

SAN JACINTO RAIL LIMITED CONSTRUCTION EXEMPTION AND
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
OPERATION EXEMPTION—BUILD-OUT TO THE BAYPORT LOOP NEAR
HOUSTON, HARRIS COUNTY, TX

Statement of Patrick Crawford, Staff Attorney, Office of Proceedings

Good Morning Chairman Nober and Commissioner Morgan.

In August 2002, the Board conditionally granted, subject to completion of the environmental review process, an exemption that would allow construction by San Jacinto Rail Limited and operation by The Burlington Northern and Santa Fe Railway Company (BNSF) (which I will refer to together as petitioners) of a 12.8-mile line of railroad serving petrochemical industries in the Bayport Loop industrial district area of Houston, TX. The line would connect the Bayport Loop with the former Galveston, Henderson and Houston Railroad line (or GH&H line), now owned by Union Pacific Railroad Company (UP). BNSF would operate over the GH&H via trackage rights imposed as a condition of the merger between UP and Southern Pacific Transportation Company. Currently, UP is the only carrier serving the Bayport Loop.

In its August decision, the Board tentatively concluded that the proposal should be allowed because it would promote the Rail Transportation Policy by providing an alternative rail service option to shippers in the Bayport Loop.

The Section of Environmental Analysis (SEA) has completed its environmental review of the proposal. SEA's Environmental Impact Statement (or EIS) indicates that the proposal

would have only minimal environmental impacts. Furthermore, it indicates that the environmental impacts that would occur can be effectively mitigated by petitioners' voluntary mitigation measures, as well as four additional environmental conditions that SEA developed.

The draft decision adopts all of SEA's environmental analysis and recommendations, including SEA's recommendations regarding alternatives. Like the Final EIS, the draft decision identifies Alternative 1C—which was designed to avoid potential impacts on aviation—as the preferred route, but finds that all of the route alternatives considered in the EIS are fully acceptable environmentally and authorizes petitioners to construct and operate any one of them. The decision also imposes petitioners' extensive voluntary mitigation and SEA's recommended conditions and finds that together, these measures adequately address the minimal environmental effects associated with this construction proposal.

Finally, the draft explains that, in accordance with the regulations of the President's Council on Environmental Quality implementing NEPA at 40 CFR 1506.10(b), the deadline for filing administrative appeals in this case will be June 9, 2003. Moreover, the Board's final decision here will not become effective until that date. The decision finds that this schedule, which is consistent with the CEQ regulations, will afford the public adequate time to pursue administrative review of all aspects of the Board's final decision.

Victoria Rutson, Chief of SEA, will now discuss in more detail the environmental review process and SEA's recommended mitigation measures.