

Some of the original attachments to this document included color photographs on larger-sized paper. For scanning purposes, the attachments here have been reduced to 8-1/2 x 11" size and are black and white.

#E1-314

RY

*The Medina County Environmental Action Association, Inc.*

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Phone 830-741-5040

Fax 830-426-2060

November 3, 2003

Victoria Rutson, Chief,  
Section of Environmental Analysis  
Surface Transportation Board  
1925 K Street NW Room 500  
Washington, D.C. 20423

RECEIVED  
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MAIL  
MANAGEMENT  
STB

FD 34284

Subject: Docket #34284

Response to preliminary Section 106 Report of the Surface Transportation Board

Ms. Rutson:

The remarks I am submitting are based on information in this report, and additional factual information we wish to bring to your attention. We note omissions as well as errors in this report. These include (but are not limited to) the following:

1. **Flooding of historic sites and structures due to railroad berms or trestles:** This is the most glaring omission of all. Please see the enclosed floodplain map. Identified historic sites are indicated in red. (*Exhibit 1*) There is no mention in the report of damage caused by flooding of antiquities and historical homes, churches, schools, cemeteries caused by the railroad crossings of the Elm, Quihi and Cherry Creeks. We previously submitted testimony as well as pictures as evidence of verifying the frequency and severity of flooding in these areas. A railroad track placed on berms with or without culverts, or on trestles, will act as a dam because of the huge amount of debris that comes down the creek. This impounded water will flood antiquities and historic sites both above and below their placement when the structures give way. (*Exhibit 2 - at Junction of CR365 and CR4512, at Schweers historical Alsatian house*) Excessive flooding occurred in the Hondo Creek and Quihi floodplain in 1997 when the Union Pacific Railway trestles (crossing the Hondo Creek), gathered so much debris that it acted as a dam, and then broke loose later. Many properties and homes were flooded in that event, and rescue workers were evacuating families who had never been in any danger in other floods. Enclosed are some photos of the 1997 flood taken by a neighbor on CR 454, which is only one of several roads that flood regularly. (*Exhibit 3*) Notice the amount of the debris on just that one road. Also notice the debris caught high in the trees, which shows the level of the water during the flooding. Who would be responsible for taking the debris out of the Quihi Creek at the railroad trestle during flooding so that this does not happen again? Who would be responsible for the flooding damage due to this debris accumulation and subsequent release? Enclosed is a photo showing the huge amount of debris that has floated down the Helotes Creek, as an example of how much debris can come down a creek during floods. (*Exhibit 4*) This pile of debris is within the city limits of Helotes, on the Vulcan quarry site. According to U. S. Corps of Engineers Nationwide Permit No. 14 and FEMA regulations, structures are not allowed to be constructed if the impounded water causes the above-mentioned flooding hazards. In view of this, we request that the required research be done by the STB and that the results be verified by the Corps of Engineers and FEMA. We believe this research will confirm our belief that the railroad in its' proposed and alternative routes one, two, and three is unacceptable if the railroad track is constructed on berms or trestles. No mention is made of the impact on crossing County Roads 454, 4516, 4512, 4517, 365, and 353 (twice). County road 4512 is ENTIRELY omitted from this report. These are gravel roads, portions of which all lie in flood plains. These county roads and state road FM 2676 all must be crossed by the proposed route as well as all alternative routes. These railroad crossings at grade level or on trestles or berms will cause damage to these roads by impounding flood waters which will in turn flood historic structures and sites. We question the business logic of placing a

railroad with grade-level crossings in known floodplain areas, which would render them impassable and or severely damaged in times of flood and washouts, and which would necessitate costly replacement and high upkeep and maintenance costs.

2. **State Hwy FM 2676** (the only road to San Antonio) Part of FM 2676 also lies in the floodplain, and grade level rail line crossings will also cause flooding of the antiquities that lie on FM2676 and in the floodplain. Grade-level crossing of FM 2676 should not be permitted. Also, grade -level crossings will result in certain fatalities, and will cause unnecessary delays to commuters, school buses, police, fire, and EMS services. This could be avoided by grade separation structures on FM2676, which Vulcan /SGR is apparently unwilling to construct.

3. **Pipeline and Pumping Station:** There is no mention of a crossing on CR 4512. The proposed route and alternative routes 1 and 2 show the rail line crossing this county road and CR365 in close proximity to Duke's Energy pumping station, which is located near the junction of CR365 and CR4512. (*Exhibit 2*) During flooding, which has happened nearly every year - sometimes more that once a year, the water will be as high as 3 to 5 feet at this junction. Maps supplied by STB show the railroad track being in close proximity to the pipeline. There is no mention of how this potential hazard will be managed. The railroad crossing of CR365 is at a very critical location in the Quihi creek floodplain and there is potential for flooding nearby antiquities as well as the pumping station. (*Exhibit 1*) The harmful effects of vibration on the pipeline caused by construction and operation of the rail line also need to be addressed.

4. **There were many settlers along the Quihi floodplain.** There is an erroneous statement made on page 10 regarding the "unlikelihood of artifacts being found in the Quihi Creek region because there was no year-round source of water to sustain inhabitants". From the earliest records of the area a body of water known as Quihi Lake was present. This body of water arises from the artesian zone of the Edwards Aquifer and has flowed in spite of droughts. It is fed by springs along the Quihi Creek (*Exhibit 5 - the creek at this location has been running almost continuously*) It was Quihi Lake and numerous springs along the Quihi Creek in this area that prompted Henri Castro to bring Alsatian and German settlers to this place and found the town of Quihi in 1846. (*Exhibit 6*) Enclosed is an account of the Quihi area written in 1879 by the first Hungarian settler in Texas, Mr. Rudolf Schirobiny, who made his home in Quihi in 1847. (*Exhibit 7*) He mentions that there were 60 families in Quihi in 1879, and lists the names of the first 24 families who came in 1846. Early settlers not only obtained water from the Quihi Lake and Quihi creek, but also obtained water from hand-dug shallow wells 10-20 feet in depth. Many of these wells still exist and are being used. Thus to state no sustainable source of water is not true. It is widely known that there are many Indian artifacts in this area, indicating that this was a favored area for water and game.

5. **Texas Family Land Heritage Program:** Omitted also from the report is the fact that all of the proposed and alternative routes pass through the Gerdes Ranch, which was registered in 1986 with the Texas Department of Agriculture in the Texas Family Land Heritage Program. Enclosed is a copy of the listing of the Gerdes ranch in the Texas Family Land Heritage records (*Exhibit 8*) This ranch consists of 320 acres and has been given special recognition because it has been continuously operated by the Gerdes family for over 100 years, since 1881. Strict guidelines apply for qualification for this recognition. This ranch would be cut in half by the proposed railroad. This should not be allowed. This ranch is marked on the enclosed floodplain map.

6. **Four-Mile Waterhole:** Also omitted from the preliminary report is a study on the Four Mile Waterhole. For the protection of the settlers in the mid-1800's, the U.S. Cavalry had a camp known as Soldier's Camp, on the Verde creek. The Cavalry would send out scouts daily to find Indians, and would ride up as far as the waterhole, which was four miles from the Soldier's Camp, to water their horses. It is a spring -fed waterhole that has never gone dry. It has always been known as the Four-Mile Waterhole. According to STB map, alternative route 3 is very near this site. See map. Approximate location is marked, just south of the rail loop. Picture is enclosed. (*Exhibit 9*)

7. **Indian sites:** Also omitted from the report was any investigation of the reported Indian mounds in the rail loop portion of the quarry. These mounds were reported on August 7, 2003, to your department. Included was a map showing the location of the reported mounds. I am again enclosing these materials with this report. (*Exhibit 10*)

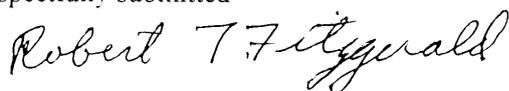
8. **More Indian Sites:** On the Schorobiny Survey No.29 , lies an Indian burial ground. In 1916 several Indians had died from measles, and were not allowed to be buried in the local cemetery. Michael Schorobiny, son of Rudolf Schorobiny, donated one and one-half acres out of his tract for their burial. (*Exhibit 11*) Also on the Schorobiny tract is the home and family cemetery. This important historical site needs to be researched. Alternative route 1 goes through the Schorobiny tract.

