lines of the area, which reveal that there is no precipitous drop in the grade of the rail right-of-way in the area, as certain opponents of the rail line have claimed -- most recently in the November 14, 2007 letter from the Quihi & New Fountain Historical Society. The letter claims that a 20-30 foot drop between the rail loop and the point that the rail line crosses CR 353 would create a problematic flooding situation.

The attached map shows that the elevation in the plant area varies no more than about 20 feet over the distance between the far end of the rail loop (northwest corner) to the southeast where the rail line enters the plant area. This is a 100 plus acre area over which there is a gentle change in elevation. The plant area, in other words, is relatively flat and there are no precipitous rises and falls obviating the concerns over flooding. As the line enters the floodplain from the plant, it will be on a bridge which will elevate the line above the floodplain at an elevation that is similar to the plant site. The bridge structure will be professionally engineered, approved by the Medina County Flood Plain Administrator and will meet applicable Corps of Engineer requirements for crossing jurisdictional waterways.

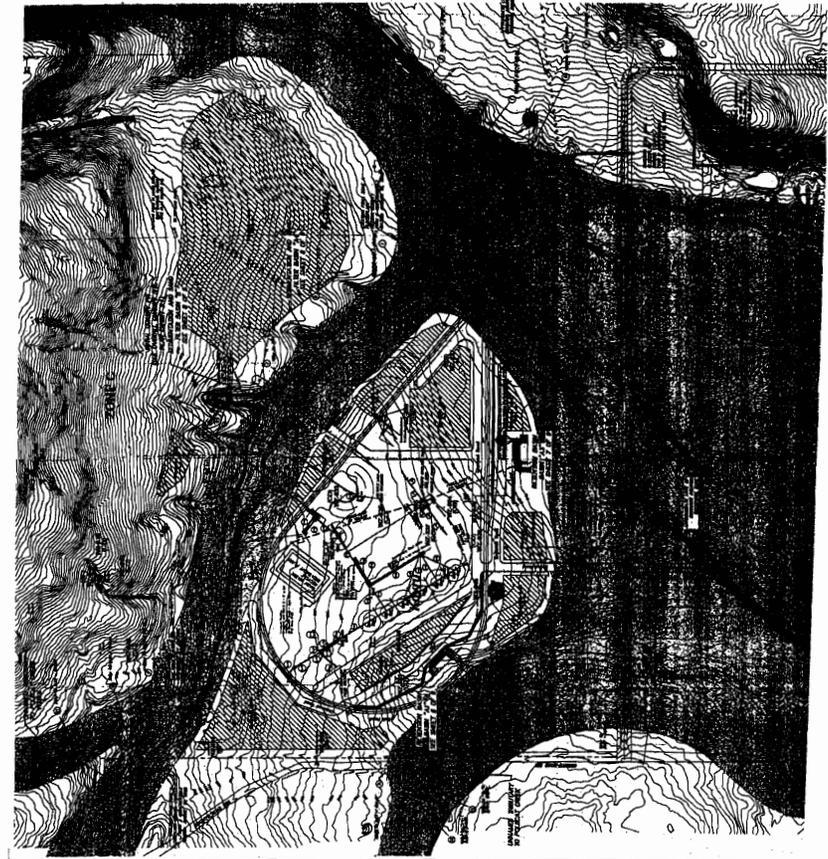
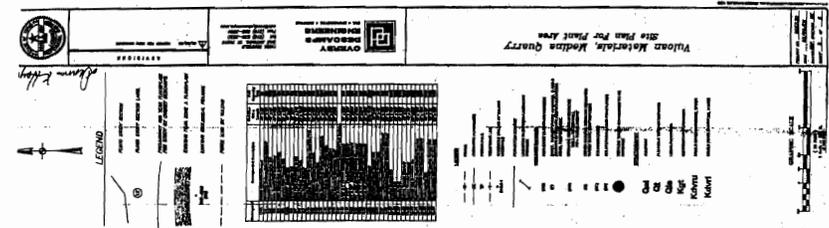
Further, I have attached a letter received from Medina County Floodplain Administrator which underscores that he will be taking a hard look at the plans for the rail line, just as he has at the quarry area. SGR is working closely with him in this regard.

Please advise if you have any questions.
 Regards. David

<<SERVER-270682644.pdf>>

<<Floodplain Administrator Letter.PDF>>

David H. Coburn
 Steptoe & Johnson LLP





Medina County Environmental Health Floodplain Administrator

709 Ave. Y • Hondo, Texas 78861 • Office 830-741-6195 • Fax 830-741-6099
"Protecting Medina County's Air and Water Resources through Reducing and Preventing
Pollution."

November 15, 2007

Vulcan Materials Company
1706 Avenue M
Hondo, TX 78861
Attention: Erik Remmert
Subject: CR 353 Vulcan Site Meeting, October 7th, 2007.

Eric, I did appreciate the opportunity to meet with you, Diana Wood, Surface Transportation Board, Jaya Zyman-Ponebshek, URS, and Tom Bugenhagen, Vulcan Materials. Ms. Wood was interested in the Floodplain rules enforced by Medina County as they apply to the proposed rail line. We made a visit to the Vulcan Quarry site and the proposed rail routes. During the discussion Eric Remmert stated that Vulcan would be complying with all required permitting processes including Floodplain and Army Corps of Engineers 404 permitting. I explained that we are very concerned about development and the effects on drainage and we, Medina County, want to make sure that any development within the County does not exacerbate flooding conditions. On a previous Quarry site visit on October 25, 2007, Mr. Remmert and I walked the boundaries of the floodplain as delineated by Pape-Dawson Engineers. The quarry site is outside the boundaries of the FEMA mapped floodplain with the exception of access roads and the proposed rail line access/egress. The vehicle access road crossing will be at grade so will have a no adverse impact effect on the floodplain. The rail route is yet to be determined so we will study the rail crossings when a route is decided upon.

Sincerely

Pat E. Brawner CFM

#E0-187
RJ

SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

December 28, 2004

Robert Fitzgerald, MD
President
Medina County Environmental Action Association
202 CR 450
Hondo, TX 78861

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

Dear Dr. Fitzgerald:

Thank you for your three recent letters on behalf of the Medina County Environmental Action Association (MCEAA) regarding the Surface Transportation Board's (Board) Section of Environmental Analysis' (SEA) environmental review of Southwest Gulf Railroad Company's (SGR) proposed rail line construction and operation in Medina County, Texas. I have addressed each letter below.

December 8, 2004 Letter Requesting Answers to Questions in Four Issue Areas

MCEAA requests that SEA provide information on when a decision concerning reconsideration of the scope of analysis of the quarry will be made, when MCEAA will be notified of this decision, information on who will make this decision, and why the Draft Environmental Impact Statement (EIS) is, according to MCEAA, inadequate. MCEAA also requests a copy of the sign-in list of attendees for the public meetings held on December 2, 2004, and a list of those persons speaking at the meetings.

Response: The questions raised in MCEAA's letter are substantive comments on the scope and contents of the Draft EIS. As stated in the Draft EIS, after the close of the public comment period on the Draft EIS, a Final EIS will be prepared in response to comments on the Draft EIS. The Final EIS is the appropriate forum for responding to the comments received on the Draft EIS. SEA will ensure that copies of the Final EIS are available to all who submitted comments on the Draft EIS.

SEA has enclosed a copy of the sign-in list of attendees for the public meetings. The comment forms submitted by speakers at the public meetings will be made available on the

Board's website in the near future. Official transcripts of the meetings will also be posted on the Board's website when available.

December 8, 2004 Letter Requesting Extension of the Comment Period on the Draft EIS
MCEAA requests a 60 or 90 day extension of the comment period on the Draft EIS to accommodate the holiday schedules of commenters.

Response: The comment period for Draft EISs is generally 45 days. In order to accommodate MCEAA's previous request for a 60-day comment period and to take into consideration the holidays that fall within the comment period, SEA has provided a 60-day comment period on the Draft EIS. Comments are due January 10th, which should provide adequate time after the holidays for commenters to finalize their submissions. SEA does not believe an extension of the comment period is necessary at this time and comments will continue to be due on January 10, 2005. SEA reminds MCEAA that the January 10th deadline is a postmark deadline and that comments may also be submitted electronically on the Board's website by clicking on the "E-FILING" link.

