

## 1.0 INTRODUCTION AND BACKGROUND

On February 27, 2003, Southwest Gulf Railroad Company (SGR) filed a petition with the Surface Transportation Board (Board) for authority to construct and operate a new rail line in Medina County, Texas.<sup>1</sup> SGR's proposal involves the construction and operation of approximately seven miles of new rail line from a Vulcan Construction Materials, LP (VCM) proposed limestone quarry to the Union Pacific Railroad Company (UP) rail line near Dunlay, Texas. The Board's Section of Environmental Analysis (SEA) issued a Draft Environmental Impact Statement (DEIS) on November 5, 2004, for public review and comment. The DEIS evaluated the potential environmental impacts that could result from SGR's proposed rail line construction and operation, four alternatives to SGR's proposed rail line (including the No-Action Alternative<sup>2</sup>), and recommended mitigation that could be undertaken to reduce the potential impacts identified.

In response to the DEIS, SEA received approximately 120 written comment letters, as well as 75 oral comments submitted at two public meetings held in Hondo, Texas, on December 2, 2004 (SEA has considered each time a commenter spoke as one comment, even though several commenters spoke multiple times). After carefully reviewing all comments received, as well as additional information about the project proposal submitted by SGR, SEA decided to prepare this Supplemental DEIS (SDEIS).<sup>3</sup>

The SDEIS focuses on three specific matters: (1) evaluation of three alternative rail routes that were not studied in detail in the DEIS and a comparison of these three alternative routes to the four rail routes previously studied in the DEIS and the No-Action Alternative; (2) a

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<sup>1</sup> SGR did so by filing a request under 49 U.S.C. 10502 for an exemption from the requirements of 49 U.S.C. 10901.

<sup>2</sup> SEA has defined the No-Action Alternative 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. Commenters to the DEIS have suggested that SEA's definition of the No-Action Alternative is incorrect. SEA will respond to these comments in the Final Environmental Impact Statement.

<sup>3</sup> The reasons for SEA's decision are set forth later in this chapter.

discussion of the progress of additional historic property identification efforts following issuance of the DEIS; and (3) the additional noise analysis that SEA has performed, based on updated operational data provided by SGR indicating that trains may operate during nighttime hours.

The remaining sections of this chapter set forth the purpose and need for SGR's proposed rail line construction and operation, describe the environmental review process for this proceeding, outline the scope and organization of this SDEIS, and provide instructions for submitting written comments on the SDEIS and for obtaining additional information.

## **1.1 Purpose and Need**

SGR has stated in its petition filed with the Board on February 27, 2003,<sup>4</sup> that the primary purpose of the proposed rail line construction and operation is to transport limestone from VCM's quarry to the UP rail line, for shipment to markets in the Houston area, as well as to other markets in the Southeast, Gulf Coast, and Rio Grande Valley regions of Texas. SGR intends to hold itself out as a "common carrier" – that is, a railroad that has an obligation to provide reasonable service upon reasonable request to all shippers tendering traffic, applying publicly disclosed rates and service terms (see 49 U.S.C. 11101), and provide service to other industries that might locate to the area in the future. SGR states that it may enter into an agreement with an existing rail carrier, such as UP, to operate the line for SGR, should the Board issue final approval for SGR's petition. Any such carrier would need to seek separate Board authority to operate over the line. SEA's environmental review of SGR's petition has examined both the proposed rail construction and proposed rail operations, taking into consideration that SGR may not be the actual operator of the proposed rail line.

SGR states that the proposed rail line construction and operation is needed to more efficiently transport limestone aggregate from VCM's quarry to the UP rail line. SGR also states

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<sup>4</sup> SGR's petition, as well as the DEIS and all written comments submitted are available on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov). For the DEIS, go to "E-Library," click on "Decisions & Notices," and then conduct a full text search for the material under "FD 34284." The environmental correspondence can be viewed by selecting "Environmental Matters," then clicking on "Environmental Correspondence," and then searching the correspondence under "FD 34284."

that if the proposed rail line were not built, VCM would use trucks to transport the limestone from the quarry to the UP rail line, which would require the construction of a remote truck-to-rail loading facility near the UP rail line, and that the number of truck trips that would be required to transport the limestone would far exceed the number of train trips. The proposed rail operations would be four trains per day (two loaded and two empty). Approximately 1,700 trucks per day (850 loaded and 850 empty) would be needed to transport that same amount of limestone from the quarry to the UP rail line.