9. **Vibration Study:** In reviewing the vibration study dated October 23,2003, it is stated that pile driving activity, which would endanger historical structures, will not occur as part of the proposed project. (Vibration Study, page 2,1.2.1.1 Construction). On October 31, I was informed by Rini Ghosh by telephone that the railroad will cross county roads and floodplains on trestles. You did not say, nor does the report, how these trestles will be put in place during construction. This again demonstrates lack of thorough research.

10 **Adverse effects on historic properties:** Lastly, this is an important historical area, and possesses a serene beauty that is rarely seen in present times. Many people, including the legislature and other persons prominent in historical preservation, are recognizing the fact that our historical and cultural heritage is fast disappearing and are making extreme efforts to preserve this heritage. Enclosed are copies of the Executive Order to Preserve America issued by President George Bush, and remarks made by Laura Bush. (*Exhibit 12*) This railroad project would utterly destroy this heritage and the beauty and peace that abounds in the Quihi area. The history as a community that endured hardships, and the pride that remains visible as a testament to those turbulent times in the mid 1800's will be greatly compromised if not wiped out entirely. Numerous historic properties, both listed and potential, are located where the rail crosses CR 365 and the Quihi floodplain. (Henry Schweers house, Schweers cemetery, William Schweers house, and the Schuele-Saathoff house NHRP.) Under Section 106 Regulations, Sec. 800.5 (a)(2)(v), which describes adverse effects, the introduction of a railroad in this setting would constitute adverse effects, because it would directly alter the characteristics of these properties that could qualify them by diminishing the integrity of the properties' setting, location, and feeling.

In conclusion, it is obvious that further research of the route for the proposed railroad needs to be done. Vulcan Materials boasts that it wants to be a good neighbor to those living in the same region that it mines and ships its materials through, yet Vulcan has been involved in many lawsuits for endangering the local populace and causing nuisances in Texas towns, such as in Helotes in 1989. In Tehuacana in 1990, Vulcan sued the city for not allowing them to blast in city limits, and the people prevailed. If this is to be a "model project" as Vulcan has proposed, it should not be done by sacrificing historical sites, antiquities, private property, and the lives of those in this region. The solution to this is obvious. Relocate the rail line to a location that does not impact on these antiquities and historical sites in the floodplains. In 1912, a rail line was built from Dunlay to the Medina dam site to construct the Medina Dam and diversion dam. This rail line was constructed on suitable terrain. This route was in close proximity to the proposed quarry site, and although somewhat longer, it would not impact on the historic sites and would avoid flooding in the Quihi creek floodplain area. There is no mention of why this route was not considered. To build the railroad through a floodplain which contains antiquities and historic sites will surely destroy them.

Respectfully submitted



Robert T. Fitzgerald, President  
MCEAA  
Encl:

# FIRM FLOOD INSURANCE RATE MAP

MEDINA COUNTY,  
TEXAS  
(UNINCORPORATED AREAS)