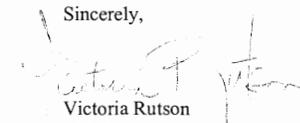
December 10, 2004 Letter Regarding Rail Study of San Antonio Area Railroads
MCEAA submitted an article describing an upcoming study of rail safety in the San Antonio area and has requested SEA to respond as to whether the Board or any other Federal agency will be involved in this study.

Response: The pending study on rail safety in San Antonio may involve the Federal Railroad Administration, which is the Federal agency that administers rail safety regulations. The Board, which has jurisdiction over economic regulation of freight rail, typically does not oversee day-to-day railroad operations and therefore, does not appear to have a role in the pending study.

We appreciate your interest in the environmental review process for this proceeding. As Rini Ghosh of my staff informed Mrs. Alyne Fitzgerald at the public meetings on December 2nd, we welcome the submission of all information from MCEAA that MCEAA believes would be pertinent to the environmental review process for this proceeding.

If we can be of further assistance, please do not hesitate to contact me or Rini Ghosh of my staff at (202) 565-1539.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

cc: Senator John Cornyn
Representative Henry Bonilla
State Senator Frank Madla
State Representative Tracy King

Enclosures

#E0-198
R9

SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

February 15, 2005

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

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

Dear Mr. Coburn:

The Surface Transportation Board's Section of Environmental Analysis (SEA) is currently reviewing the comment letters received on the Draft Environmental Impact Statement (EIS) for Southwest Gulf Railroad Company's (SGR) proposed rail line construction and operation, issued on November 5, 2004. We are writing to request information from SGR regarding certain issues that have been raised in the comment letters. We will likely submit additional requests for information to SGR as we continue our review of the comments.

Please provide the information requested below. If any of the requested information is unavailable, please provide an explanation in your response.

1. **Alternative Rail Routes:** SGR has provided information stating that initially a total of fifteen potential rail routes between Vulcan Construction Materials, LP's (VCM) proposed quarry and the Union Pacific Railroad Company (UP) rail line had been identified. These fifteen routes consisted of eight different potential routes and seven minor variations from some of these eight routes. After assessing the fifteen route variations using certain criteria, SGR determined that four routes warranted further evaluation, and that 11 should be eliminated.

Please provide a map delineating all fifteen identified rail routes and information specifying the reasons for eliminating eleven of these potential routes from further evaluation. We request that the reasons for elimination be specified separately for each of the eleven routes.

Commenters have suggested that reasonable and feasible alternative rail routes, other than those studied in the Draft EIS, exist and should be developed, particularly alternative routes that bypass the Quihi, Texas area. Please provide information as to whether SGR has studied the feasibility of rail routes that are farther to the west or farther to the east of the four alignments studied in the Draft EIS (if not included in the discussion of the eleven routes eliminated from further consideration requested above). If so, please provide as much information as possible regarding these routes, such as detailed maps, engineering requirements, and any environmental considerations.

2. **Cut and Fill:** SGR had previously indicated that final cut and fill volumes of the potential rail alignments had not been determined. If the cut and fill volumes have now been determined, please provide SEA with this information for all alternative rail routes for which this information is available, including those SGR eliminated from further evaluation. If SGR has determined the cut and fill volumes that would be required for an alignment or alignments that would utilize portions of the Medina Dam route, please provide this information as well.
3. **Road upgrades:** Commenters have challenged the feasibility of using trucks to transport limestone from VCM's quarry to the UP rail line, assessed as part of the no-action alternative in the Draft EIS. In particular, commenters have stated that the current road infrastructure could not support the amount of truck traffic that has been projected and that it would not be possible for VCM to transport the limestone by truck.

Although SGR has provided some information regarding which roadways would be used by the limestone-hauling trucks, has indicated that VCM may develop a private road, and has stated that VCM would work with Medina County officials on the specifications of any road upgrades, SEA requests that SGR provide more detailed information on any needed road upgrades and the construction of the private roadway. Please provide information on the specifications of the roadway upgrades and the construction of the private road, including the approximate length of construction time, the number of workers involved in the roadway construction, the frequency of maintenance needed, the width requirements for the roadways, and plans to take into consideration stream and floodplain crossings. Are there any approvals for the roadway upgrades that VCM would be required to obtain?

The Medina County Environmental Action Association has submitted photographs showing that area roadways are subject to flooding that would impede traffic. Please provide information indicating how VCM plans to operate trucks on these roadways during periods of flooding.

4. **Location of the Maintenance and Fueling Facility:** Several commenters have expressed concern regarding the proximity of the maintenance and fueling facility

11-E0-207
RQ

SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

May 12, 2005

Robert Pine
Supervisor
U.S. Fish and Wildlife Service
10711 Burnet Road, Suite 200
Austin, TX 78758

Re: STB Finance Docket No. 34284, Southwest Gulf Railroad Company –
Construction and Operation Exemption – Medina County, TX;
Consultation # 2-15-03-I-0276

Dear Mr. Pine:

Pursuant to Section 7 of the Endangered Species Act, 16 U.S.C. 1536, we are writing to request your agency's concurrence with our determination that Southwest Gulf Railroad Company's (SGR) proposed rail line construction and operation in Medina County, Texas is not likely to adversely affect a listed species or designated critical habitat.¹

As you know, the Surface Transportation Board's Section of Environmental Analysis (SEA) is conducting an environmental review of SGR's 7-mile proposed rail line construction and operation, pursuant to the requirements of the National Environmental Policy Act and related environmental regulations, including the Endangered Species Act. The proposed rail line would connect a proposed Vulcan Construction Materials, LP (VCM) limestone quarry and the Del Rio subdivision of the Union Pacific Railroad Company, near Dunlay, Texas. We issued a Draft Environmental Impact Statement (EIS) on November 5, 2004 (sent to you under separate cover), which includes an assessment of the potential effects of the proposed project on biological resources in the project area.

The U.S. Fish and Wildlife Service (FWS) has previously indicated to us that two Federally listed songbirds, the Black-capped Vireo and the Golden-cheeked Warbler, may occur

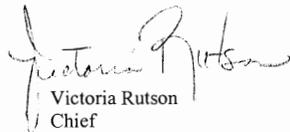
¹ We note that this determination is based on the scope of our analysis to date. Commenters have requested that the scope of the proposed action be expanded and that additional alternative rail routes be studied. Should we determine that additional analysis is needed regarding impacts to threatened and endangered species, we will consult further with your agency, as appropriate.

to the Edwards Aquifer Recharge Zone. Please provide a detailed, small-scale map showing the planned location of this facility in relation to the recharge zone.

5. **Maintenance Activities:** SGR has stated that it would maintain the right-of-way consistent with rail industry standards and the need to minimize fire hazards. Commenters have requested more detailed information regarding maintenance activities. Please provide any additional information regarding maintenance of the right-of-way, including vegetation control, that SGR has developed to date.
6. **Fencing:** SGR has stated that it intends to use appropriate fencing on both sides of the right-of-way, from the quarry site to the UP line. The Texas Parks and Wildlife Department has requested information regarding the height and mesh size of the fencing. Please provide this information.

We thank you in advance for your cooperation and your response to this information request. If you need additional information or have any questions, please do not hesitate to contact me or Rini Ghosh of my staff at (202)565-1539.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

in the project area. (See Draft EIS, Volume II, pages C-17, C-18, C44, and C-45.) In the Draft EIS, we state that our field surveys,² conducted between February and May of 2003, indicate that neither the Black-capped Vireo nor the Golden-cheeked Warbler are present in the area of the proposed route or alternative routes for the rail line. This is due to the absence of habitat considered suitable for these two species. However, a proposed rail loading track that would be built as part of the proposed project on the quarry property would be located in an area that could provide potential habitat for the Golden-cheeked Warbler. (See Draft EIS, Volume I at pages 3-24 and 3-26.)