## **1.2 The Environmental Review Process for This Proceeding**

Under the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.*, the Board must consider the environmental impacts of actions requiring Board authorization and complete its environmental review before making a final decision on a proposed action. SEA is the office within the Board that carries out the Board's responsibilities under NEPA and related environmental laws and regulations, including the Council on Environmental Quality's (CEQ) regulations for implementing NEPA at 40 CFR Part 1500, the Board's environmental regulations at 49 CFR Part 1105, and the Section 106 process of the National Historic Preservation Act (NHPA) of 1966, as amended, 16 U.S.C. 470.

SEA began the environmental review of SGR's proposal by consulting with appropriate Federal, state, and local agencies, as well as with SGR, and conducting technical surveys and analyses. Due to substantial early public interest in SGR's proposal, SEA conducted an informational Open House in Hondo, Texas, on June 12, 2003, and received over 100 comment letters in response to the Open House, primarily from area residents, who raised concerns regarding potential environmental impacts.

SEA reviewed the comments received and continued to conduct technical studies, which included the identification of historic properties in the project area. SEA also initiated consultation with the Texas Historic Commission (THC), in accordance with the regulations

implementing Section 106 of NHPA at 36 CFR Part 800, and began to identify appropriate consulting parties to the Section 106 process.<sup>5</sup>

On October 10, 2003, SEA issued a Preliminary Cultural Resources Assessment report to the then-identified Section 106 consulting parties for review and comment. The report summarized the historic properties identified in the project area, which included a potential historic district, and set forth SEA's preliminary conclusions and recommendations regarding the cultural resources in the proposed project area. The THC, the consulting parties, and other individuals submitted comment letters in response to the report.<sup>6</sup>

Based on the nature and content of the numerous public and agency comments received, SEA determined that the effects of the proposed project on the quality of the human environment are likely to be highly controversial, and that thus, pursuant to 40 CFR 1508.27(b)(4), preparation of an EIS would be appropriate. On January 28, 2004, SEA issued a Notice of Intent to Prepare an EIS and Draft Scope of Study for the EIS (Draft Scope) for public review and comment. SEA received approximately 100 comment letters in response to the Draft Scope. SEA reviewed and carefully considered the comments in preparing the Final Scope of Study for the EIS (Final Scope), which was issued on May 7, 2004. SEA also continued to conduct appropriate studies and analyses for the environmental review of SGR's proposed project.

Additional cultural resources identification efforts were conducted. Through these efforts, SEA identified a potential rural historic landscape in the Quihi area. In consultation with

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<sup>5</sup> The Section 106 consulting parties in this proceeding are as follows: the Advisory Council on Historic Preservation (ACHP); the THC; SGR; the Honorable Henry Bonilla of the U.S. House of Representatives; Comanche Nation of Oklahoma; Mr. Archie Gerdes; Kiowa Tribe of Oklahoma; the Medina County Environmental Action Association (MCEAA); Medina County Historical Commission; Mescalero Apache Tribe; Quihi and New Fountain Historical Society; Schweers Historical Foundation; Tap Pilam Coahuiltecan Nation of Texas; and Wichita and Affiliated Tribes of Oklahoma.

<sup>6</sup> The report was also made publicly available by posting on the Board's website.

the THC and SGR, SEA developed a draft Programmatic Agreement<sup>7</sup> to mitigate potential effects on cultural resources in the area, which SEA included in the DEIS for public review and comment.

As noted above, SEA issued the DEIS for public review and comment on November 5, 2004. In the DEIS, SEA evaluated the environmental effects of the proposed rail line construction and operation for the following impact categories, as identified in the Final Scope: transportation and traffic safety; public health and worker health and safety; water resources; biological resources; air quality; geology and soils (including karst features); land use; environmental justice; noise; vibration; recreation and visual resources; cultural resources; and socioeconomics. SEA also studied the potential cumulative effects and indirect effects that could be caused by the proposed project. The alternatives that SEA studied in depth included four potential rail alignments (the Proposed Route, Alternative 1, Alternative 2, and Alternative 3) 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).

While some of the commenters to the DEIS expressed support for SGR's proposed project, the majority of the commenters expressed opposition to the project and raised concerns about the DEIS. The comments addressed the following topics:

- Allegations that the DEIS is inadequate and requests for an SDEIS to be prepared.
- General statements of opposition or support for the project.
- Concerns regarding potential air quality impacts.
- Requests that other alternative rail routes be studied (specifically, that an alignment that uses part of the old Medina Dam rail route in the area would be reasonable and feasible).
- Allegations that use of trucks to transport limestone from the quarry to the UP rail line would not be feasible, and that thus, SEA has improperly defined the No-Action Alternative.