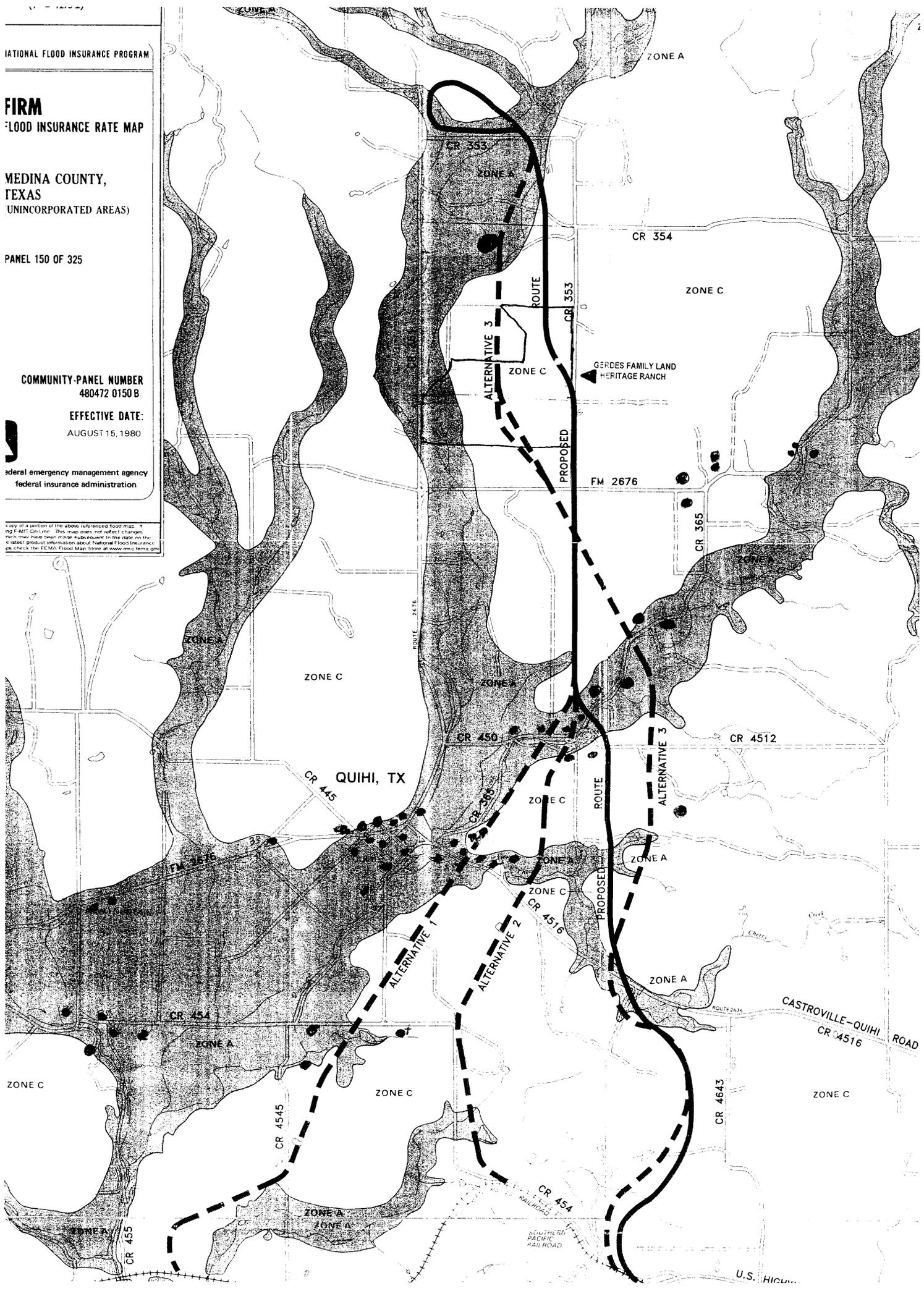
PANEL 150 OF 325

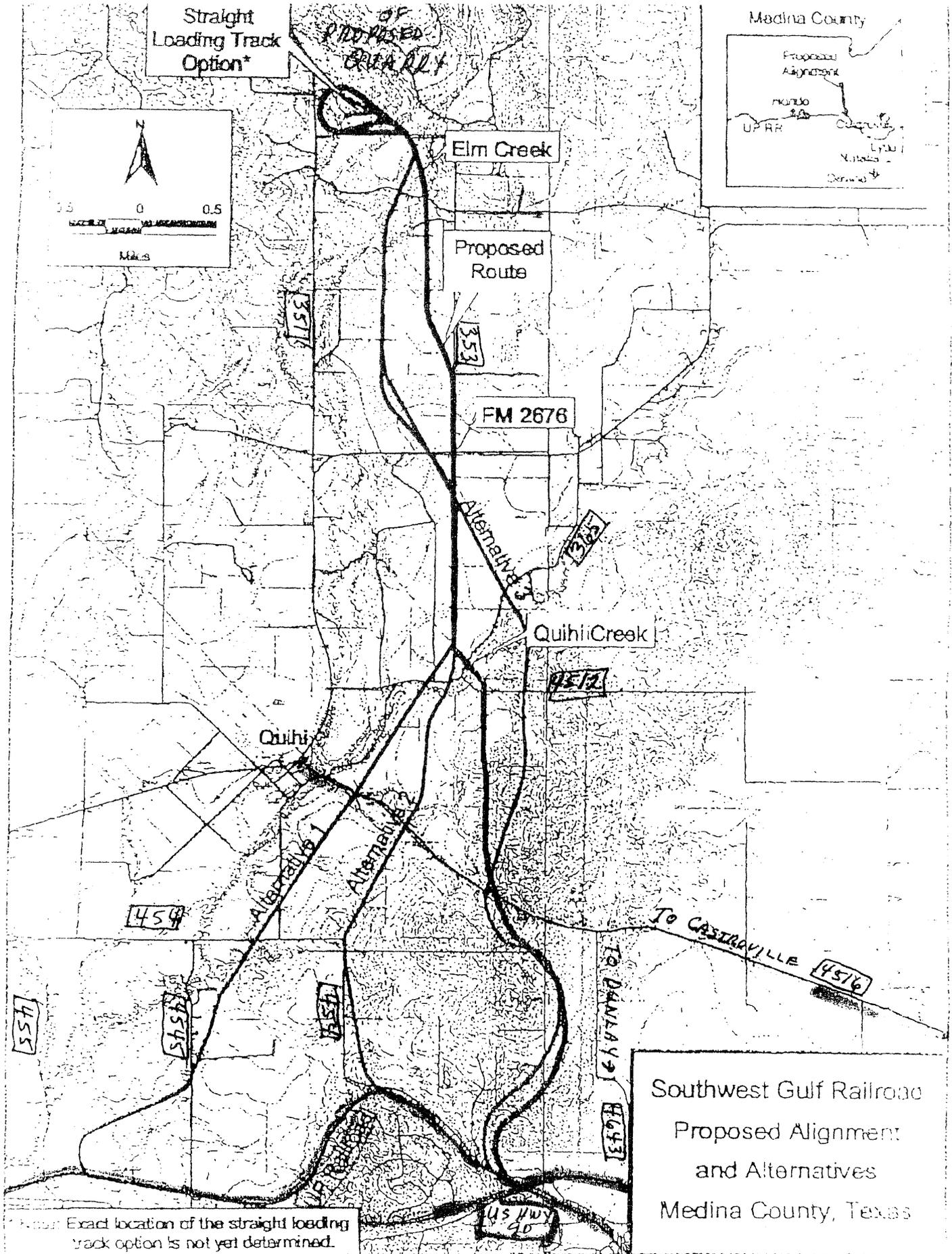
COMMUNITY-PANEL NUMBER  
480472 0150 B

EFFECTIVE DATE:  
AUGUST 15, 1980

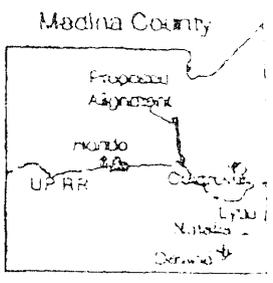
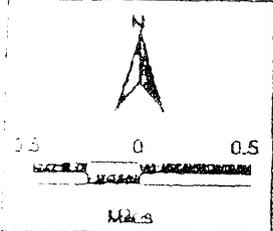
Federal emergency management agency  
federal insurance administration

Copy of a portion of the above referenced flood map. This map does not reflect changes which may have been made subsequent to the date on the latest product information about National Flood Insurance. Check the FEMA Flood Map Store at www.emc.fema.gov





Straight Loading Track Option\*



Elm Creek

Proposed Route

353

FM 2676

Alternative 3

323

Quihi Creek

454

Quihi

Alternative 1

Alternative 2

454

455

457

458

TO DANFAY 463

TO CASTROVILLE 456

Southwest Gulf Railroad  
Proposed Alignment  
and Alternatives  
Medina County, Texas

\* Exact location of the straight loading track option is not yet determined.