As discussed in the Draft EIS, the remaining Federally listed species in Medina County are associated with karst features. SEA did not locate observable karst features during field surveys, though the area near the loading track and a portion of the rail line that would extend approximately 1,500 feet to the south of the loading track has the potential to develop karst features. In the Draft EIS, SEA recommended a condition that if SGR identifies a significant karst feature during the grading and construction of the rail line in the area susceptible to karst feature formation, SGR shall inventory any caves for endangered species. (See Draft EIS, Volume I, pages 3-30 and 5-10.)

VCM initiated field surveys in 2000 to determine the presence or absence of threatened and endangered species in the proposed quarry area. These surveys included the proposed loading track and plant maintenance/fuel storage areas in the southern portion of the proposed quarry area. These surveys were continued in 2001, 2002, and 2003, and the results were submitted to your office. (Enclosed figure shows the area in which detailed surveys were conducted. See also Draft EIS, Volume II, Appendix F.) These detailed surveys included presence/absence surveys for the Golden-cheeked Warbler by endangered species specialists,

² As stated in the Draft EIS, SEA's field assessment of the proposed rail line route included pedestrian surveys of undeveloped lands and unimproved agricultural lands. The assessment of biological resources along the alternative rail line routes was completed by partial observation by automobile and by a more detailed review of these routes on aerial photography (Texas Digital Ortho Quadrangle False Color Infrared dated 1995), published soil maps, National Wetland Inventory Maps, and USGS 7.5 minute topographic maps.

and concluded that it is unlikely that activities in the surveyed area would adversely affect Golden-cheeked Warblers or their habitat.

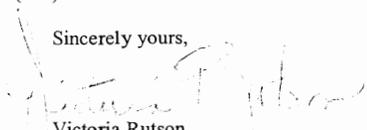
VCM indicated that areas with the highest potential to support Golden-cheeked Warblers are to be set aside as buffer zones and undisturbed wildlife preserve areas surrounding quarry operations. FWS informed VCM, by letter dated October 17, 2003 (copy enclosed), that VCM and FWS would be working together throughout the quarry project to avoid impacts to the Golden-cheeked Warbler. In addition, VCM's surveys did not find any surficial karst features that provide habitat for known threatened and endangered species.

Based on SEA's field surveys of the proposed and alternative rail line alignments, and VCM's detailed surveys of the area in which the rail loading track would be located, as well as indication that VCM would continue to consult with FWS regarding impacts to Federally listed species, we conclude that SGR's proposed rail line construction and operation is not likely to adversely affect a listed species or designated critical habitat. Moreover, our proposed mitigation measures for identifying and inventorying karst features and caves during grading and construction of the rail line, as set forth in the Draft EIS, would further protect against potential impacts to threatened and endangered species.

We request your agency's concurrence with our determination that the proposed rail line construction and operation is not likely to adversely affect in order to conclude the informal consultation process of Section 7 of the Endangered Species Act.

If you have any questions or we require additional information, please do not hesitate to contact me or Rini Ghosh of my staff at (202) 565-1539.

Sincerely yours,


Victoria Rutson
Chief
Section of Environmental Analysis

Enclosures

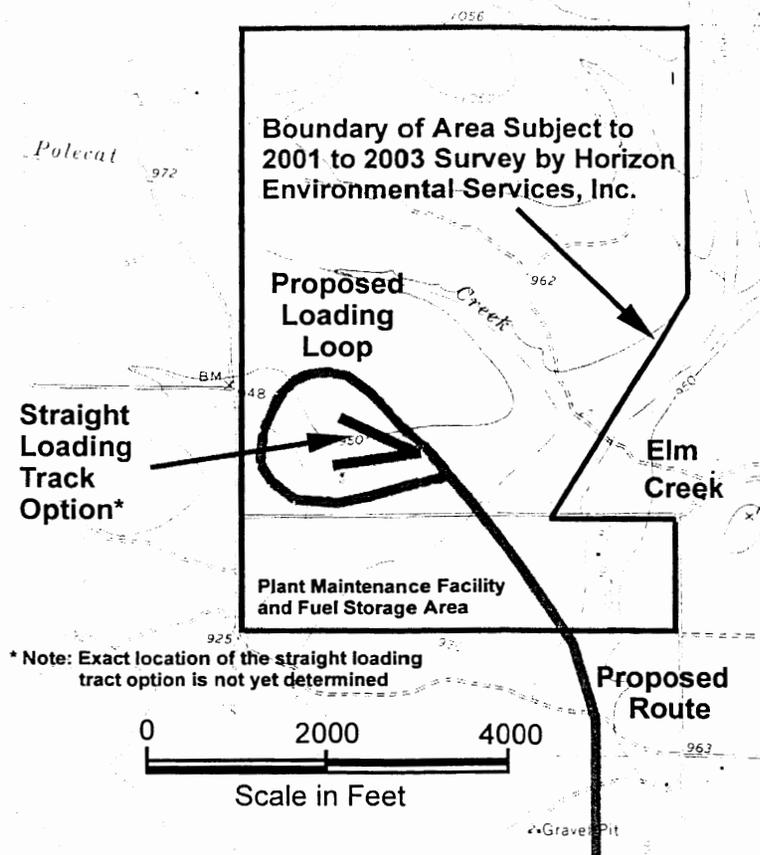


Figure 4.17-1. Survey Area of Vulcan Material Company's Biological Assessments

4-103



United States Department of the Interior



FISH AND WILDLIFE SERVICE
10711 Burnet Road, Suite 200
Austin, Texas 78758
(512) 490-0057

October 17, 2003

Dr. William J. Rogers
Department of Life, Earth, and Environmental Sciences
West Texas A&M University
Box 60808
Canyon, Texas 79016-0001

Consultation Number 2-15-00-I-0658

Dear Dr. Rogers:

This letter responds to your August 2003 submittal to the U.S. Fish and Wildlife Service (Service) of the "Vulcan Materials Company's Biological Assessment Report for its Medina Project in Medina County, Texas." Vulcan proposes construction of a limestone quarry on an approximately 712 hectares (1760 acres) tract approximately 8 kilometers (5 miles) north of the community of Quihi, Texas. This biological assessment (BA) assesses Phase I, the southernmost approximately 243 hectares (600 acres) of the site, and is an updated version of the Vulcan Materials Company (Vulcan) BA submitted to our office in December 2001. Four additional phases will be assessed and submitted to the Service in the future.

On October 15, 2003, Jana Milliken of our staff toured portions of the future quarry site with you and project geologist Dr. Darrell Brownlow to discuss the project's potential impacts to the endangered golden-cheeked warbler (GCW) (*Dendroica chrysoparia*). It was determined in the previous BA that potential habitat for the GCW did exist within and adjacent to the quarry site. However, those areas with the highest potential to support GCW habitat (approximately 81 hectares (200 acres) of the total Phase I area) are to be set aside as buffer zones and undisturbed wildlife "preserve" areas surrounding quarry operations. It is not clear exactly how much of the total 712 hectares (1760 acres) property will remain undisturbed over the life of the project, but estimates given during our tour suggest as much as half of the tract may be set aside.

Presence/absence surveys for the GCW were initiated in the Spring of 2001. Horizon Environmental Services, Inc. was contracted to do the surveys for 2001, 2002, and 2003 field seasons. From these surveys, we understand that you have determined that "take" of GCWs is

TAKE PRIDE
IN AMERICA

G-113

#E0-212
RJA

SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

July 8, 2005

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

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

Dear Mr. Coburn:

As you know, the Section of Environmental Analysis (SEA) is in the process of reviewing and responding to comments we have received on the Draft Environmental Impact Statement (Draft EIS) for Southwest Gulf Railroad Company's (SGR) proposed rail line construction and operation, issued on November 5, 2004. We appreciate your April 4, 2005 response to our information request, dated February 15, 2005, and your supplemental letter of June 6, 2005. The information you have provided about your proposed rail line construction project has assisted SEA in being as responsive as possible to the comments raised.

Following our careful review of both the comments and your letters, we have some follow-up questions. Consequently, if you could provide the information requested below, I believe that our efforts in drafting thorough and comprehensive responses to the comments – particularly those questioning certain details of SGR's proposed rail line construction and operation, potential alternatives, and the proposed quarry operations – would be greatly facilitated. If any of the requested information is unavailable, please provide an explanation in your response.

