

# THE FRANK LAW FIRM, PLLC

1017 William D. Tate Avenue, Suite 110  
Grapevine, Texas 76051

Michael A. Bucek  
[mabucek@aol.com](mailto:mabucek@aol.com)  
May 11, 2016

Phone: (817) 949-2161  
Fax: (817) 416-6292

**CERTIFIED MAIL NO.: 7013 2250 00018508 9685**

Surface Transportation Board  
ATTN: Filing Clerk  
395 E. Street, SW  
Washington, D.C. 20423-0001



ENTERED  
Office of Proceedings  
May 16, 2016  
Part of  
Public Record

Re: Finance Docket No. 36025; TEXAS CENTRAL RAILROAD AND INFRASTRUCTURE, INC. & TEXAS CENTRAL RAILROAD, LLC -AUTHORITY TO CONSTRUCT AND OPERATE - PETITION FOR EXEMPTION FROM 49 U.S.C. § 10901 AND SUBTITLE IV - PASSENGER RAIL LINE BETWEEN DALLAS, TX AND HOUSTON, TX; Response of JBJQ Ranch to Petition for Clarification of Texas Central

Dear Clerk:

Enclosed please find an original and eleven copies of “JBJQ Ranch’s Response to Petition for Clarification of Texas Central Railroad and Infrastructure, Inc. and Texas Central Railroad, LLC (collectively “Texas Central”)” relating to the above referenced docket. Would you please file stamp each of the JBJQ Ranch’s Responses and return one of the copies of the Response in the self-addressed and stamped envelope?

Should you have any questions, please contact me at my cell phone number of 817-319-4298

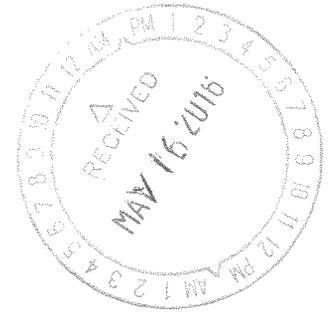
Sincerely yours,

A handwritten signature in cursive script that reads "Michael A. Bucek".

Michael A. Bucek  
Of Counsel to the Firm  
State Bar No. 03285500  
817-319-4298 (cellular)

cc: Individuals collectively known as JBJQ Ranch

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



\_\_\_\_\_  
**Finance Docket No. 36025**

**TEXAS CENTRAL RAILROAD AND INFRASTRUCTURE, INC. & TEXAS CENTRAL RAILROAD, LLC - AUTHORITY TO CONSTRUCT AND OPERATE - PETITION FOR EXEMPTION FROM 49 U.S.C. § 10901 AND SUBTITLE IV - PASSENGER RAIL LINE BETWEEN DALLAS, TX AND HOUSTON, TX**

\_\_\_\_\_  
**JBJQ Ranch's Response to Petition for Clarification of Texas Central Railroad and Infrastructure, Inc. and Texas Central Railroad, LLC (collectively "Texas Central")**

**INTRODUCTION**

The undersigned submits this response on behalf of the heirs of Maggie Zula Dawkins James, who are collectively known as "JBJQ Ranch". The undersigned has been advised by an agent of Texas Central that the ranch has two parcels of land totaling 450 acres (12711 CR 408 and 11573 CR 408, Normangee, TX 77871) that are proposed to be in one of the alignments being considered by Texas Central for the High Speed Passenger Rail Line between Dallas, TX and Houston, TX.

**ARGUMENT**

The role of the Surface Transportation Board, and for that matter any governmental board, is to protect the health, safety, morals and general welfare of the citizens of the United States. The Petition for Clarification on file in this docket totally ignores the role of regulation in a civilized society. Corporations entreat us to deregulate them and rely on the "enlightened self-interest" espoused by corporations in the market place to protect the public interest. We don't have to look very far to see that greed and excessive profit making was not kept in check by corporations in the 20<sup>th</sup> Century (and it doesn't appear that it is working in the 21<sup>st</sup> Century) when governments delegated their police power to them through the use of Eminent Domain. The CEO of Texas Central's "Texas Central Partners, LLC", Timothy B. Keith, is consumed with meeting deadlines and states in paragraph 4 of his verified statement that "Project delays add costs and will threaten the financial integrity of this project". Mr. Keith's attitude against using due diligence in proceeding with the first bullet train in the U.S. has infected his attorneys as well since at page 10 of the Petition they state "Such delays would have a cascading effect on Texas Central's overall schedule, adding costs and potentially threatening the viability of this important project". These two statements confirm to those who seek the best environmentally safe route for the bullet train that Texas Central is not about performing due diligence in the construction of the first bullet train but is all about shoring up a project that doesn't have

sufficient funding. To those who worry that insufficient funding will result in a governmental bailout Mr. Keith says we can look at the electrical deregulation market for guidance. He is not concerned that the largest electrical transmission operator in Texas is in bankruptcy. (*News Op-Ed: Tim Keith* “High-speed rail, moving Texas forward without taxpayer grants or bailouts” [March 24, 2016]). Hopefully, he is the only CEO who doesn’t recognize that when a quasi-public entity goes into bankruptcy the public/consumer ends up having to pay for the cost of infrastructure a second time.