US HWY 90



11-03-03 Junction of CR 365 and CR 4512

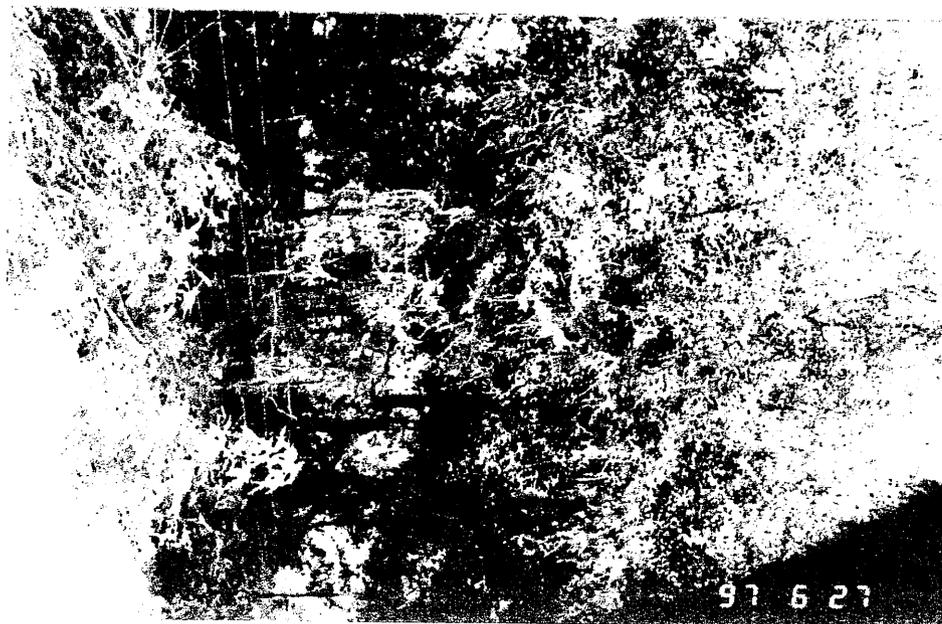


**EXHIBIT 3**



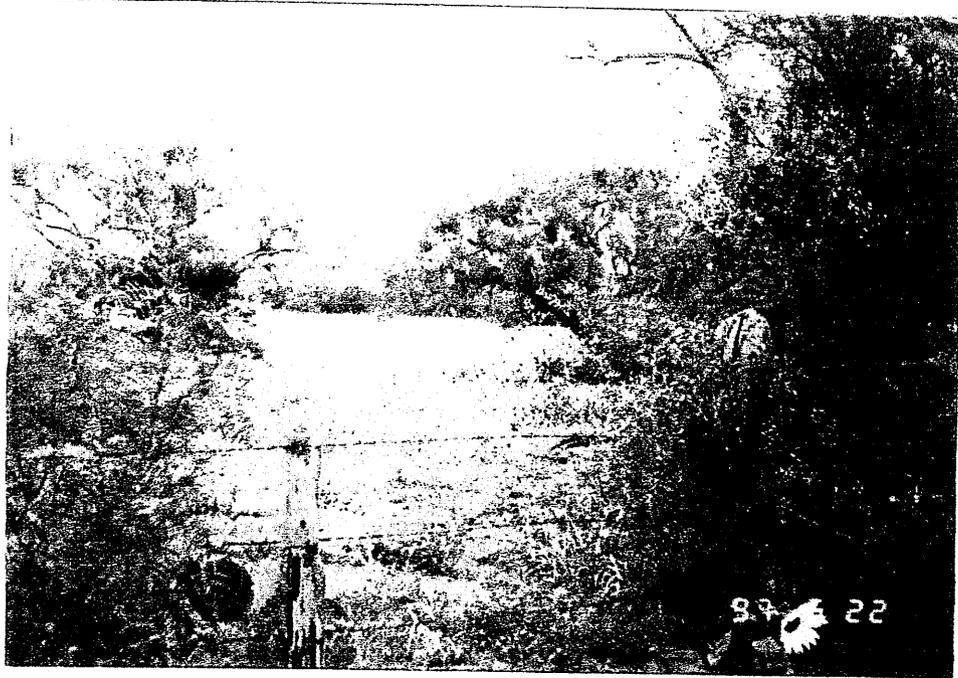




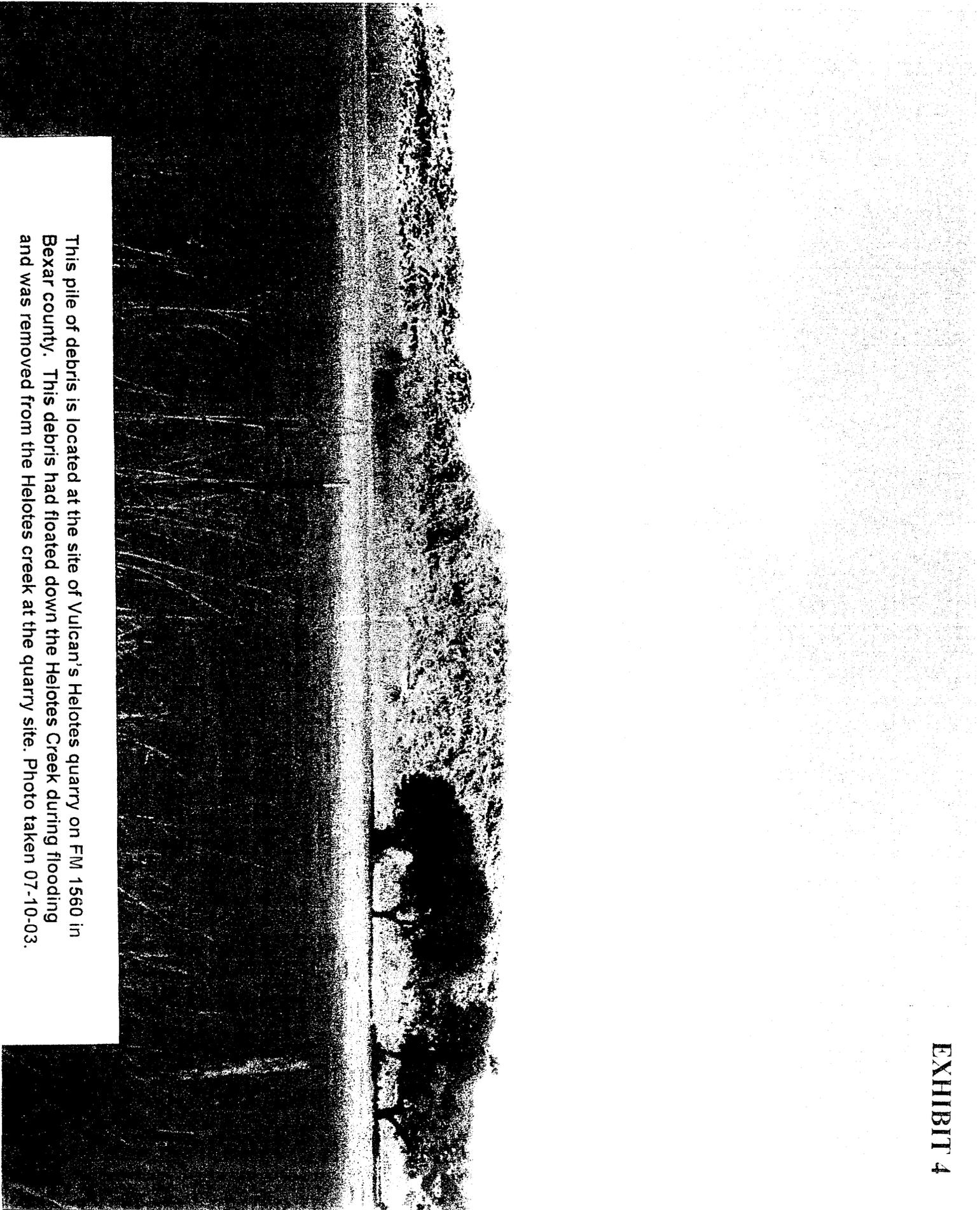


NOTE DEBRIS IN TREE BRANCHES



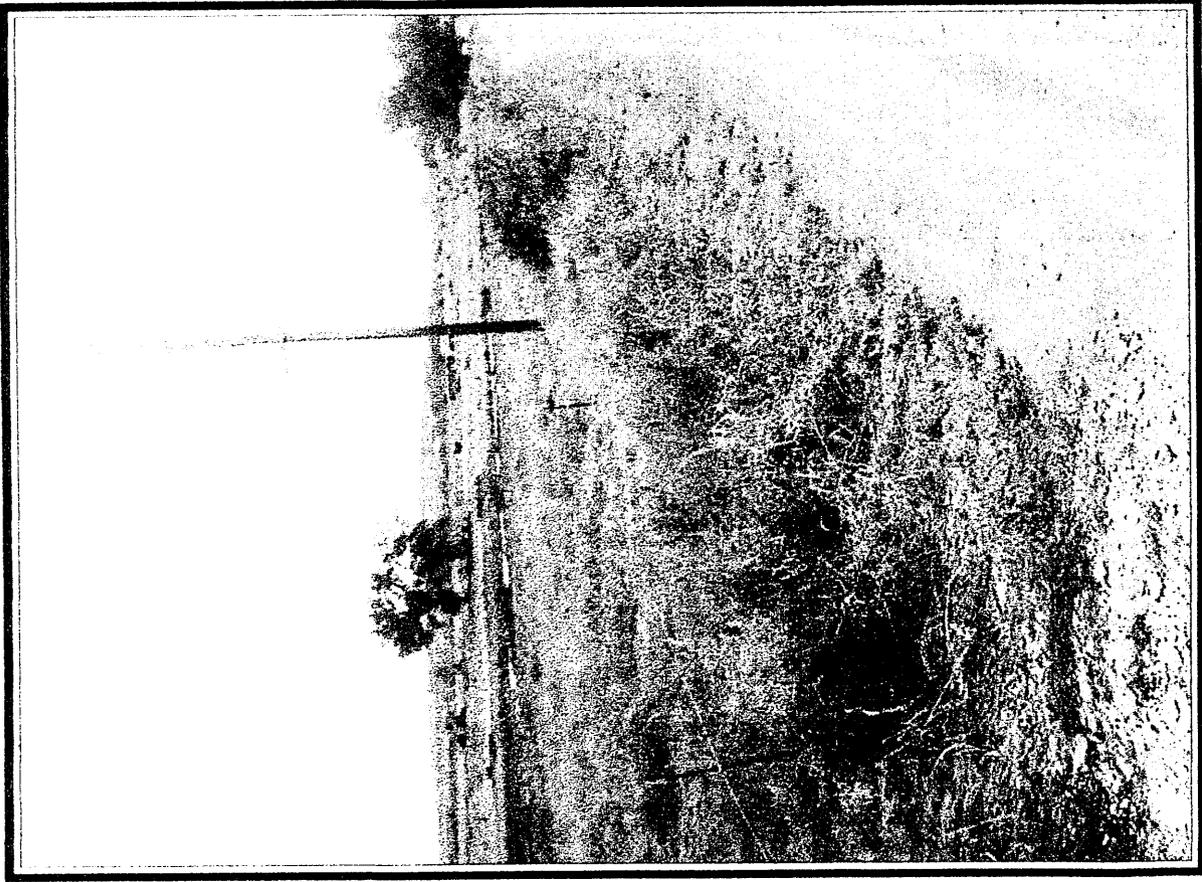
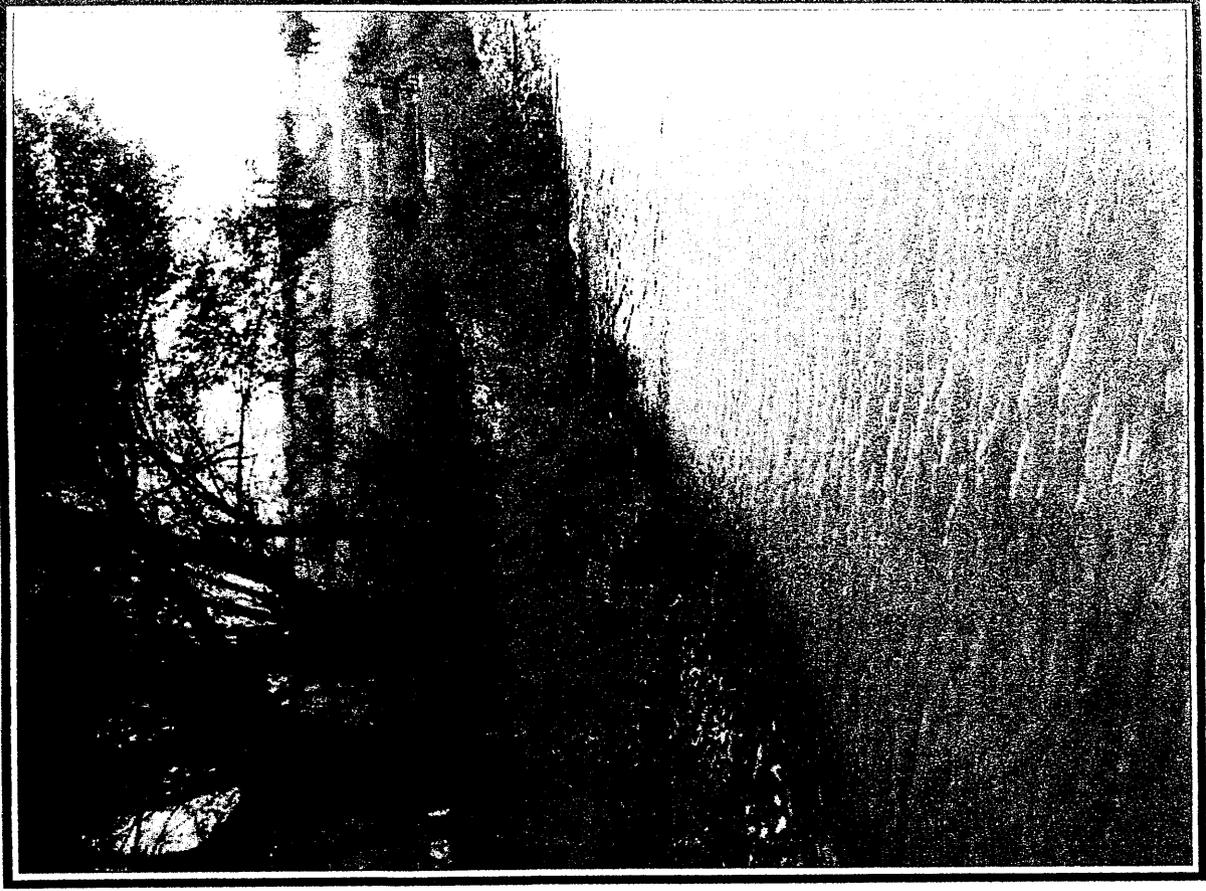