Consideration of Alternative Rail Routes: SEA conducted an in-depth assessment of four rail alignments in the Draft EIS. In addition to information about the four alignments considered in depth, SGR has previously provided some information regarding two alignments that would be further to the east than the alignments considered in depth (SGR's Modified Medina Dam Route and the Eastern Bypass Route). Comments to the Draft EIS have suggested that there may be other rail alignments that may be environmentally preferable to the alignments considered in depth, and have specified a particular routing that they believe would be preferable (see #EI-1361 for the Medina County Environmental Action Association's (MCEAA) Modified Medina Dam Route).

Dr. Rogers

2

not likely to occur on the quarry site because of lack of suitable habitat. Section 9 of the Endangered Species Act of 1973, as amended (Act) defines take as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Take is further defined to include "significant habitat modification where it actually kills or injures wildlife by significantly interfering with essential behavioral patterns such as breeding, feeding and sheltering" (50 Code of Federal Regulations 17.3).

We appreciate the cooperation of Vulcan with the Service over the years to design an environmentally-sound quarry project. As we discussed during our October 15, 2003, visit, we recommend Vulcan consider limiting clearing of vegetation on the quarry site to outside of the breeding season for the GCW, March 1 - August 15. This would further reduce the chance of take occurring incidental to quarry operations. In addition, we determined that if it is necessary to clear inside the breeding season, the Service would be contacted for further guidance. We appreciate the opportunity to work with Vulcan on a clearing schedule that would avoid impacting the local wildlife community to the greatest extent possible.

In a March 20, 2002, letter, we expressed concern about the phased approach that Vulcan is taking to assess potential habitat for the GCW. Generally, the Service requests that projects be assessed for habitat in their entirety prior to initiation of project activities. However, given the fact that operations will not begin in areas outside of Phase I for several years, surveys in those areas would likely need to be reinitiated to show absence. Therefore, we look forward to working with Vulcan in the future to avoid impacts to the GCW on future phases prior to quarrying activities.

Thank you for your concern for endangered and threatened species and other natural resources. We appreciate the opportunity to comment on the proposed project. If we can be of further assistance or if you have any questions about these comments, please contact Jana Milliken at 512-490-0057, extension 243.

Sincerely,



Robert T. Pine
Supervisor

cc: Dr. Darrell Brownlow, Floresville, Texas
Mr. Tom Ransdell, Vulcan Materials Company, San Antonio, Texas

G-114

Numbers 1-8 set forth information that SEA needs to determine the extent to which alignments, other than those assessed in depth in the Draft EIS, should be considered in the environmental review process. Please provide the requested information for all alternatives identified to date (i.e. the proposed route, Alternative 1, Alternative 2, Alternative 3, SGR's Modified Medina Dam Route, MCEAA's Modified Medina Dam Route, and the Eastern Bypass Route) to the extent available.

1. SEA recognizes that SGR may not have the detailed information requested in Numbers 2-8 for MCEAA's Modified Medina Dam Route, since information previously submitted by SGR did not provide the cut and fill numbers for this route, and this route has been proposed by MCEAA, not SGR. Therefore, if the information provided in response to Numbers 2-8 does not include information regarding MCEAA's Modified Medina Dam Route, SEA requests SGR to provide a discussion of SGR's assessment of this route in general terms.
2. Please provide the back up calculations that SGR used to support the cut and fill volumes provided in the April 4, 2005 and June 6, 2005 letters to SEA. Please include any drawings showing cross-sections with stationing, from which end areas would have been determined for use in calculating volumes.
3. Please provide the typical roadbed cross-section template SGR used in modeling the proposed roadbeds showing roadbed widths, side slopes, ditches, and berms. If more than one typical template was used, please provide all templates and the corresponding station limits along which the templates were applied to determine the cut and fill quantities. Please specify the type of material(s) that were used for the rail bed (soil, rock, etc).
4. Please provide any plans showing areas anticipated to be undercut along with the extent of undercutting to be done and the source material used to determine those areas requiring undercutting.
5. Please provide grade profiles of each of the alternative rail routes. The profiles should show the existing grade (ground elevations at the present time) and where SGR plans for the subgrade (roadbed elevation at the earth and sub-ballast interface) of the rail line to be (proposed construction grade). Please indicate on these profiles the locations where cut and fill would be needed.
6. Please provide one map with the following features: existing and proposed topography (using five foot contours and a 1:24000 scale map or larger (1 inch = 1000 feet scale is preferable); 100-year floodplain; streams; proposed alternatives; and limits of grading/disturbance. Each alternative rail route should be clearly marked and stationing, and contour lines clearly visible and legibly annotated. Please also provide the most recent aerial photograph (with map scale) showing the rail alignments.

7. Please provide the top of rail bed elevation at the point where the proposed track would leave the existing UP track and the proposed top of rail bed elevations for the track as it would enter the quarry, using the location of the assumed gate over the tracks as the entry point. Also, please provide the length of the rail for each alignment so that the average gradient change can be determined throughout each alignment. We note that SGR has previously provided information indicating that the proposed route and Alternative 2 would each be approximately seven miles in length, Alternative 1 would be nine miles in length, and Alternative 3 would be 7.5 miles in length.
8. In addition to the berms called for in the typical cross section requested in item 2, please provide information regarding the proposed location of any earthen berms that would be used for stormwater runoff or flood control and their height relative to the existing elevation at their points of construction along the various alignments.

Details Regarding Construction and Operation of SGR's Proposed Rail Line:

Numbers 9 – 22 raise specific questions regarding the construction and operation of SGR's proposed rail line. Please provide the requested information for all alternatives identified to date (i.e. the proposed route, Alternative 1, Alternative 2, Alternative 3, SGR's Modified Medina Dam Route, MCEAA's Modified Medina Dam Route, and the Eastern Bypass Route) to the extent available.

9. Has SGR developed more detailed engineering plans regarding the proposed stream crossings for the various alternative rail routes, such as the location and design of bridges and culverts for each crossing? If so, please provide this information as well as the existing 100-year water surface elevations for all crossings.
10. Comments have indicated concern regarding the potential for rail operations to block emergency evacuation routes during flooding events. If SGR has developed any plans to address these concerns, please provide this information.
11. Please provide copies of any written correspondence from Duke Energy and Koch Pipeline regarding the pipeline crossings. Please provide the width of the Duke Energy pipeline. Does SGR have any additional information on the allegedly ruptured pipeline discussed on Page 3-3 of the Draft EIS?
12. Does SGR have any information on the location of existing water lines, sewer lines, and electrical utility lines potentially crossed by each alternative?
13. Has a Spill Containment and Countermeasures Plan (SPCC) been developed for the proposed rail line or the fueling and maintenance area? If so, please provide a copy of the SPCC Plan. As indicated in the comments of the U.S. Environmental Protection Agency (#EI-1313), any SPCC Plan should include a map showing recharge features in the Edwards Aquifer Recharge Zone (EARZ) in the vicinity

of the proposed rail line, and indicate measures to protect groundwater from contamination through those features.

14. In the Draft EIS, SEA recommended mitigation that would require SGR to utilize Best Management Practices to minimize the impacts of construction and operation to groundwater and surface water resources. Comments have requested specific information regarding the Best Management Practices that would be taken. If SGR has developed specific measures and Best Management Practices that would be taken to minimize impacts to groundwater and surface water resources, particularly for operations on and off the EARZ, please provide this information.
15. Please provide more detailed information on how the planned fueling facility would operate (e.g. storage and management of fuel, the thickness of the confining layer in the area, and safeguards against drainage of spills onto the recharge zone).
16. Based on oral representations from SGR, SEA has assumed that SGR's rail operations would take place during daytime hours (7 a.m. to 10 p.m.) for the purposes of SEA's noise analysis in the Draft EIS. Please verify that these operations would take place during daytime hours.
17. Would the water that SGR plans to use for construction, operation, and maintenance activities be obtained from local or other sources? Are there any applicable water appropriations requirements?
18. Please provide a description of how the proposed rail loading operations would take place at the rail loading track on the quarry site.
19. Has SGR determined whether the rail loading track on the quarry site would be a series of straight parallel tracks or a loop?
20. Would construction activities for the proposed rail loading track differ from construction activities for the construction of the rest of the rail line? If so, please describe how.
21. Please provide information regarding the number of private roadways and driveway crossings for each alignment and whether SGR has developed specific plans for these crossings.
22. Additional information regarding the proposed rail operations would be helpful in responding to comments. Commenters have requested the following information:
 - How long would loaded rail cars stand idle? How many cars would accumulate before shipment? Maximum number? Where would these unattended, loaded cars be parked? How would dust

be controlled in this area? Would the diesel locomotives be idling during loading? If so, for how long?

