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October 9, 2015

239343

**BY HAND DELIVERY**

Cynthia T. Brown, Chief  
Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington DC 20423-0001

ENTERED  
Office of Proceedings  
October 09, 2015  
Part of  
Public Record

Re: Martin Marietta Materials, Inc. – Continuance in Control Exemption –  
Rock & Rail, Inc., FD 35966

Dear Ms. Brown:

Please find enclosed an original and ten copies of a Verified Notice of Exemption, in which Martin Marietta Materials, Inc. ("MMM"), a non-carrier that currently controls two common carrier railroads, seeks to acquire indirect ownership of Rock & Rail, Inc. ("RRI"), a Class III carrier. A check in the amount of \$1,400.00 is enclosed to cover the applicable filing fee.

Please acknowledge receipt and filing of this notice of exemption by date stamping the enclosed eleventh copy and returning it to the courier for return to me.

Sincerely,

William A. Mullins  
Attorney for Martin Marietta Materials, Inc.

Enclosure

cc: Roselyn Bar

FEE RECEIVED  
October 09, 2015  
SURFACE  
TRANSPORTATION BOARD

FILED  
October 09, 2015  
SURFACE  
TRANSPORTATION BOARD

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**FD 35966**

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**MARTIN MARIETTA MATERIALS, INC.  
— CONTINUANCE IN CONTROL EXEMPTION —  
ROCK & RAIL, INC.**

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**VERIFIED NOTICE OF EXEMPTION**

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**William A. Mullins  
Crystal M. Zorbaugh  
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**October 9, 2015**

**Attorneys for Martin Marietta Materials, Inc.**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**FD 35966**

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**MARTIN MARIETTA MATERIALS, INC.  
— CONTINUANCE IN CONTROL EXEMPTION —  
ROCK & RAIL, INC.**

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**VERIFIED NOTICE OF EXEMPTION**

Pursuant to 49 C.F.R. §§ 1180.2(d)(2) and 1180.4(g), Martin Marietta Materials, Inc. (“MMM”), a non-carrier corporation that currently controls Alamo North Texas Railroad (“ANT”), a Class III carrier, and Alamo Gulf Coast Railroad (“AGC”), a Class III carrier, files with the Surface Transportation Board (the “Board”) this Verified Notice of Exemption to allow MMM to acquire indirect ownership of the stock, and thus full control of, Rock & Rail, Inc. (“RRI”), a Class III carrier, while remaining in control of ANT and AGC. The above three railroads will not connect with each other upon completion of the involved transaction and the stock acquisition/continuance in control is not part of a series of anticipated transactions that would connect the three railroads. Likewise, the transaction does not involve a Class I carrier. As such, the transaction qualifies as an exempt transaction under 49 C.F.R. § 1180.2(d)(2).

In accordance with the requirements of 49 C.F.R. § 1180.4(g), MMM submits the following required information:

**49 C.F.R. §1180.6(a)(1)(i)—Summary of Proposed Transaction and Parties Thereto:**

MMM through a series of transactions will acquire indirect ownership of 100% of the stock of RRI, while remaining in direct control of ANT and AGC, two Class III carriers subject

to the Board's jurisdiction.<sup>1</sup> MMM and RRI have signed a letter of intent ("LOI") by which MMM will acquire indirect control of RRI. A copy of the LOI is being filed under seal in Exhibit B, concurrent with a Motion for Protective Order. When the transaction is ultimately consummated, MMM, a non-carrier corporation that already directly controls two Class III railroads will also obtain indirect control of RRI, a Class III carrier.

Upon consummation of the proposed transaction, MMM will control three railroads subject to the jurisdiction of the STB: (1) Alamo North Texas Railroad<sup>2</sup>, a Class III carrier, which has lines in Wise County, Texas; (2) Alamo Gulf Coast Railroad, a Class III carrier,<sup>3</sup> which has lines in Bexar County, Texas; and (3) Rock & Rail, Inc., which has lines in Pueblo and Canon City, Colorado.<sup>4</sup>

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<sup>1</sup> See Martin Marietta Materials, Inc. – Continuance in Control Exemption – Alamo North Texas Railroad Corporation, FD 34266 (STB served Dec. 13, 2002); see also Alamo Gulf Coast Railroad Company – Lease and Operation Exemption – Certain Lines of Southern Pacific Transportation Company, FD 32855 (STB served Jan. 26, 1996).

<sup>2</sup> ANT has lines in Wise County, Texas. See Alamo North Texas Railroad Corporation – Construction and Operation Exemption – Wise County, TX, FD 34002 (STB served Sept. 3, 2002).