## EXHIBIT 4



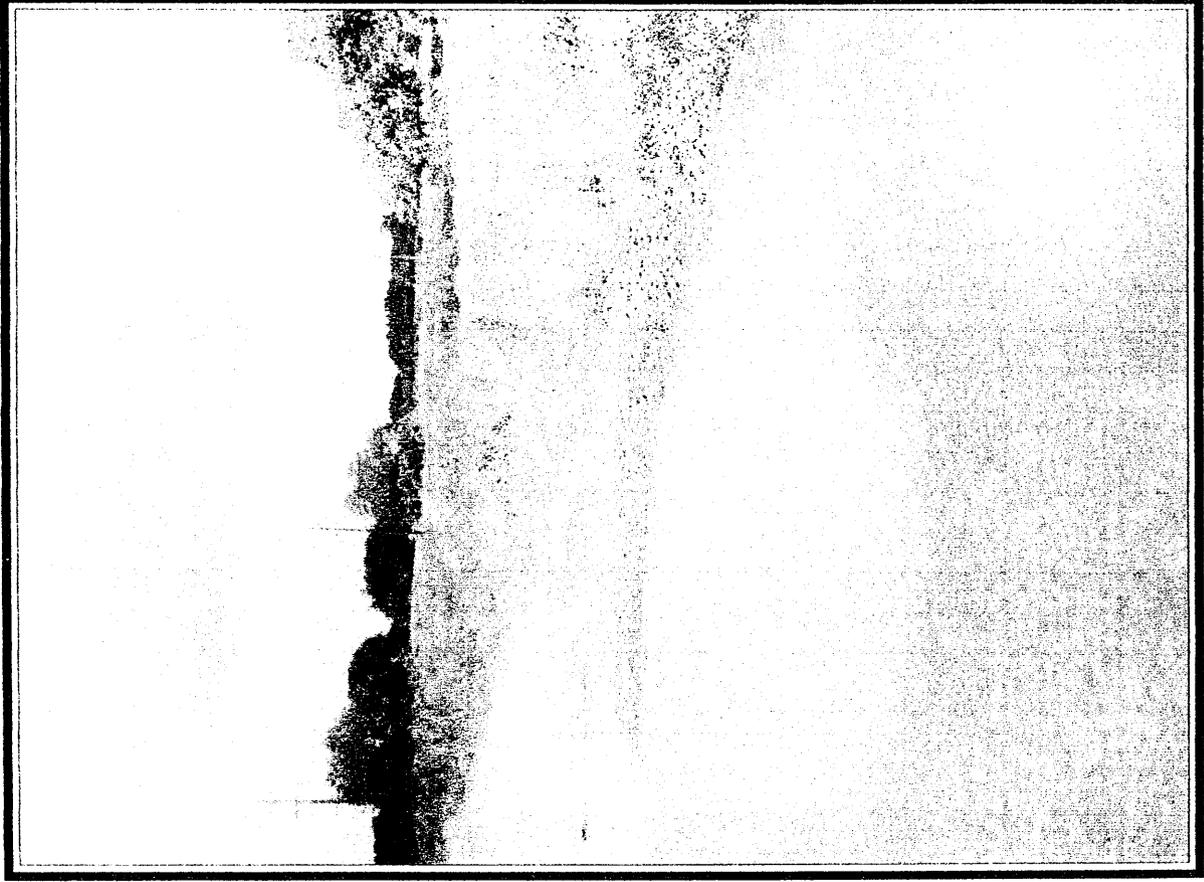
This pile of debris is located at the site of Vulcan's Helotes quarry on FM 1560 in Bexar county. This debris had floated down the Helotes Creek during flooding and was removed from the Helotes creek at the quarry site. Photo taken 07-10-03.