- If SGR plans to operate trains at speeds ranging from 12 to 25 miles per hour, why does the track design need to accommodate speeds of 40 miles per hour? If SGR could use speeds of 12 miles per hour going up one-degree grades, why could not speeds of 12 miles per hour be used to round curves?
- How long would a train sit on the rail line waiting to be transferred to the Union Pacific Railroad Company (UP) rail line? How would operations be coordinated with UP? Would cars be marshaled? How many trains would be on the rail line at one time?
- How would SGR connect to and move trains to and from the UP line? Would SGR move directly from the quarry to the main line without pausing? What would be the average speed of the train entering or exiting the quarry at County Road 353? What would be the estimated speed of the train entering or exiting the UP line? How much time would be required for a loaded train to accelerate from rest to 20 miles per hour? What would be the average speed of the train as it crosses County Road 353 from the quarry? What would be the days and hours of the train movements? Would UP's "Fall peak" period affect the quarry movements?
- Would crossings near the loading area experience very slow or stopped cars?

Trucks: Numbers 23-24 refer to the use of trucks being analyzed by SEA as part of the "no action" alternative.

23. How long would it take to construct the truck-to-rail remote loading facility proposed as part of trucking operations if SGR's rail line were not built? How many workers would be needed for the construction and operation of this facility?
24. SEA has assumed that the truck traffic to local markets, assessed as part of SEA's analysis of cumulative noise impacts in the Draft EIS, would take place during daytime hours (7 a.m. to 10 p.m.). Please verify that this is correct.

Proposed Quarry: Numbers 25 – 31 refer to specific questions that have been raised regarding VCM's proposed quarry, which SEA is assessing, at a minimum, as part of the cumulative impacts analysis.

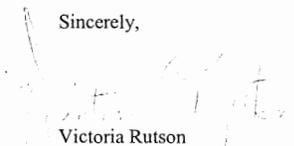
25. In a letter dated February 15, 2005, you submitted information regarding several permitting processes for Vulcan Construction Materials, LP's (VCM) new quarry.

You stated that VCM had received an air quality permit for a temporary rock crusher from the Texas Commission on Environmental Quality (TCEQ), was in the process of applying for a water pollution abatement plan (WPAP) from TCEQ, and would be applying for a storm water permit from TCEQ. Please provide an update on the permitting processes for the quarry.

26. According to information provided by the Medina County Floodplain Administrator, Medina County's floodplain permitting process follows the requirements of the Federal Emergency Management Agency's National Flood Insurance Program, set forth at 44 CFR 60.3, which was developed to implement the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4001 *et. seq.* Has VCM begun consultation with the Floodplain Administrator to determine whether a floodplain permit would be required for the quarry? According to our review of the applicable regulations and a recent telephone conversation with the Floodplain Administrator, it appears that the Floodplain Administrator would need to make a determination that no permit is needed or would need to issue a permit prior to VCM beginning construction activities at the quarry.
27. Please provide a georeferenced digital map of the footprint of the quarry as well as a drainage plan for the quarry. This plan should show how flows that would enter the pit would be diverted, and where these diverted flows would be discharged downstream or adjacent to the quarry. Please provide the design capacities of the diversion structures.
28. Please provide specific information about blasting activities at the quarry, including the approximate frequency and duration of blasting activities. This should include information about how blasting activities would be regulated and information about the distances at which blasting effects could affect sensitive structures (e.g. historic structures, wells). Please provide any information about the specific location of sensitive structures in relation to the quarry site. Any methodology used or information provided should be clearly explained and referenced.
29. Will the quarry be dewatered during mining operations? If so, how will stormwater and wastewater be treated? Please provide an update on the WPAP application process. Also, please provide all technical reports and supporting documents and maps used for the WPAP application, as well as agency and consultant contact information.
30. SEA's analysis of cumulative transportation and traffic safety impacts in the Draft EIS estimated that about 100 quarry employee cars would use roadways in the project area each workday, based on information provided by SGR. Please verify that this is correct.
31. Please provide information on the purpose and design of the proposed buffer zones around the quarry site.

We thank you in advance for your cooperation and your response to this information request. SEA also encourages the submission of any additional information SGR may have that is responsive to the comments received on the Draft EIS or any new voluntary mitigation measures SGR may be developing to address the concerns raised by commenters. If you need additional information or have any questions, please do not hesitate to contact me or Rini Ghosh of my staff at (202)565-1539.

Sincerely,


Victoria Rutson
Chief
Section of Environmental Analysis

#EO-272
RJ

SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

May 8, 2006

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

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

Dear Mr. Coburn:

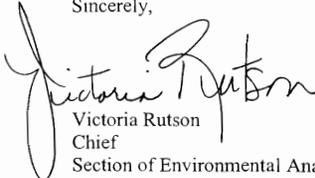
The Surface Transportation Board's Section of Environmental Analysis (SEA) is currently working on preparing responses to the comments received on the Draft Environmental Impact Statement (Draft EIS), issued on November 5, 2004, for Southwest Gulf Railroad Company's (SGR) proposal to construct and operate a rail line in Medina County, Texas. SEA appreciates the information regarding the project proposal that SGR has provided thus far. In conducting additional noise analyses, SEA has identified some information needs and would appreciate receiving the following additional information from SGR:

1. Please identify all potential braking zones along each of the seven alternative rail alignments being studied by SEA (Proposed Route, Alternative 1, Alternative 2, Alternative 3, Eastern Bypass Route, the MCEAA Medina Dam Alternative, and SGR's Modified Medina Dam Route).
2. Please provide a map showing a detailed footprint of the quarry with "limits of blasting" and proposed rail loading areas shown, if available.
3. Please provide the following information regarding quarry blasting activities for SEA's analysis of cumulative noise impacts: (1) the typical size of the charge per hole and the number and depth of holes or total charge weight; (2) the number of blasts per month (SGR has previously indicated that blasting would occur five times per week when the quarry is operating at its design capacity); (3) time of the day of the blasting; and (4) information regarding typical quarry noise levels from other similar quarries.
4. Please provide the following information regarding the loading track area: hours of train activity at the loading track area (same as for the rest of the rail line or different); whether spring-loaded frogs (i.e., crossovers) would be used at the loading track; the maximum train speeds proposed for the tangent track (i.e., straight track

sections as opposed to radius or curved track) and loading track, with the likely notch setting of the throttle. SEA notes that SGR has previously indicated that it anticipates that track geometry would allow for maximum speeds of 40 miles per hour on all or most of the alternative rail alignments.

We thank you in advance for your cooperation and your response to this information request. If you need additional information or have any questions, please do not hesitate to contact me or Rini Ghosh of my staff at (202) 565-1539.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

#EO-289
RS

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

July 18, 2006

Dawn Whitehead
U.S. Fish and Wildlife Service
10711 Burnet Road, Suite 200
Austin, TX 78758

Re: STB Finance Docket No. 34284, Southwest Gulf Railroad Company –
Construction and Operation Exemption – Medina County, TX;
Consultation # 2-15-03-I-0276

Dear Ms. Whitehead:

The Surface Transportation Board's Section of Environmental Analysis (SEA) issued a Draft Environmental Impact Statement (DEIS) on November 5, 2004, which assessed the potential environmental impacts of Southwest Gulf Railroad Company's (SGR) proposed rail line construction and operation in Medina County, Texas. The DEIS assessed four potential rail alignments (Proposed Route, Alternative 1, Alternative 2, and Alternative 3). In response to comments received on the DEIS, SEA is currently preparing a Supplemental DEIS (SDEIS) to study three additional alternative rail alignments: the Eastern Bypass Route; the MCEAA Medina Dam Alternative; and SGR's Modified Medina Dam Route (collectively, the Eastern Alternatives). **Pursuant to Section 7 of the Endangered Species Act, 16 U.S.C. 1536, we are writing to request the U.S. Fish and Wildlife Service's (USFWS) concurrence with our determination that construction and operation of any of the Eastern Alternatives is not likely to adversely affect Federally listed species or designated critical habitat.**¹

The proposed rail line would connect a proposed Vulcan Construction Materials, LP (VCM) limestone quarry and the Del Rio subdivision of the Union Pacific Railroad Company, near Dunlay, Texas. By letter dated May 12, 2005, SEA determined that construction and operation of the proposed rail line under any of the alternatives studied in the DEIS is not likely to adversely affect Federally listed species or designated critical habitat (copy enclosed for reference). SEA received concurrence with this determination from your office by letter dated May 19, 2005 (copy enclosed for reference).