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<sup>7</sup> A Programmatic Agreement is a legally binding agreement document used to stipulate the resolution of adverse effects to historic properties under Section 106 of the NHPA (see 36 CFR 800.14(b)).

- Concerns regarding potential impacts to water and water-associated resources (such as the Edwards Aquifer, floodplains and flooding impacts, groundwater, the Medina Lake Dam, stream crossings, surface waters, water supplies, wells, and wetlands).
- Concerns regarding potential impacts to biological resources in the area.
- Questions regarding how SGR could be considered a common carrier and questions about condemnation of private properties.
- Concerns regarding potential impacts to cultural resources.
- Concerns regarding potential cumulative impacts (i.e., combined impacts from SGR's rail line construction and operation and other projects in the area).
- Concerns about the potential impacts to pipelines in the area.
- Concerns about indirect impacts (i.e., impacts that would be caused by the proposed rail line construction and operation but that would be felt later in time or beyond the proposed project area).
- Concerns about impacts to karst features.
- Concerns about impacts to existing land uses.
- Requests to consider VCM's quarry and SGR's rail line as connected actions (i.e., as combined components of one overall proposed action).
- Questions regarding SGR's plans to maintain the rail line and the rail line right-of-way.
- Requests for more detailed maps and graphics.
- Requests for additional mitigation.
- Concerns about potential noise impacts.
- Questions regarding the details of SGR's proposed train operations.
- Requests for more detailed information about the construction and engineering of the proposed rail line.
- Allegations that SEA had not been sufficiently responsive to the public.
- Questions regarding the purpose and need for SGR's proposed project.
- Concerns regarding potential impacts to recreational and visual resources.
- Concerns regarding potential at-grade crossings and potential safety impacts.
- Concerns regarding potential socioeconomic impacts.
- Concerns regarding potential impacts to prime farmland soils.
- Concerns regarding impacts to local traffic and transportation.
- Concerns regarding impacts from an increase in truck traffic on area roadways.
- Concerns about potential vibration impacts.
- Allegations that SEA's field studies and methodology were inadequate.

The comments included those from some of the Section 106 consulting parties regarding the cultural resources analysis in the DEIS. In particular, the THC and ACHP raised concerns regarding the need to further identify the boundaries of the potential rural historic landscape in the Quihi area that had been discussed in the DEIS and to look at additional rail alternatives that could potentially avoid historic properties near Quihi. Based on the concerns that had been raised, SEA determined that a more detailed study of the rural historic landscape was warranted. This study has been completed and is included in this SDEIS for public review and comment.

In order to respond to and better assess all the comments to the DEIS, SEA requested and received additional information from SGR (see Appendix B). In particular, SEA requested information regarding how SGR had developed the four potential rail alignment routes that SEA had studied in depth in the DEIS (the Proposed Route, Alternative 1, Alternative 2, and Alternative 3) and whether SGR had studied the feasibility of rail routes that are farther to the west or to the east of those four alignments and that could potentially bypass the Quihi area.

After carefully reviewing the comments received on the DEIS and the additional information submitted by SGR, SEA determined that there were three alternative rail routes (the Eastern Bypass Route, the MCEAA Medina Dam Alternative, and SGR's Modified Medina Dam Route, collectively, the Eastern Alternatives) that were potentially reasonable and feasible, but that had not yet been studied in depth. Thus, SEA decided that these alternatives warranted study in a supplemental DEIS. SEA issued the Notice of Intent to Prepare the SDEIS on March 13, 2006 (see Appendix E).

This SDEIS is being issued for public review and comment (see below for detailed instructions on submitting comments). After the comment period ends on January 29, 2007, SEA will review all timely comments and prepare a Final Environmental Impact Statement (FEIS) that responds to the comments received on this SDEIS and the comments previously received on the DEIS. The FEIS will also contain any additional analysis that SEA believes is necessary, as well as SEA's final recommendations for environmental conditions to mitigate the potential environmental impacts that could be caused by SGR's proposed rail line construction and operation. After issuance of the FEIS, the environmental review process will be concluded.

The Board will then issue a final decision either to approve, deny, or approve with conditions SGR's petition to construct and operate a rail line in Medina County, Texas. In reaching its decision, the Board will take into consideration the DEIS, the SDEIS, the FEIS, and all environmental comments received.