EXHIBIT 5



The Quihi Creek crossing CR 365 (11-3-03)

EXHIBIT 5



The Quihi Creek crossing CR 365 (11-3-03)

EXHIBIT 6



Rudolf Scharobiny

EXHIBIT 7



Castro Colonists Heritage Association

HISTORICAL RESEARCH COMMITTEE NOTES

Items of historical interest pertaining to early Medina County

Volume 1, No. 2

Castroville, Medina County, Texas

April 1977

HISTORY OF THE SETTLEMENT OF QUIHI

By Rudolph Schorobing

Below we give a very interesting account of the early settlement of Quihi, situated thirty-five miles west of San Antonio, written by Mr. Rudolph Schorobing, one of its best citizens. Mr. S. was the first farmer in that neighborhood to successfully grow a crop of onions in that settlement, and is known for his intelligence and worth. We commend this article to prospective colonists, who can thus learn of the trials of the early settlers in western Texas, and the bright picture of prosperity this little colony presents today.

How different the experience of the immigrant today: he finds no Indians to molest him, and the school house and church already built, and the path of the wilderness blooming with civilization.

Quihi, Medina Co., Texas,  
Sept. 1, 1879

Lorenzo Castro, Esq.,

Dear Sir: I beg to acknowledge receipt of your favor of Aug. 15, as well as of the copies of the Texas Sun you had the kindness to send me. In complying with the wish you expressed that I should give you some information concerning the beginning of our settlement at this place, I must rely upon your kind forbearance, as I have to write from memory, not having made any written notes.

In the commencement of March, 1846, the first settlers, numbering about twenty-five families, started for the new colony of Quihi, on the Quihi creek, ten miles west from Castroville. It was a lovely landscape, encircled with mountain ridges, of highly fertile soil, with good water, and an abundance of building and fence material. To every family a city lot of twenty acres was gratuitously given by the founder, Mr. H. Castro, apart from the head right of 320 or 160 acres. Mr. Castro appointed two men, James Brown and David Burnham, to provide the colonists with game, which abounded in the neighborhood, and as they were experienced and practical men, to advise and superintend the colonists. A Mexican by the name of Aug. Trevino proved himself very useful as teamster and instructor in cattle raising. The agriculturists were furnished with corn meal and bacon, together with some implements. Everything was progressing finely, and everybody was busy to build houses and plant corn when a dreadful blow was dealt to our Colony. The family of Brinkhoff consisting of five persons located in the so called lower village, were murdered by Commanche Indians; which sad event caused a portion of the colonists to leave the place, and move to San Antonio or other regions.

At this point you will pardon a slight digression from the subject proper, as I must briefly dwell on an episode intimately connected with myself.

In May, 1846, Dr. Acke, the brothers Horn, and myself, started from Houston to Castroville, intending to join Castro's colony; having settled at Quihi, we for a short time tried farming; but none of us possessing either sufficient experience or means, this agricultural society in consequence of trials, disappointments and sickness, quickly dissolved, and we parted. At this time, August 1846, John Connor was forming a company of rangers for the protection of the settlers against the redskins, which company I joined at Castroville, the recruiting station. Two months later we were enlisted in the U. S. army for twelve months, and after having done duty in western Texas and Mexico, we were discharged at the end of one year. Having saved a few hundred dollars from my pay, I settled on my head right in the colony of Quihi, where I married and again began to farm, being, according to the notions of that time well provided with all the means of living. Yet I had lived there hardly three months, when one day in February, 1848, a troop of Lipans and Kickapoos entered our village in broad daylight, during my absence. They murdered Bleasus Meyer, who was engaged in farm work, a few steps from my place, and having robbed our house of everything, they forced my wife to ride away with them. She however, had so much presence of mind, that after the distance of a half mile she jumped from her horse and concealed herself in a neighboring thicket. The Indians fearing pursuit, fired several arrows at her, one of which wounded her in the spine. Still she was left so much strength, that she could reach the colony, where she found good nursing at Mr. Baptiste Schmidt's house, so that she recovered in a short time. Here I consider it my duty to make mention of the kindness of Mr. Castro. From time to time he visited our settlement, making inquiries about the condition of every settler, and trying to alleviate their wants; hence, having become informed of my heavy loss, through the Indians, he not only sympathized with me, but also presented me with a town lot of considerable size in Quihi town, where we dwelt for six years till we removed again to the place where the redskins had plundered us.

Pardon, dear sir, this deviation of mine, whereby I solely intend to do justice to Mr. Castro's often misjudged character, for through a friend of mine, Major Florian Brauneck, who knew Mr. Castro intimately, I have become acquainted with the great difficulties under which the founder of the colony labored; and I remember well that his officers and agents many times failed to execute his generous aims in behalf of the settlers, and frequently preferred their own individual aggrandizement to the prosperity of the colony. Maj. F. Brauneck once expressed himself to me to that effect, that Mr. Castro would never receive sufficient thanks or reparation for the great personal sacrifices and considerable trouble which he incurred in founding his Texas colonies.

At first our colony made but little headway in agriculture, as the settlers lacked suitable draught animals and necessary implements; moreover the continual danger of fear and prevailing insecurity of life and property, caused by Indian raids, caused our settlers to be despondent and apathetic, yet perseverance, as it will everywhere, carried us through our troubles. The military road built from San Antonio to the Rio Grande, via Quihi, soon led to a marked improvement of our condition; our productions found a good and ready market at the forts which the U. S. Government erected along the Mexican boundary. Our Quihi became a gathering place for the farmers of the neighborhood, and easily and quickly acquired a stately church building, as well as a spacious school. The settlement gradually began to expand; hundreds of acres were put under fence and plow; cattle raising was a paying business, as the military posts required a large amount of beef every year. Altogether, the period immediately preceding the rebellion was one of the highest prosperity for our village and colony. Then came the civil war, and with it a period of progression, as fields and habitations became desolated, and fell a prey to temporary decay. Since then, however, our colony has quickly recovered from its deplorable effects, and has entered on a new era, of which we hope it will endure for many, many years to come. Our village population is increasing steadily; our mode of agriculture is being improved by the appliance of time-saving machines; cattle raising alone suffers somewhat from losses through thieves and raiders. Everybody is busy now--even those who were lazy before, now vigorously take a part in the general activity of our settlement. Thus we look forward to a happy future with hopefulness and cheerful hearts.

In conclusion, I may be permitted to state to you the present condition of our colony, as far as regards its extent, its population, and its resources.