<sup>3</sup> AGC's lines are located in Bexar County, TX. See Alamo Gulf Coast Railroad Company – Lease and Operation Exemption – Certain Lines of Southern Pacific Transportation Company, FD 32855 (STB served Jan. 26, 1996). See also Alamo Gulf Coast Railroad Company – Discontinuance of Service Exemption – In Bexar County, TX, AB-576 (Sub-No. 1X) (STB served Nov. 24, 2000) Alamo Gulf Coast Railroad Company – Discontinuance of Service Exemption – In Bexar County, TX, AB-576 (Sub-No. 2X) (STB served April 2, 2007).

<sup>4</sup> RRI's lines include from (1) from milepost 160.30 in Canon City extending westerly for a distance of approximately 252 feet in Fremont County, CO; (2) from milepost 160.80 in Canon City extending easterly approximately 256 feet to serve the power plant at or near Canon City, in Fremont County, CO; and (3) connecting sidings, spurs, sidetracks and yard, industrial, team and switching tracks that are owned or leased by RRI between milepost 160.30 in Canon City and a connection with a Union Pacific ("UP") line at milepost 120.73 in Pueblo (collectively, "Lines"). RRI also has trackage rights over UP's rail line between milepost 160.30 in Canon City and milepost 120.73 in Pueblo, a distance of 39.57 miles in Fremont and Pueblo Counties, CO. RRI currently connects with both UP and BNSF and shippers located on the RRI have the option of using either of these two Class I railroads. See Rock & Rail, Inc. – Acquisition and Operation Exemption – The

As seen from the above descriptions of the railroads, and the maps contained in Exhibit A, the railroads involved in this transaction, which include operations in Wise County, Texas, Bexar County, Texas, and Pueblo and Canon City, Colorado, do not connect currently, and will not connect as a result of the proposed transaction. Further, the acquisition of indirect control of RRI by MMM is not part of a series of anticipated transactions that would connect the railroads with each other. Finally, MMM's control of RRI does not involve a Class I carrier. Thus, as a result of the transaction, there will not be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States.

Name of Applicant

Martin Marietta Materials, Inc.  
2710 Wycliff Road  
Raleigh, NC 27607  
Tel.: (919) 783-4675

Name of Counsel to Whom Questions Can Be Addressed.

William A. Mullins  
Crystal M. Zorbaugh  
BAKER & MILLER PLLC  
2401 Pennsylvania Ave., NW, Suite 300  
Washington, DC 20037  
Tel: (202) 663-7820  
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**49 C.F.R. §1180.6 (a) (1) (ii) --Consummation Schedule.**

The Parties propose to consummate the proposed transaction on or about November 8, 2015 (30 days after filing Verified Notice of Exemption), or upon the effective date of this exemption, if later.

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Burlington Northern and Santa Fe Railway Company, FD 33738 (STB served April 30, 1999).

**49 C.F.R. §1180.6 (a) (1) (iii) -- Purpose of the Transaction.**

The exemption sought herein is intended to preserve dual rail access for the shippers located on the RRI Lines and to promote operating economies by allowing MMM to coordinate the operations of the RRI with its quarry operations.

**49 C.F.R. §1180.6 (a) (5) -- List of States in Which the Parties' Property is Located.**

The lines currently under MMM's direct control are located in Texas. The Lines that MMM seeks to acquire indirect control of are located in Colorado.

**49 C.F.R. §1180.6 (a) (6) -- Map Exhibit.**

Attached is a map that shows the location of the Lines subject to this continuance in control exemption notice. Also, enclosed is a map that shows the other two rail lines that MMM already directly controls. See Exhibit A.

**49 C.F.R. §1180.6 (a) (7) (ii) -- Agreement.**

Pursuant to a LOI, MMM has agreed to acquire indirect control of RRI. The LOI is being filed under seal as Confidential Information pursuant to a concurrently filed Motion for Protective Order. As such, it is enclosed in a separate envelope, marked Exhibit B, Confidential Documents.

**49 C.F.R. §1180.4 (g) (1) (i) -- Level of Labor Protection.**

Because the proposed transaction involves only Class III carriers, employee protective conditions may not be imposed as a condition of this exemption. See 49 U.S.C. § 11326(c).

**49 C.F.R. §1105.6 through 1105.8--Environmental Report.**

The proceeding is exempt from environmental review under 49 CFR §1105.6(c)(2)(i) because the proposed action will not cause any significant changes in carrier operations. In fact,

the incumbent operator will continue to operate the Lines; thus, operational changes, if any, would be de minimis.

An historic report is likewise not required because RRI will continue to operate the Lines, and the transaction will not substantially change the level of maintenance of any railroad property. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. §1105.8(b)(3).

Respectfully submitted,



William A. Mullins  
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Attorneys for Martin Marietta Materials,  
Inc.

