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VIA HAND DELIVERY

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20402-0001

**Re: Finance Docket No. 34284 -- Southwest Gulf Railroad Company --
Petition for Exemption from 49 U.S.C. § 10901 to Construct and
Operate a Rail Line In Medina County, Texas**

Dear Ms. Rutson:

This letter will address, on behalf of Southwest Gulf Railroad ("SGR"), certain factual inaccuracies in various letters submitted to the Surface Transportation Board's Section of Environmental Analysis (SEA) in response to SEA's October 2003 Preliminary Cultural Resources Assessment ("Preliminary Assessment"). These letters were submitted by certain parties that are known to be opposed to construction of the SGR line in Medina County, TX and persons that appear to be working in league with, or retained by, those parties.¹ SGR's goal in

¹ SGR is affiliated through common ownership with Vulcan Materials Company, a Birmingham, AL-based corporation and one of the nation's largest producers of aggregates, composed primarily of crushed stone, sand and gravel used for highway and other construction purposes. One of Vulcan Material Company's wholly-owned subsidiary companies, Vulcan Construction Materials, LP, is working toward the development of a quarry in Medina County, at which stone would be mined.

The general process associated with the production of the aggregate consists of the following steps: (1) blasting the stone; (2) hauling the broken stone by large truck or loader to a primary crusher; (3) reducing the large rock into smaller rocks by crushing; (4) screening and segregating the crushed rock into various product specific sizes; and (5) loading the aggregate into either trucks or rail cars for delivery to the end user. The SGR line would be used to transport aggregate between the quarry and a point near Dunlay, Texas, where the SGR line would connect with a Union Pacific Railroad line, and the national rail system.

this letter is ensure that SEA has accurate information in connection with its consideration of this matter. SGR understands that SEA is preparing a draft environmental document pursuant to the requirements of the National Environmental Policy Act ("NEPA") and that opportunity will be provided for SGR and members of the public to comment on that document.

Generally, SGR notes that most of the commenters who were critical of the Preliminary Assessment apparently did not appreciate that the Preliminary Assessment was not intended to provide a complete or final review of all of the cultural and historic resources in the area. SGR notes that the Assessment explicitly acknowledges that it was not intended or designed to identify all of the resources in the area, but rather to be a "starting point" for the cultural review process to be undertaken in connection with this project pursuant to Section 106 of the National Historic Preservation Act. Thus, general criticisms along the lines that the Assessment was not complete in certain respects are not well-founded.

Several commenters offered suggestions with respect to further studies, improved maps, etc. SGR is prepared to assist SEA and the Texas Historical Commission in moving the process forward under appropriate procedures commonly used in rail construction cases of this nature so that an assessment of impacts from the proposed line on cultural resources, if any, may be made. To that end, SGR representatives have already initiated steps to advance the Section 106 process.

We will now turn to a discussion of the specific comments received by SEA.

Response to Lynn Kitchen/Adams Environmental, Inc.

Ms. Kitchen states on pages 2-3 of her November 7 comments that, "Vulcan Materials has stated on several occasions that the quarry will not be built if a rail line is not provided." This is not correct. A rail line would make the quarry more efficient, but the quarry could be developed even if there were no rail line. SGR accordingly disagrees that a "no quarry" alternative should be considered as part of the analysis. Rather, the appropriate "no action" alternative to consider is the alternative of a truck-served quarry. SGR has previously provided information about the large number of trucks that would be required to operate its planned Medina County quarry in the event that no rail line were built and SGR understands that the environmental document that SEA is preparing will address the environmental impacts of this truck traffic.

In fact, Vulcan operates several quarries in Texas that are served exclusively by truck, including the Geronimo quarry in Medina County and the "1604" and Helotes quarries in neighboring Bexar County. In addition to these quarries, there are seven other truck-only quarries in Texas operated by Vulcan (the names and locations of these can be supplied upon request) and several more that rely on a combination of truck and rail transport.