In 1776, American colonists got fed up with King George running rough shod over them for his own purposes. They fought a war to stop him and then adopted a constitution based on the belief that there should be “no taxation without representation”. (Are any of the landowners along the route of the bullet train provided representation on Texas Central?) When it looked like the U.S. Constitution might not be adopted, the founding fathers of the document convinced state governments that if they adopted the deficient constitution that the newly formed Congress would adopt a Bill of Rights that would attempt to give to every citizen, (which the Declaration of Independence had suggested), “life, liberty and the pursuit of happiness”. A cornerstone of the first ten amendments to the constitution was the 5<sup>th</sup> Amendment that provided “**nor shall private property be taken for public use, without just compensation**”. The Texas Constitution has a similar protection for folks who live in Texas.

It appears Mr. Keith cares little about either constitution but at least his attorneys know that Chapter 21 of the *Texas Property Code* (“the Code”) sets forth criteria that need to be followed in order to comply with the 5<sup>th</sup> Amendment. However, Texas Central, forgets that eminent domain proceedings are not limited to just the application of Chapter 21 of the Code. A condemnor under Chapter 21 must also file a “*lis pendens*” as required by Chapters 12 and 13 of the Code. A *lis pendens* is an affidavit filed in the county clerk’s real property records announcing that a Petition in Condemnation is pending in a trial court. The *lis pendens* is required (1) to protect the filing party’s alleged rights to the property that may be in dispute in the condemnation and (2) to put those interested in the property on notice of the condemnation proceeding.

A *lis pendens* will put a cloud on the title to the property and have the effect of stopping a sale to a third party. Code sec. 13.004(a) states that a “recorded *lis pendens* is notice to the world of its contents.” If this were not the case, the rule regarding a bona fide purchaser would apply (a buyer who purchases real property for valuable consideration without notice of a disputed claim or prior interest does so free of that claim or interest). Additionally, a title company will not usually issue an owner’s policy of title insurance to a buyer until the condemnation proceeding is cleared up. The result is that a seller involved in litigation concerning a property cannot easily get rid of the problem by selling that property to someone else. Without this rule, the parties could be prevented from justly resolving their litigation and the authority of the courts defeated.

## CONCLUSION

So certainly, the filing of a Petition in Condemnation by Texas Central has an immediate impact on the ability of a landowner to market his property. More importantly, we ask you to remember who Texas Central says it is (as reflected in the Petition for Exemption it has filed in this docket):

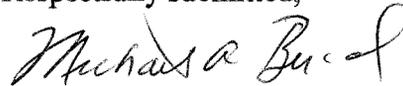
*Petitioners TCRI and TCRR are wholly-owned subsidiaries of Texas Central Rail Holdings, LLC, which, in turn, is a subsidiary of Texas Central Partners, LLC ("TCP") a Delaware limited liability company (hereinafter TCP, TCRI, TCRR and other affiliates, including Texas Central High-Speed Railway, LLC, are referred to as "Texas Central").*

Texas Central clearly isn't an entity like a municipality or state that has councilmembers or legislators who are elected by the voters to look out for the public interest. If a landowner's adjoining property is damaged by a true public project administered by a governmental unit then a landowner has a claim for inverse condemnation to make them whole. The entities forming Texas Central are all about limiting their liability and based on Mr. Keith comments referenced above, if Texas Central goes bankrupt, landowners that have been damaged by them will probably be looking for recourse from an entity buying Texas Central's interests out from a bankruptcy court that will void unsecured claims.

Our only protection is for the Surface Transportation Board to require due diligence be followed by Texas Central and that no short cut requested by Texas Central be approved since the Board is the only real protection we landowners have against the *laissez faire* attitude of Texas Central.

We urge the Surface Transportation Board to direct Texas Central that no condemnation proceedings shall begin until after the appropriate route for the bullet train is finally approved.

Respectfully submitted,



Michael A. Bucek  
State Bar No. 03285500  
Of Counsel  
The Frank Law Firm, PLLC  
1017 William D. Tate Ave., Suite 110  
Grapevine, TX 76051  
817-319-4298 (cellular)  
817-949-2161 (office)  
817-416-6292 (fax)  
[mabucek@aol.com](mailto:mabucek@aol.com)

Attorneys for JBJQ Ranch

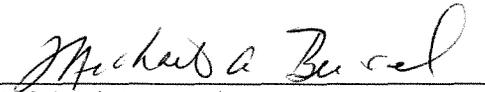
**CERTIFICATE OF SERVICE**

I hereby certify that on the 11<sup>th</sup> day of May, 2016, I served a true and correct copy of the foregoing upon counsel for the entities listed below via U. S. first class mail, postage prepaid.

Raymond A. Atkins (1)	Kathryn K. Floyd (3)	Karyn A. Booth (5)
Terence M. Hayes (2)	Jay Johnson (4)	David E. Benz (6)
Sidney Austin LLP	Venable LLP	Thompson Hine LLP
1501 K Street, N.W.	575 7 <sup>th</sup> Street, N.W.	1919 M Street, N.W., Ste.700
Washington, D.C. 20005	Washington, D.C. 20004	Washington, D.C. 20036
(202) 736-8000	(202) 344-4000	(202) 331- 8800

Attorneys (1) – (4) Counsel to Texas Central Railroad and Infrastructure, Inc. &  
Texas Central Railroad, LLC

Attorneys (5) – (6) Counsel for Delta Troy Interests, Ltd.

  
\_\_\_\_\_  
Michael A. Bucek