¹ We note that this determination is based on our analysis of the Eastern Alternatives to date.

SEA received a letter from your office, dated April 12, 2006, indicating that the Eastern Alternatives may provide suitable habitat for the following Federally listed species: Golden-cheeked Warbler (*Dendroica chrysoparia*); Black-capped Vireo (*Vireo atricapilla*); Comal Springs Dryopid Beetle (*Stygoparnus comalensis*); Comal Springs Riffle Beetle (*Heterelmis comalensis*); Fountain Darter (*Etheostoma fonticola*); Peck's Cave Amphipod (*Stygobromus pecki*); San Marcos Gambusia (*Gambusia georgei*); San Marcos Salamander (*Eurycea nana*); Texas Blind Salamander (*Typhlomolge rathbuni*); and Texas Wild-rice (*Zizania texana*).

On April 11th, 12th and 20th 2006, SEA conducted pedestrian field surveys of the areas that would be crossed by the three Eastern Alternatives to assess potential impacts to the above-listed species. Findings indicate that habitat to support the Black-capped Vireo is not present within the areas traversed by the Eastern Alternatives, and that marginal habitat for the Golden-cheeked Warbler exists at the terminus of the MCEAA Medina Dam Alternative route, the Eastern Bypass Route and SGR's Modified Medina Dam Route, near the loading track area on the quarry site.

The area identified as marginal habitat for the Golden-cheeked Warbler occurs within VCM's proposed Plant Maintenance Facility and Fuel Storage Area for the quarry.² VCM intensely surveyed this area in 2000, 2001, 2002 and 2003, to determine the presence or absence of threatened and endangered species in the proposed quarry area. These detailed surveys included presence/absence surveys for the Golden-cheeked Warbler by endangered species specialists, and concluded that it is unlikely that activities in the surveyed area would adversely affect Golden-cheeked Warblers or their habitat. These surveys included the proposed rail loading track area in the southern portion of the proposed quarry area as well. The results were submitted to your office. (Enclosed figure shows the area in which detailed surveys were conducted. See also Draft EIS, Volume II, Appendix F.) USFWS informed VCM, by letter dated October 17, 2003 (copy enclosed), that VCM and USFWS would be working together throughout the quarry project to avoid impacts to the Golden-cheeked Warbler.

The remaining Federally listed species (Comal Springs Dryopid Beetle, Comal Springs Riffle Beetle, Fountain Darter, Peck's Cave Amphipod, San Marcos Gambusia, San Marcos Salamander, Texas Blind Salamander, and Texas Wild-rice) identified in the April 12, 2006, letter from your office, depend on surficial karst features, and the Edwards Aquifer and its associated springs (specifically the San Marcos River). SEA's April 11th, 12th and 20th 2006, pedestrian field surveys did not disclose observable karst features within the areas that would be crossed by any of the three Eastern Alternatives. Nevertheless, SEA would recommend that a condition be imposed upon any decision granting SGR authority to construct any of the Eastern Alternatives that would require SGR to inventory any caves for endangered species, if SGR identifies a significant karst feature during the grading and construction of the rail line in the area

² Licensing of the quarry is not part of the Surface Transportation Board's mandate, which primarily is the economic regulation of freight railroads. SEA has studied the proposed quarry as part of its cumulative effects analysis for the rail line construction and operation Environmental Impact Statement.

susceptible to karst feature formation (this is the same condition that SEA recommended for the four rail alignments studied in the DEIS). However, in your letter and in a phone conversation with Ms. Rini Ghosh of my staff and Ms. Jill Seed of URS Corporation (URS)³ on June 15, 2006, you indicated concern that the proposed rail line construction and operation could impact karst species by affecting the water quality and water quantity of the Edwards Aquifer.

To address your concern regarding potential impacts to the water quality of the Edwards Aquifer, SEA would recommend mitigation measures requiring SGR to do the following: (1) develop and follow a Stormwater Pollution Prevention Plan; (2) use Best Management Practices during construction and maintenance activities; (3) develop a Spill Prevention, Containment, and Countermeasures Plan specifically for portions of the rail line that would be constructed over the Edwards Aquifer Recharge Zone; (4) develop a Water Pollution Abatement Plan; and (5) monitor the stream beds, land, and water quality in the vicinity of the rail line for indications of diesel or gasoline releases, take appropriate action to prevent diesel or gasoline releases, and remediate any contaminated soils as soon as practicable.⁴ These measures would be applicable to any of the Eastern Alternatives for which the Board may grant a license. Moreover, SEA would also recommend that a condition be imposed that would require SGR to consult with your agency and the Edwards Aquifer Authority during final engineering of the rail line and prior to beginning construction to ensure that the material used for the track, ties, and ballast would not pose hazards to the water quality of the Edwards Aquifer or species dependent upon the aquifer (e.g., use of ties not preserved with creosote).

SGR has indicated that its affiliate, Vulcan Materials Company (Vulcan), owns Edwards Aquifer water rights that could be transferred from existing Vulcan operations in Bexar County and Medina County to supply the needs for the construction, maintenance and operation of the proposed rail line. To ensure that construction and operation of the rail line would not affect water quantity in the Edwards Aquifer, SEA would recommend that a condition be imposed upon any decision granting SGR authority to construct the rail line (under any alternative route) that would require SGR to use Vulcan's existing Edwards Aquifer water rights when using water from the Edwards Aquifer during construction, maintenance and operation of the rail line. Thus, SEA believes that construction and operation of any of the Eastern Alternatives would not cause significant impacts to the above-listed species, or to the Edwards Aquifer and its associated springs.

Based on SEA's field surveys of the Eastern Alternatives, and VCM's detailed surveys of the Plant Maintenance Facility and Fuel Storage Area, as well as indication that VCM would continue to consult with USFWS regarding impacts to Federally listed species on the quarry site,

³ URS Corporation (URS) is SEA's independent third-party contractor in this case. See 49 CFR 1105.4(j); Policy Statement on Use of Third-Party Contracting in Preparation of Environmental Documentation, 66 Fed. Reg. 16,975 (2001); and 40 CFR 1506.5(c).

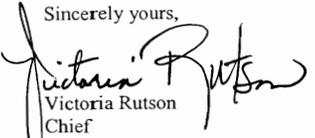
⁴ These are the same conditions that SEA recommended for the rail alignments studied in the DEIS. SEA may propose additional mitigation measures in the SDEIS and/or Final EIS (which SEA will prepare in response to comments received on the DEIS and SDEIS).

we conclude that construction and operation of any of the Eastern Alternatives would not be likely to adversely affect a listed species or designated critical habitat. Moreover, our proposed mitigation measures for preventing groundwater contamination, and identifying and inventorying karst features and caves during grading and construction of the rail line, as described in this letter, would further protect against potential impacts to Federally listed threatened and endangered species.

We request your agency's concurrence with our determination that the construction and operation of any of the Eastern Alternatives are not likely to adversely affect in order to conclude the informal consultation process of Section 7 of the Endangered Species Act. We also welcome USFWS to provide any suggestions or comments on our proposed mitigation measures and to propose additional recommendations for mitigation.

If you have any questions or require additional information, please do not hesitate to contact me or Rini Ghosh of my staff at (202) 565-1539.