The lands which the founder of the colony allotted to the several settlers lie from three to four miles in every direction from the centre, represented by our village of Quihi, altogether an area of more than 3000 acres is now in cultivation, of which two-thirds are planted in corn, the rest in wheat, oats and other cereals and vegetables, and every year additional acres of wild lands are again subjugated and reduced to cultivation. In ordinary seasons the productiveness of our soil is such, that it will bring forth twenty-five to forty bushels of corn; ten to twenty bushels of wheat; fifty to seventy-five bushels of oats, while under propitious weather these gains have often been exceeded. The population may justly consider themselves the most prosperous and active in the whole country. The colonists possess a considerable number of good agricultural machinery, and broken draught animals. They always are in the enjoyment of perfect health, as the climate is so very salubrious and mild, and they live in well-built and comfortable dwellings. Schools and churches are numerous and liberally sustained, as they are justly regarded the promoters of order and intelligence. The whole population of the colony, amounting to about 600 heads is distributed as follows: Quihi 60 families; Soldiers' Camp 20; New Fountain 15; Mumme's Settlement or New Vandenberg 15; sum total 100 families. Finally I beg to subjoin the names of those persons who formed the first beginning of the colony. Many of these have gone to their heavenly rest, among them not a few who have met with an untimely end. Still, there are some yet living, who after hard struggles and severe trials are now enjoying the fruits of their labors in peace and contentment.

In Nov. 1846 ten more families coming from East Frisia, joined the Quihi colony; but not remembering the names of all, I herewith omit them from the names of the original members. These were,--

BAPTISTE SCHMIDT	JOHN RIEDEN
AM. REITZER	JACOB RIFF
BL. MEYER	V. BOHNEKAMP
✓H. GERDES	H. WILFERS
H. GERSTING	JAMES STEVERS
R. BRUCKS	FRITZ BAUER
BRINKHOFF	JENNING
BRICKMANN	OPUS
DEUTERS	JOHN TANCHER
H. SCHNEIDER	RENSING
GASFER	EISENHAUER
LOUIS KORN	DR. ACKE

Yours respectfully,  
RUDOLPH SCHROBING

# Texas Family Land Heritage



FARM AND HOME MANAGEMENT PLAN  
1911-1912

Item	Quantity	Value
Wheat	100	10.00
Corn	200	20.00
Oats	150	15.00
Hay	50	5.00
Stocks	10	10.00
Land	100	100.00
Tools	10	10.00
Buildings	1	100.00
Other	10	10.00
Total		280.00



Texas Department of Agriculture  
Rick Perry, Commissioner

<i>Dates of ownership</i>	<i>Name</i>	<i>current owner</i>
1884-1908	John Nelson Willis	Great-grandfather
1908-1935	W. J. Willis	Grandfather
1935-1942	Louisiana Catherine Willis	Grandmother
1942-1944	Fannie Willis Jordan	Mother
1944-1954	J. Lewis Jordan	Father
1954-1986	D. R. Jordan	

*After settling on a land grant in McCulloch County, John Nelson Willis bought an additional 1,920 acres on which to raise cattle and horses. Little is known about the founder. He and his wife, Elizabeth Ann (Webster), had eight children: W.J., D.D., James, Sarah, John Leroy, Matthew Shook, Mary Ann, and Amelia Texana.*

**Acres in original parcel:** 480    **Acres still retained:** 320  
**Crops or livestock raised:** 1884 - Cattle and horses; 1986 - Cattle

## Boehle Ranch

Medina Co.

**Location of Ranch:** Nine and one-half miles northeast of Hondo

<i>Dates of ownership</i>	<i>Name</i>	<i>Relationship to current owner</i>
1880-1915	F.L. Boehle	Grandfather
1915-Unknown	George and Lisetta Boehle	Parents
Unknown-1986	Lewis R. Boehle	

*Born in Quihi, Texas, F.L. Boehle purchased 320 acres of ranchland from Charles DeMontel and Jacob Fritz in 1880. He sold five acres and raised cattle and horses. He and his wife, Antje, were the parents of seven children: Emil, Willie, Henry G., Johanna (Saathoff), George L., Louisa (Kurka) and Wilhamina (Graff).*

**Acres in original parcel:** 320    **Acres still retained:** 315  
**Crops or livestock raised:** 1880 - Cattle and horses; 1986 - Crossbred cattle.

## ✓ Gerdes T4 Ranch

Medina Co.

**Location of Ranch:** Ten miles northeast of Hondo

<i>Dates of ownership</i>	<i>Name</i>	<i>Relationship to current owner</i>
1881-1899	Paul Oefinger Sr.	Great-grandfather
1899-1910	Paul Oefinger Jr.	Grandfather
1910-1923	William and Emilie Oefinger Saathoff	Uncle, aunt
1923-1928	Paul Oefinger Jr.	Grandfather
1928-1969	Herman and Elsie Oefinger Gerdes	Parents
1969-1986	Archie Gerdes	

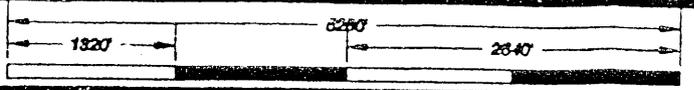
*Paul Oefinger, a German immigrant, bought land from Jean Baptiste Schmidt. Oefinger had several encounters with Indians. During one raid when all the horses were stolen, Paul Jr., the oldest child, was hidden under the bed for protection. Paul Sr. and his wife, Anne Marie, had nine other children: Sophia, Anne Marie, Kathrena, Christina, Louisa, Jacob, Ada, Carl and another son named Jacob, who died in early childhood. A barn and part of the founder's house, both more than 100 years old, are still used.*

**Acres in original parcel:** 320    **Acres still retained:** 320  
**Crops or livestock raised:** 1881 - Cotton and cattle; 1986 - Maize, corn, and cattle.

**EXHIBIT 9**



Scale



Vulcan Materials Company  
Southwest Division - Medina  
Date of Picture - 09/28/95

Conceptual Draft

EXHIBIT 10

NORTH



## Account of sitting as seen by David

He was hunting on the Wurzbach place on a four-wheeler. As he & the others hunting with him came upon the site, they stopped and noted to each other there was some sort of Indian mounds. They noticed many large oak trees. Between the oak trees were little mounds or burms. They were very distinct mounds and covered a large area.

EXHIBIT 11

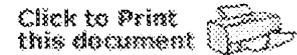


Michael Schorebiny

(Copy Old Nat Measure). ~

M. Schorobiny

Warranty Deed from M. Schorobiny, a single man, to O. A. Grell, Emil Boehle, and H. L. Schuehle, Trustees and Managers of the Quihi Public Cemetery Ass'n., and their successors, etc. For \$20.00...out of Survey No. 29, R. Schorobiny, original grantee...8,464 square varas - or  $1\frac{1}{2}$  acres of land...on and along the S. side of the Dunlay and Quihi Road: Beginning at a rock set in the center of the Dunlay and Quihi Road for the S.E. corner of Survey No. 23 James Allison; Thence S. 7 vrs....set under the fence for the N. line of this New Cemetery; Thence E. with said fence line 61 vrs; Thence S. 92 vrs.; Thence W. 92 vrs., for this S.W. corner; Thence N. 92 vrs.; Thence E. with fence and along said road 31 vrs. to the place of beginning. "This cemetery frontage being 92 vrs. E. and W. along the S. side of the Dunlay and Quihi Road as surveyed by H. V. Haass on May 4, 1914...to be used as a public cemetery for all persons without regard to color or religion or politics, and in lieu and replacing Lots Nos. 334-335-336 and 337, in Quihi, heretofore donated by J. C. McKean to the Trustees of Quihi, as per deed recorded in Book A No. 8, p. 53, Medina County Deed Records, and which were today by petition donated to the Lutheran Church at Quihi by the Order of the Commissioners' Court on May 8th., A.D. 1916." The deed is dated May 8, 1916, recorded in Vol. 52, P. 365, Medina County Deed Records, and it is signed by M. Schorobiny.