Ms. Kitchen states that Quihi Creek is a "nearly perennial stream and would be considered to have high potential for archeological and paleontological features." At the point of the proposed crossing of this Creek by SGR's preferred alignment, Quihi Creek is not a perennial

or near perennial stream. Except for short periods of time following heavy rains, the creek is dry. Ms. Kitchen also commented on the possibility that the railroad's design for stream crossing may result in flooding. SGR has every intention of designing its stream crossings so as to not to exacerbate the occasional flooding in the area. Based on its consultations, SGR is confident that such crossings can be designed, just as hundreds of similar streams are crossed by rail lines throughout the Southwest without creating flooding issues. Further, SGR has already consulted, and will be consulting further, with the U.S. Army Corps of Engineers on these matters.

Ms. Kitchen commented that construction of the line "will cause a significant increase in commercial and industrial development along the railroad." SGR at this point is not aware of any specific shippers that may locate on the line, other than Vulcan. While the line will be operated as a common carrier line and thus open to use by other shippers, SGR has no information at this time about other shippers that may locate in the area. Accordingly, any assessment of the level of commercial and industrial development that could develop along the line is speculative.

Ms. Kitchen commented that construction of a single track railroad that will be used by only 4 trains/day "will significantly change the vernacular of the area, changing it from a rural historic landscape to an urban commercial development". SGR anticipates that the area will retain its essentially rural character (even if some other businesses locate near the line) just as many other areas of the state where there are rail lines, such as the UP line at the south end of the project area to which the SGR line will connect. Due to the low grade and potential for vegetation growth along the buffer area, the railroad will be virtually invisible. Further, as only four trains per day are planned to use the line for the reasonably foreseeable future, trains will be visible for only a few minutes each day.

Ms. Kitchen and certain other commenters note that the SGR line would traverse through a farm (the Gerdes property) that has been recognized under the Texas Family Land Heritage Program. That Program is designed to acknowledge agricultural property that has been in the hands of a single family for at least 100 years. Construction of the SGR line through the Gerdes property would not change the agricultural nature of that property or divest that family of ownership of their farm. Thus, construction of the line can be accomplished in a manner that is consistent with the referenced Program. Indeed, nothing in that Program imposes any special requirements with respect to the ability of a railroad (or highway) to traverse a property recognized under the Program. Information about that Program is available at http://www.agr.state.tx.us/producer_info/flhp/com_flhp.htm.

Response to Quihi and New Fountain Historical Society Letter

This group's November 8 letter stated the group's overall opposition to the SGR project. However, it does not provide any comments that can be specifically addressed. SGR notes that

another historical society in the area, the Schweers Historical Foundation, Inc., commented in support of the SGR project.

Response to Medina County Environmental Action Association, Inc.

MCEAA, composed of some local landowners opposed to the SGR project, comments in its November 3 letter about flooding that could be caused by the SGR line. The flooding allegation has been addressed above. Indeed, SGR has replied previously to overstated and unsupported concerns expressed by this group about flooding that might result from the rail line. SGR remains confident that its line can be designed with appropriate stream crossings in a manner that will have no impact on flooding. MCEAA has raised its flooding concerns with SEA and SGR assumes that this issue will be addressed in the draft environmental document issued by SEA.

MCEAA also commented on alleged safety and other issues relating to the crossing of local roads by the SGR line. All crossings will be protected appropriately and consistent with highway safety practices, and traffic delays will be minimal given the small number of trains (4/day) that will use the single track railroad that SGR proposes to build. These too are matters that SGR understands will be addressed in the draft environmental document.

MCEAA proposed that the rail line be relocated to a location that does not impact on antiquities and historical sites. SGR agrees that avoidance of such resources is an appropriate goal. Thus, its line will be designed to avoid any sites of archeological or historic interest. SGR will coordinate with the Texas Historical Commission pursuant to the Section 106 process to assure that such resources are identified, avoided if possible and evaluated for the proper preservation in the unlikely event that avoidance is not possible. MCEAA commented on the numerous Native American sites in the area. The line would be designed so as to avoid sites of special interest to Native Americans. SGR understands that SEA has or will contact the appropriate Tribes regarding their interest in the area. Further, the Tribes will have ample opportunity to review the draft environmental document issued in this proceeding.