Sincerely yours,


Victoria Rutson
Chief
Section of Environmental Analysis

Enclosures

#E0-322
RA

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

September 8, 2006

Ms. Chris Mitchell
County Commissioner
Medina County Precinct 1
275 CR 341
Hondo, TX 78861

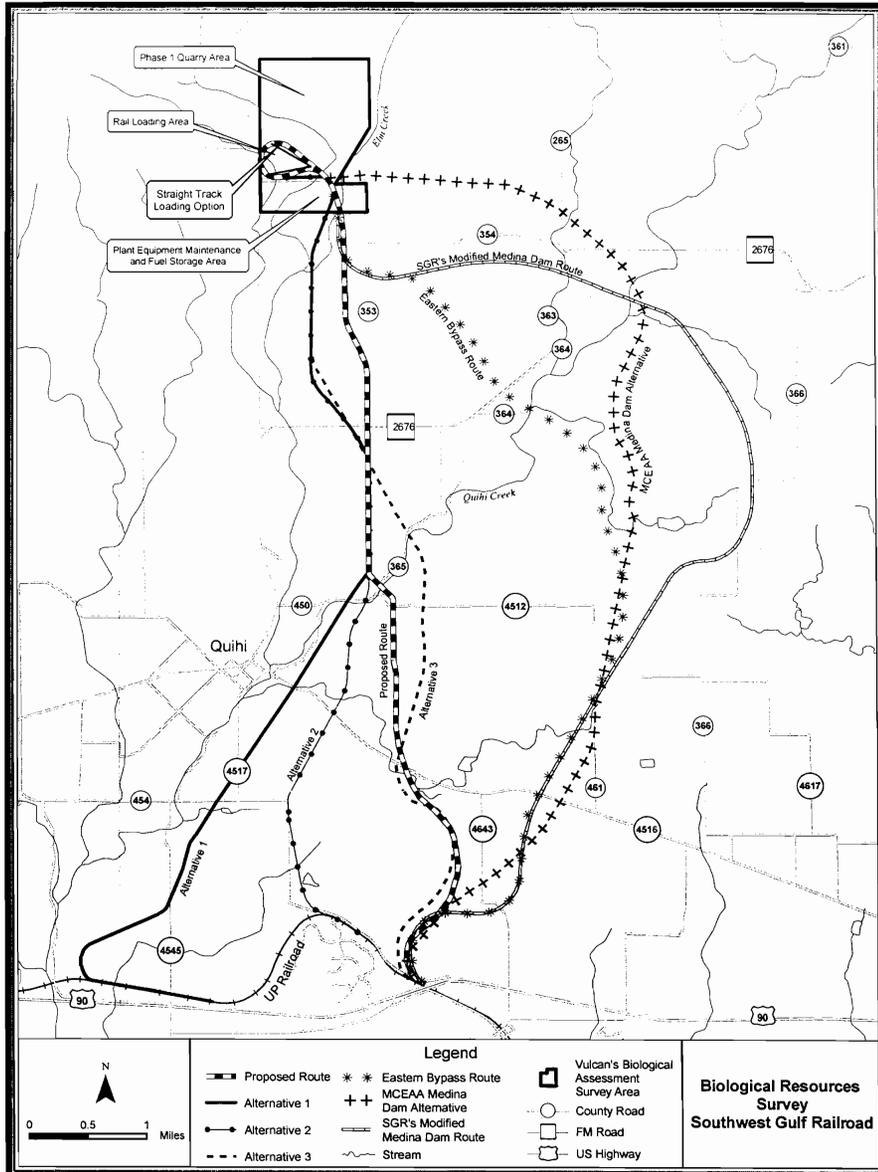
Re: STB Finance Docket 34284, Southwest Gulf Railroad
Company Construction and Operation Exemption – Medina
County, TX

Dear Ms. Mitchell:

Thank you for your letter dated May 30, 2006, to Ms. Rini Ghosh of my staff, which we received on June 27, 2006. In your letter you outline several concerns regarding Vulcan Construction Materials, LP's (VCM) proposed quarry development and Southwest Gulf Railroad Company's (SGR) proposed rail line construction and operation in Medina County, Texas. As you discussed in a follow-up telephone conversation with Ms. Ghosh on August 23, 2006, your primary concerns regarding SGR's proposed rail line construction continue to be potential safety impacts at at-grade crossings, potential traffic and transportation impacts to area roadways, and potential impacts to the floodplain, which you have expressed in previous letters. Below, I have summarized the environmental review conducted to date, as well as set forth the following steps that must still be completed.

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) issued a Draft Environmental Impact Statement (DEIS) in this proceeding for public review and comment on November 5, 2004. The DEIS evaluated the potential environmental impacts that could result from SGR's proposed rail line construction and operation, three alternative rail alignments, and the No-Action Alternative (which SEA defined as the use of trucks to transport limestone from VCM's quarry to the UP rail line, based on SGR's statements that VCM would transport the material by truck if SGR's rail line were not built (in this situation, no authority or involvement would be required from the Board)).

Based on the comments received on the DEIS, SEA decided to prepare a concise Supplemental Draft EIS (SDEIS) that focuses on three specific matters: (1) evaluation of three alternative rail routes that were not studied in the detail in the DEIS and a comparison of these three alternative routes to the alternatives previously studied in the DEIS; (2) a discussion of the progress of additional historic property identification



HEP-605
BFW

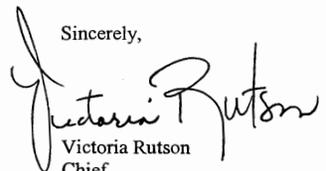
efforts; and (3) the additional noise analysis that SEA will perform, based on updated operational data (that trains may operate during nighttime hours) provided by SGR.

Upon its completion, the SDEIS will be made available for public and agency review and comment for at least 45 days. After the close of the comment period on the SDEIS, SEA will review all timely-submitted comments. Then SEA will issue a Final EIS (FEIS) that responds to comments on the DEIS (including your comments regarding safety, traffic, and flooding) and the SDEIS, discusses any additional analysis, and presents SEA's final recommendations to the Board, including any mitigation measures. After issuance of the FEIS, the environmental review process will be completed.

The Board then will issue a final decision in this rail line construction and operation proceeding. In reaching a final decision either to approve SGR's proposal, to deny SGR's proposal, or to approve SGR's proposal with conditions, the Board will take into consideration the DEIS, the SDEIS, the FEIS, and all environmental comments that are received. Should the Board decide to impose mitigation conditions upon SGR's rail line construction and operation, which may include mitigation conditions requested by local entities, SGR would be legally required to comply with those conditions.

During the environmental review process, railroads may enter into privately negotiated agreements with affected communities and other entities. Consistent with its overall preference for private-sector resolution in place of governmentally-mandated solutions, the Board encourages mutually satisfactory agreements of this nature because they can be extremely effective in addressing specific local and regional environmental and safety concerns. Therefore, when such agreements are submitted to it, the Board generally will impose these negotiated agreements as conditions to approved constructions, and these agreements generally will substitute for specific local or site-specific environmental mitigation for a community that otherwise would be imposed.

If you need additional information or would like to discuss this matter further, please do not hesitate to contact me or Rini Ghosh of my staff at (202) 565-1539.

Sincerely,

Victoria Rutson
Chief
Section of Environmental Analysis

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

August 17, 2007

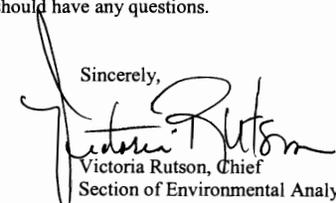
David H. Coburn
Steptoe & Johnson, LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

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

Dear Mr. Coburn:

As you know, the Board's Section of Environmental Analysis (SEA) will focus on the various alternatives in preparing the Final Environmental Impact Statement in this case. Your letter of August 3, 2007 indicates that the Southwest Gulf Railroad Company's (SGR) now favors the Eastern Bypass Route as the "preferred" alternative and that SGR is prepared to work with the landowners including the Weiblen family to address their concerns, but does not provide SGR's views on the feasibility of the Weiblen Modification, which is one of the Eastern Alternatives that has been suggested. To aid SEA's analysis, we request that SGR present its views on the Weiblen Modification, and provide reasons for why it believes that alternative would, or would not, be a reasonable and feasible alternative for this project.

To avoid unnecessary delay in preparing the Final EIS, we would appreciate that this information be provided to SEA as soon as possible, and that the Weiblen Family be copied on your response. Please do not hesitate to contact me, or Diana Wood, SEA Project Manager at 202-245-0302, if you should have any questions.