### **1.3 The Scope of This Supplemental Draft Environmental Impact Statement**

SEA is issuing this SDEIS to provide the public with an opportunity to review and comment on SEA's analysis of the Eastern Alternatives (the Eastern Bypass Route, the MCEAA Medina Dam Alternative, and SGR's Modified Medina Dam Route) and to compare these routes with the routes already studied, as well as the No-Action Alternative. The SDEIS also presents the results of the rural historic landscape study, which has identified three rural historic landscape districts in the area (the Quihi Rural Historic District, the New Fountain Rural Historic District, and the Upper Quihi Rural Historic District), and a discussion of additional noise analysis that SEA conducted, based on updated operational data provided by SGR indicating that trains may operate during nighttime hours.

The CEQ regulations implementing NEPA do not require that formal scoping activities be undertaken to determine the scope of study for a supplement.<sup>8</sup> The Board's environmental regulations at 49 CFR 1105.10(a)(5) indicate that preparation of a draft scope of study for public review and comment and then a final scope of study that takes into consideration the comments received on the draft scope may be appropriate for a supplemental EIS. But here, the scope of the SDEIS has been well defined by the environmental review process to date. Consequently, SEA determined that scoping was unnecessary.

Alternatives considered in detail must be examined in a manner that allows reviewers to compare them equally.<sup>9</sup> Thus, SEA used the same scope of analysis for the study of the Eastern Alternatives as the scope of analysis for the alternatives considered in depth in the DEIS. This

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<sup>8</sup> See 40 CFR 1502.9(c)(4) ("Agencies shall prepare, circulate, and file a supplement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council").

<sup>9</sup> See 40 CFR 1502.14(b).

includes analysis of the following resource areas: transportation and traffic safety; public health and worker health and safety; water resources; biological resources; air quality; geology and soils (including karst features); land use; environmental justice; noise; vibration; recreation and visual resources; cultural resources; and socioeconomics.

Finally, SEA acknowledges that comments to the DEIS also called into question some of SEA's methodology for assessing particular resource areas, requested modifications to particular mitigation recommendations, and suggested that SEA should recommend additional mitigation measures. These types of comments to the DEIS can and will be appropriately responded to in the FEIS, which will be issued after the conclusion of the comment period on the SDEIS. In order to provide a consistent basis for comparison of the alternatives studied in the DEIS, and the additional alternatives assessed in this SDEIS, SEA has generally followed the methodology used in the DEIS in assessing the potential environmental impacts of the Eastern Alternatives, and, in order to avoid repetition, frequently refers the reader to particular sections of the DEIS.

The SDEIS departs from the methodology and mitigation recommendations used throughout the DEIS only to the extent that the changed methodology or different mitigation recommendations address unique aspects of the Eastern Alternatives (i.e., issues that would not arise from construction and operation of the Proposed Route, Alternative 1, Alternative 2, Alternative 3, or the No-Action Alternative) or information that was unavailable when the DEIS was issued. In addition to containing detailed responses to the comments received on the DEIS and the SDEIS, the FEIS will contain SEA's final recommendations for mitigation, which may be modified from the mitigation recommended in the DEIS.

#### **1.4 The Organization of This Supplemental Draft Environmental Impact Statement**

This document contains six chapters and various appendices. Below, SEA provides a summary of the contents of each of the chapters of the SDEIS and the appendices.

##### **Chapter 1: Introduction and Background**

This chapter sets forth the purpose and need for SGR's proposed rail line construction and operation, describes the environmental review process for this proceeding, outlines the scope

and organization of this SDEIS, and provides instructions for submitting written comments on the SDEIS.

## **Chapter 2: Proposed Action and Alternatives**

This chapter describes SGR's proposal to construct and operate a rail line over its Proposed Route in Medina County, Texas. The chapter also discusses the various alternatives to the Proposed Route that SEA has studied throughout the environmental review process and focuses on the development of the Eastern Alternatives.

## **Chapter 3: Analysis of the Eastern Alternatives**

This chapter presents SEA's analysis of each of the Eastern Alternatives. The chapter is divided into multiple sections, each of which provides SEA's analysis for a specific resource area. The order of the resource areas follows the order of the resource areas presented in Chapter 3 and Chapter 4 of the DEIS and refers to Chapters 3 and Chapter 4 of the DEIS, as appropriate. Each resource area section begins with an overall description of the affected environment and then discusses and compares the potential environmental impacts of each of the Eastern Alternatives.