**EXHIBIT 12**

For Immediate Release  
March 4, 2003

**Executive Order: Preserve America**Remarks by Mrs. Bush for the National Association of Counties

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Historic Preservation Act (16 U.S.C. 470 et seq.) (NHPA) and the National Environmental Policy Act (42 U.S.C. 4321 et seq.), it is hereby ordered:

**Section 1. Statement of Policy.** It is the policy of the Federal Government to provide leadership in preserving America's heritage by actively advancing the protection, enhancement, and contemporary use of the historic properties owned by the Federal Government, and by promoting intergovernmental cooperation and partnerships for the preservation and use of historic properties. The Federal Government shall recognize and manage the historic properties in its ownership as assets that can support department and agency missions while contributing to the vitality and economic well-being of the Nation's communities and fostering a broader appreciation for the development of the United States and its underlying values. Where consistent with executive branch department and agency missions, governing law, applicable preservation standards, and where appropriate, executive branch departments and agencies ("agency" or "agencies") shall advance this policy through the protection and continued use of the historic properties owned by the Federal Government, and by pursuing partnerships with State and local governments, Indian tribes, and the private sector to promote the preservation of the unique cultural heritage of communities and of the Nation and to realize the economic benefit that these properties can provide. Agencies shall maximize efforts to integrate the policies, procedures, and practices of the NHPA and this order into their program activities in order to efficiently and effectively advance historic preservation objectives in the pursuit of their missions.

**Sec. 2. Building Preservation Partnerships.** When carrying out its mission activities, each agency, where consistent with its mission and governing authorities, and where appropriate, shall seek partnerships with State and local governments, Indian tribes, and the private sector to promote local economic development and vitality through the use of historic properties in a manner that contributes to the long-term preservation and productive use of those properties. Each agency shall examine its policies, procedures, and capabilities to ensure that its actions encourage, support, and foster public-private initiatives and investment in the use, reuse, and rehabilitation of historic properties, to the extent such support is not inconsistent with other provisions of law, the Secretary of the Interior's Standards for Archeology and Historic Preservation, and essential national department and agency mission requirements.

**Sec. 3. Improving Federal Agency Planning and Accountability.** (a) Accurate information on the state of Federally owned historic properties is essential to achieving the goals of this order and to promoting community economic development through local partnerships. Each agency with real property management responsibilities shall prepare an assessment of the current status of its inventory of historic properties required by section 110(a)(2) of the NHPA (16 U.S.C. 470h-2(a)(2)), the general condition and management needs of such properties, and the steps underway or planned to meet those management needs. The assessment shall also include an evaluation of the suitability of the agency's types of historic properties to contribute to community economic development initiatives, including heritage tourism, taking into account agency mission needs, public access considerations, and the long-term preservation of the historic properties. No later than September 30, 2004, each covered agency shall complete a report of the assessment and make it available to the Chairman of the Advisory Council on Historic Preservation (Council) and the Secretary of the Interior (Secretary).

(b) No later than September 30, 2004, each agency with real property management responsibilities shall review its regulations, management policies, and operating procedures for compliance with sections 110 and 111 of the NHPA (16 U.S.C. 470h-2 & 470h-3) and make the results of its review available to the Council and the Secretary. If the agency determines that its regulations, management policies, and operating procedures are not in compliance with those authorities, the agency shall make amendments or revisions to bring them into compliance.

(c) Each agency with real property management responsibilities shall, by September 30, 2005, and every third year thereafter, prepare a report on its progress in identifying, protecting, and using historic properties in its ownership and make the report available to the Council and the Secretary. The Council shall incorporate this data into a report on the state of the Federal Government's historic properties and their contribution to local economic development and submit this report to the President by February 15, 2006, and every third year thereafter.

(d) Agencies may use existing information gathering and reporting systems to fulfill the assessment and reporting requirements of subsections 3(a)-(c) of this order. To assist agencies, the Council, in consultation with the Secretary, shall, by September 30, 2003, prepare advisory guidelines for agencies to use at their discretion.

(e) No later than June 30, 2003, the head of each agency shall designate a senior policy level official to have policy oversight responsibility for the agency's historic preservation program and notify the Council and the Secretary of the designation. This senior official shall be an assistant secretary, deputy assistant secretary, or the equivalent, as appropriate to the agency organization. This official, or a subordinate employee reporting directly to the official, shall serve as the agency's Federal Preservation Officer in accordance with section 110(c) of the NHPA. The senior official shall ensure that the Federal Preservation Officer is qualified consistent with guidelines established by the Secretary for that position and has access to adequate expertise and support to carry out the duties of the position.

**Sec. 4. Improving Federal Stewardship of Historic Properties.** (a) Each agency shall ensure that the management of historic properties in its ownership is conducted in a manner that promotes the long-term preservation and use of those properties as Federal assets and, where consistent with agency missions, governing law, and the nature of the properties, contributes to the local community and its economy.

(b) Where consistent with agency missions and the Secretary of the Interior's Standards for Archeology and Historic Preservation, and where appropriate, agencies shall cooperate with communities to increase opportunities for public benefit from, and access to, Federally owned historic properties.

(c) The Council is directed to use its existing authority to encourage and accept donations of money, equipment, and other resources from public and private parties to assist other agencies in the preservation of historic properties in Federal ownership to fulfill the goals of the NHPA and this order.

(d) The National Park Service, working with the Council and in consultation with other agencies, shall make available existing materials and information for education, training, and awareness of historic property stewardship to ensure that all Federal personnel have access to information and can develop the skills necessary to continue the productive use of Federally owned historic properties while meeting their stewardship responsibilities.

(e) The Council, in consultation with the National Park Service and other agencies, shall encourage and recognize exceptional achievement by such agencies in meeting the goals of the NHPA and this order. By March 31, 2004, the Council shall submit to the President and the heads of agencies recommendations to further stimulate initiative, creativity, and efficiency in the Federal stewardship of historic properties.

**Sec. 5. Promoting Preservation Through Heritage Tourism.**

(a) To the extent permitted by law and within existing resources, the Secretary of Commerce, working with the Council and other agencies, shall assist States, Indian tribes, and local communities in promoting the use of historic properties for heritage tourism and related economic development in a manner that contributes to the long-term preservation and productive use of those properties. Such assistance shall include efforts to strengthen and improve heritage tourism activities throughout the country as they relate to Federally owned historic properties and significant natural assets on Federal lands.

(b) Where consistent with agency missions and governing law, and where appropriate, agencies shall use historic properties in their ownership in conjunction with State, tribal, and local tourism programs to foster viable economic partnerships, including, but not limited to, cooperation and coordination with tourism officials and others with interests in the properties.

**Sec. 6. National and Homeland Security Considerations.**

Nothing in this order shall be construed to require any agency to take any action or disclose any information that would conflict with or compromise national and homeland security goals, policies, programs, or activities.

**Sec. 7. Definitions.** For the purposes of this order, the term "historic property" means any prehistoric or historic district, site, building, structure, and object included on or eligible for inclusion on the National Register of Historic Places in accordance with section 301(5) of the NHPA (16 U.S.C. 470w(5)). The term "heritage tourism" means the business and practice of attracting and accommodating visitors to a place or area based especially on the unique or special aspects of that locale's history, landscape (including trail systems), and culture. The terms "Federally owned" and "in Federal ownership," and similar terms, as used in this order, do not include properties acquired by agencies as a result of fore-closure or similar actions and that are held for a period of less than 5 years.

**Sec. 8. Judicial Review.** This order is intended only to improve the internal management of the Federal Government and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

GEORGE W. BUSH

THE WHITE HOUSE,  
March 3, 2003.

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