Sincerely,

Victoria Rutson, Chief
Section of Environmental Analysis

cc: Anthony Weiblen, Weiblen Farms

URS

September 9, 2005

Mr. Russell Hooten
Wildlife Habitat Assessment Program
Wildlife Division
Texas Parks and Wildlife Department
6300 Ocean Drive, Unit 5846
Corpus Christi, Texas 78412

Reference: STB Docket No. FD 34284; Draft EIS for Southwest Gulf Railway Company's Proposed Railroad in Medina County, Texas: Fencing Specifications.

Dear Russell:

This request follows our recent telephone conversation concerning fences along the proposed railroad right-of-way. Clarification of certain points made in the DEIS would possibly shed some insight into this matter.

Impacts of the proposed railroad contained in the DEIS are based on Southwest Gulf Railroad's (SGR) acquisition of an 80-foot wide right-of-way of which only portions would be maintained for use in operating the railroad. The railroad would permanently occupy and maintain a 40-foot wide corridor within the center of the acquired right-of-way, leaving 20-foot wide sections along the outer edges of the right-of-way that would be minimally maintained and would serve as both a visual buffer and wildlife habitat. This buffer would form an interface with a variety of adjacent land uses. It was also assumed that where domestic cattle occupy adjacent areas a standard barbed wire fence would be installed by SGR. Depending on other types of adjacent uses, other types of fencing are possible including no fencing. The principal issue is these buffer strips should be accessible to wildlife. Therefore, it would not be appropriate in our opinion to require the installation of fences that preclude the movement of wildlife including small mammals, reptiles and amphibians.

Your comments concerning the Texas Tortoise (*Gopherus berlandieri*) and similar slow moving reptiles require response. Prior observations of tortoises by URS biologists shows they may enter the area between the rails, typically at road crossings, and become trapped within that area. Trapped individuals are at risk in such exposed locations. However, instead of using fences to exclude them from the vicinity of the railroad, it would be possible to establish a protocol for railroad operators to look for trapped individuals. Operators of trains as well as other personnel, for instance track inspectors, can easily observe these individuals. A requirement for SGR personnel to locate and remove trapped individuals to a safe, nearby location will be added as a mitigation measure to SGR operating procedures. If this is an appropriate response to your comment, I would appreciate you confirming this approach by providing an addition written response to Rini Ghosh, referencing STB Docket No. FD 34284.

Please contact me at (512) 327-6672 or by email at Rusty_Mase@URSCorp.com if you have additional questions concerning this matter.

Sincerely yours,



Rusty Mase, Staff Ecologist

CC: Jaya Zeaman-Ponebshek, URS Corporation, Austin

URS Corporation
9400 Amberglen Blvd
Austin, TX 78720-1088
Tel: 512.454.4797
Fax: 512.454.8807
www.urscorp.com

URS**Memorandum**

Date: October 5, 2005
To: Rollin MacRae, Russell Hooton, Texas Parks and Wildlife
From: Phil Ponebshek, URS Corporation
Subject: **October 4 Meeting on SGR Rail Line**

I drafted up the following notes from our meeting yesterday to discuss Texas Parks and Wildlife's (TPWD) concerns and goals for the Final Southwest Gulf Railroad, Medina County EIS (Surface Transportation Board Finance Docket No. 34284). Please review these to make sure that they accurately reflect what we talked about, and add any comments or additional information that you think would be useful as we complete our analysis of the proposed project.

Issues

- 1) **Habitat Fragmentation.** TPWD has concerns over the railroad resulting in the fragmentation of habitat for local species. This can result from three aspects of rail construction.
 - a) Fencing – installation of deer fencing or similar which would be restrictive to animal movement is not desirable.
 - b) Rail – the rail line itself will create a barrier which many smaller mammal and herpetological species will be unable to cross.
 - c) Clearing – some species are negatively impacted by wide clearances through wooded and brushy areas as will created in spots by the railroad ROW. However, none of these species appear to be present in Medina County, and this is not expected to be a factor with respect to this project.
- 2) **Texas Tortoise Hazards.** Rail lines pose a particular risk to the state listed threatened species the Texas Tortoise (*Gopherus berlandieri*). Rails are too high for tortoises to climb, and it is possible for a tortoise to enter between the rails at an at-grade crossing and become trapped as they move away from the crossing, and then killed by exposure to mid-day weather conditions.
- 3) **Impacts to Hunting.** This was not a TPWD concern, but rather an issue raised by some commentators to the Draft EIS over whether rail operations would have a significant detrimental impact to use of their property for hunting. TPWD does not agree with this assertion, believing that rail operations will have minimal impacts to hunting of deer or other game, as long as fencing does not restrict animal movement.

Mitigation

No additional requirements on fencing should be included as mitigation. In order to minimize habitat fragmentation, SEA should recommend that no deer fencing, chain link fencing,

URS

Page 2 of 2

solid fencing, or other alternatives that would restrict native animal species movement should be used to line the rail corridor. Note that TPWD cannot bar use of such fencing (individual property owners can install whatever fencing they desire and fragment habitat if it would not adversely affect Federally Listed Threatened and Endangered Species Critical Habitat).

In order to address the fragmentation impacts to herpetological species and small mammals created by the rail itself, a mitigation measure should be included which stipulates that SGR take measures to ensure that there is a pathway for small animal movement across the rail corridor at distances no more than every 1/8-mile. These pathways could result from bridges or culverts constructed to cross waterbodies or topographic features, or from the installation of small culverts through the railroad ballast which would create a pathway for small animals to pass from one side of the grade to the other.

TPWD offers two ways of addressing the Texas Tortoise issue. First, SGR can commission a corridor study (1 mile wide, centered on the rail line) to determine the likely presence of tortoises in the area which could be threatened by the rail corridor. If tortoises are found, appropriate controls should be implemented. A second option is to proceed directly to controls. TPWD would recommend some sort of obstruction to tortoise movement between the rails away from a grade crossing, either with a barrier (optimally at least 6" high) between the rails (this could be a flexible material to keep hanging train equipment from hanging up on the barrier); or installation of a cattle-guard type grating between the tracks. TPWD invites other solutions to this issue which would have equivalent effectiveness.



Rini.Ghosh@stb.dot.gov
02/02/2007 03:42 PM

To Jaya_Zyman-Ponebshek@URSCorp.com
cc
bcc
Subject Fw: SGR Proceeding -- Pipeline Information

E-mail for Appendix D

----- Forwarded by Rini Ghosh/STB on 02/02/2007 04:42 PM -----

"Coburn, David"
<DCoburn@steptoe.com>

11/16/2006 10:08 AM

To
Rini.Ghosh@stb.dot.gov
cc
Jaya_Zyman-Ponebshek@URSCorp.com,
"Tom Ransdell"
<transdel@swbell.net>, "Clay
Upchurch" <upchurch@vmcmail.com>
Subject
SGR Proceeding -- Pipeline
Information

Rini -- With respect to the pipeline formerly owned by Duke Energy, we understand that it is now owned by the Regency Gas Services unit of Regency Energy Partners LP. Regency acquired the pipeline when it bought Texstar Field Services, the pipeline's immediate past owner, in July 2006. We understand that the pipeline remains inactive, but is in the process of being converted to a gas pipeline. The contact person at Regency is as follows:

Regency Gas Co.
c/o Erik Johnson, Proj. Engr.
300 East Sonterra Boulevard
San Antonio, Tx. 78258

We assume that you will add Mr. Johnson to the service list for the Supplement. We will of course be following up at the appropriate time in terms of seeking an easement from Regency to cross the pipeline.

Please let me know if you have any questions. Regards. David

David H. Coburn
Steptoe & Johnson LLP

1330 Connecticut Avenue, N.W.

Washington, DC 20036

202.429.8063 Direct

202.261.0565 Direct Facsimile

202.429.3902 Central Facsimile

dcoburn@steptoe.com

Information contained in or attached to this e-mail may be privileged, confidential, and protected from disclosure. If you are not the intended recipient, review, dissemination or copying is prohibited. If you received this message in error, please immediately e-mail the sender and delete the message and any attachments.