October 9, 2015

**VERIFICATION**

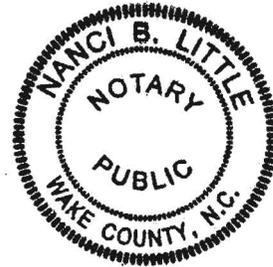
Roselyn Bar, being duly sworn, deposes and says that she is Senior Vice President, General Counsel and Corporate Secretary of Martin Marietta Materials, Inc., that she has read the foregoing, knows the contents thereof, and that the same are true as stated to the best of her knowledge, information, and belief.

*Roselyn Bar*  
Roselyn Bar

Subscribed and sworn to before me this 9<sup>th</sup> day of October, 2015.

*Nanci B. Little*  
Notary Public

My Commission expires: *July 1, 2020*



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**EXHIBIT A – MAPS**

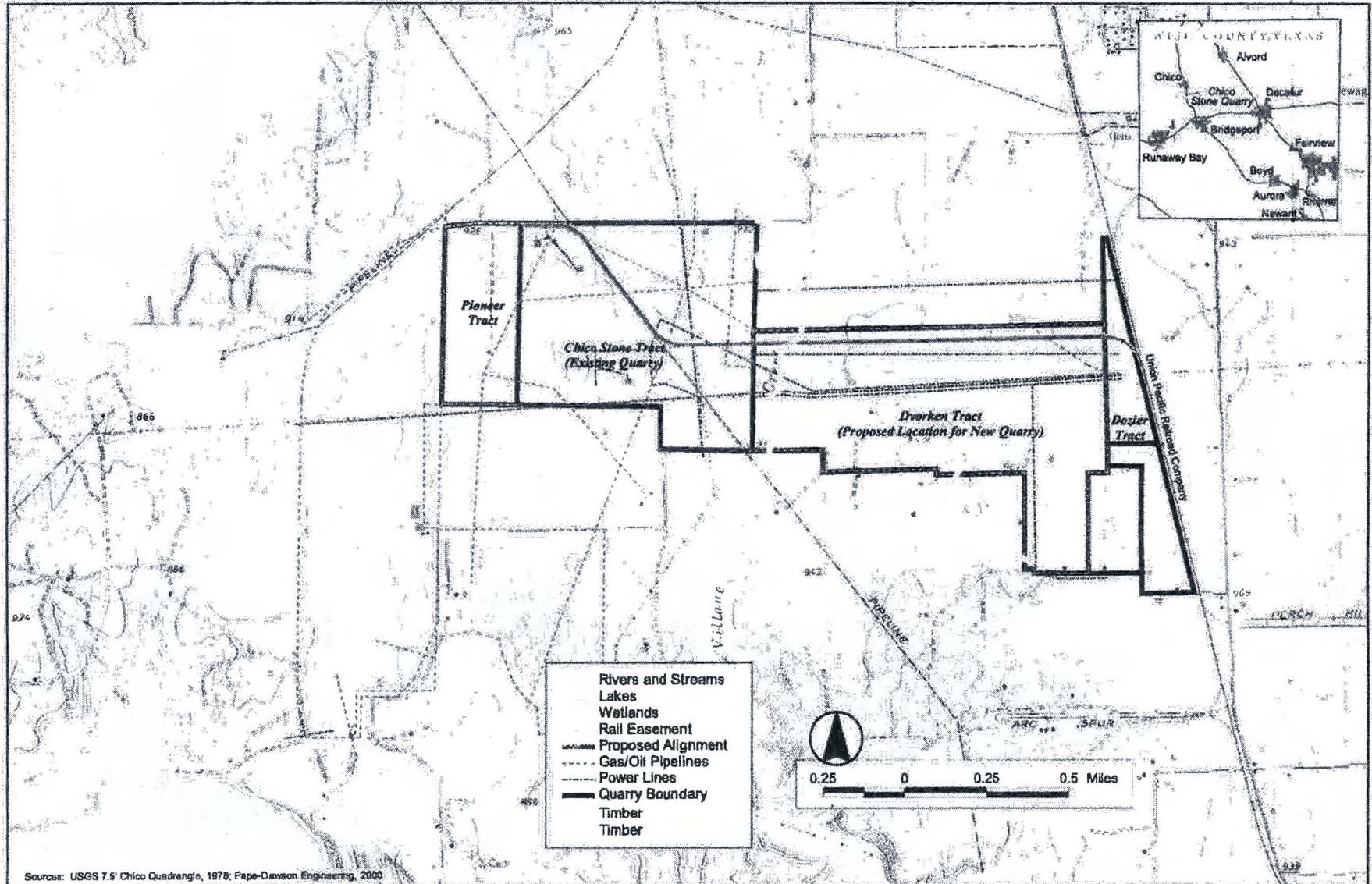
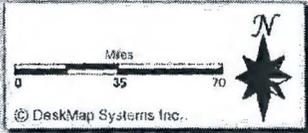
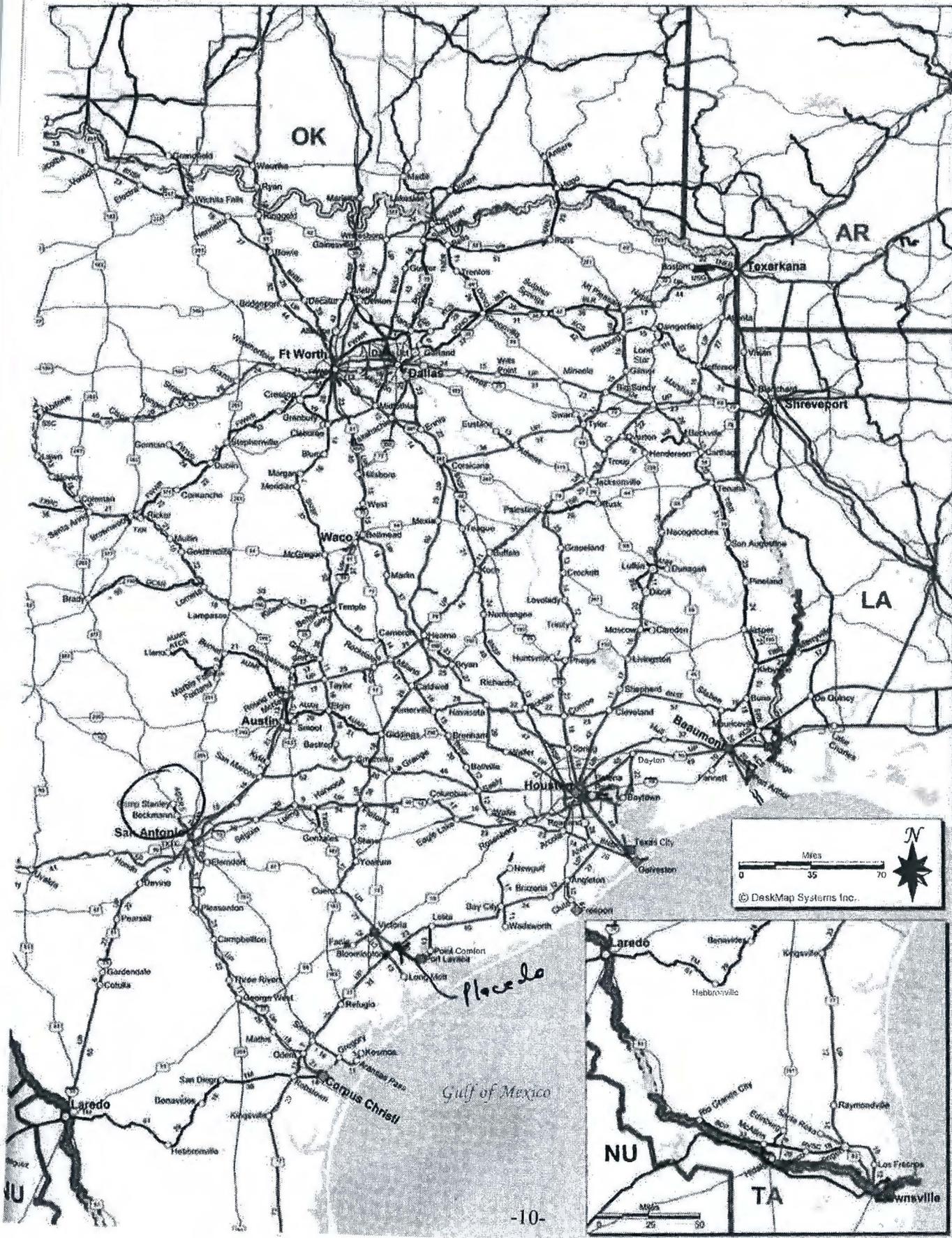


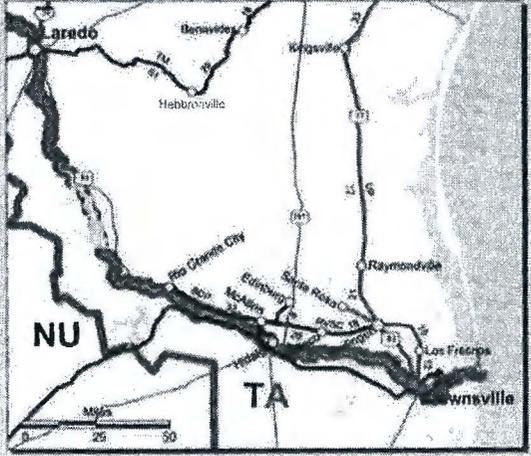
Figure ES-1 Proposed Rail Alignment



*Place*

*Gulf of Mexico*

*Carroll Christi*



COLORADO