## **Chapter 4: Noise and Vibration.**

This chapter presents the results of SEA's updated noise study for all the alternatives being considered in this environmental review process (Proposed Route, Alternative 1, Alternative 2, Alternative 3, No-Action Alternative, the Eastern Bypass Route, the MCEAA Medina Dam Alternative, and SGR's Modified Medina Dam Route). SEA performed this noise study to take into consideration the updated operational data (showing that trains may operate during nighttime hours) provided by SGR after issuance of the DEIS. This chapter also includes some additional vibration analysis that SEA conducted in conjunction with the noise study.

## **Chapter 5: Cultural Resources.**

This chapter presents the results of SEA's study of the rural historic landscapes in the Quihi vicinity, which identified three rural historic landscape districts in the area (the Quihi Rural Historic District, the New Fountain Rural Historic District, and the Upper Quihi Rural

Historic District). The chapter includes an assessment and comparison regarding impacts of each of the alternatives (Proposed Route, Alternative 1, Alternative 2, Alternative 3, No-Action Alternative, the Eastern Bypass Route, the MCEAA Medina Dam Alternative, and SGR's Modified Medina Dam Route) to the identified landscapes. This chapter also includes the overall cultural resources assessment of the Eastern Alternatives, which was done in a manner comparable to the cultural resources assessment previously conducted for the alternatives studied in the DEIS.

### **Chapter 6: Conclusions**

This chapter compares the potential environmental impacts of all of the alternatives studied to date (Proposed Route, Alternative 1, Alternative 2, Alternative 3, No-Action Alternative, the Eastern Bypass Route, the MCEAA Medina Dam Alternative, and SGR's Modified Medina Dam Route) and presents SEA's preliminary conclusions regarding the Environmentally Preferable Alternative. This chapter also lists SEA's mitigation recommendations, including both the mitigation set forth in the DEIS and the additional or changed mitigation that SEA is recommending in this SDEIS.

### **Appendices**

Appendix A contains a reprint of Chapters 3 and 4 of the DEIS, which are the affected environment and environmental impacts discussions of the alternatives studied in the DEIS, for reader reference. Appendix B contains pertinent correspondence, such as information from SGR and MCEAA describing the Eastern Alternatives.<sup>10</sup> Appendix C contains technical reports. Appendix D contains miscellaneous information, such as notes from conference calls with SGR. Appendix E contains the Notice of Intent to Prepare the SDEIS and correspondence received in response to that notice. Appendix F contains the Rural Historic Landscape Study and the Cultural Resources Technical Memorandum for the Eastern Alternatives.

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<sup>10</sup> Comments received in response to the DEIS will be included in the FEIS. These comments are also available on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov).

The Executive Summary and Table of Contents for this document appear prior to Chapter 1. The List of Preparers, List of SDEIS recipients, Index, and References sections appear after Chapter 6 and prior to the appendices.

SEA notes that the organization of this document varies slightly from the CEQ's recommended format for EIS documents (for example, Chapter 3 includes discussion of the affected environment and environmental consequences sections organized together by resource area, rather than having a separate chapter devoted to the affected environment and a separate chapter devoted to environmental consequences). However, the document includes the substance of all of the sections required by CEQ's regulations (see 40 CFR 1502.10).

### **1.5 Submission of Comments and Requests for Additional Information**

SEA welcomes written comments on all aspects of this SDEIS. If you wish to submit written comments regarding this SDEIS, please send an original and two copies to the following address:

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

Written comments may also be filed electronically on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. Comments must be postmarked by: January 29, 2007. Due to the focused nature of this SDEIS, SEA requests written comments only, and will not be holding public meetings to gather oral comments on the SDEIS.

Comments will be posted on the Board's website after they are received. For additional information regarding the history of this proceeding, please visit the Board's website. A complete electronic copy of the DEIS is available on the Board's website by going to "E-Library," clicking on "Decisions & Notices," and then conducting a full text search for the material for "FD 34284." The environmental correspondence for this proceeding can also be viewed on the Board's website by selecting "Environmental Matters," then clicking on "Environmental Correspondence," and then searching the correspondence under "FD 34284."

When attempting to view your comments on the Board's website after submission, please be patient, as the time to process and to scan environmental comments onto the Board's website can vary. If you need assistance or require additional information about the environmental review process, please contact Ms. Rini Ghosh at (202) 565-1539.