MCEAA noted that a rail line was constructed in the area in 1912, linking the Dunlay area to the area of the Medina Dam and questioned why the right of way for this line was not incorporated into the proposed alignment. The 1912 line has long been abandoned. Further, the right of way for that line has not been preserved and, for the most part, is not even visible from a ground inspection. (It is not clear that this 1912 line was ever a line subject to the jurisdiction of the STB's predecessor, the Interstate Commerce Commission. The name of the operating railroad is not known to SGR.) Moreover, the corridor followed by the long-abandoned 1912 line is several miles east of the planned quarry and therefore not suitable to the purpose to be served by the SGR line. In that regard, we understand that the abandoned line was used in the construction of, and thus terminated near, Medina Dam, which is about seven miles northeast of the planned quarry site. In addition, the abandoned 1912 line intersected with what is now the UP line at a point which is *south* of US 90. Thus, were the SGR to follow whatever abandoned

right of way still exists, a grade separation over that highway would be required. By contrast, no such crossing of US 90 is required under the proposal that is the subject of SGR's Petition in this proceeding because the SGR line has been designed to intersect with the UP line at a point where that line is north of US 90, obviating the need to cross that highway.

MCEAA raises a question about how trestle bridges will be constructed. The question of whether pile drivers will be used or not, as opposed to several other construction alternatives that might be available for use, will have to await a more complete engineering assessment by SGR, which would take place only after any final STB action approving the construction of the line. An assessment of the nature of the soil at the particular sites at issue would also have to be undertaken.

MCEAA claims that the railroad has not considered how it will manage any issues relating to crossing pipelines in the area, including vibration and flooding issues. The proposed line will cross only one pipeline, which is owned by Duke Energy. A second pipeline closer to the southern end of the line and owned by Koch Pipeline was removed in November 2003. SGR has been in communication with Duke about crossing its pipeline, which is about 3 feet below the surface. Duke advises that that pipeline is inactive (it is currently in a static state with 200 psi pressure) and that there are no plans for reactivating it. Duke has agreed to grant an easement to allow the crossing of the pipeline by SGR. Duke has not raised any safety-related concerns about crossing the pipeline, but SGR intends to further consult with Duke prior to construction.

Response to Dr. Thomas Hester

Apparently without the benefit of detailed maps of the rail line, Dr. Hester's November 6 letter provided a discussion of the archeological resources found in the general area. Given the rather limited area of disturbance contemplated by the single-track SGR line and the project's commitment to avoid those resources to the extent practicable, the line is unlikely to adversely impact historical or archeological sites. Further, if any such sites are encountered, it is likely that they could be avoided in the final design of the SGR line. It also bears noting that none of the sites identified in Dr. Hester's letter appear to be within the immediate area of the proposed line.

Dr Hester states that, "In order for NEPA, Sec. 106, or any number of other permitting processes to go forward, hundreds of thousands of dollars will have to be spent on archeological survey and geomorphology. The mitigation of only two or three sites would likely cost into the millions of dollars based on modern archaeological standards at the Federal and State level." SGR understands that more detailed information will need to be developed at an appropriate stage in coordination with SEA and THC procedures. However, SGR does not agree with Dr. Hester's views as to what is required by Section 106 or NEPA. As stated previously, SGR believes that, like other rail construction projects in recent years -- none of which have required anything approaching the type of surveying that Dr. Hester has described -- it will be able to avoid sites of cultural and historical significance. This will preclude the need for the extraordinary and unnecessary archeological excavations of the sort contemplated by Dr. Hester.

Response to Glenn K. Lindsey

Mr. Lindsey, a local landowner, commented in his October 13 letter that the preferred route for the railroad would cross CR 4512 directly in front of the entrance to his home. However, under the preferred alignment, the Lindsey entrance is at least several hundred feet from the proposed crossing of CR 4512. The rail line therefore should not impact the entrance to Mr. Lindsey's property.

Mr. Lindsey commented that the Schuele-Saathoff house is not correctly located on the route maps and that it is much closer to the preferred alignment. U.S.G.S. Topographic maps with the exact location of the Schuele-Saathof House, including the latitude and longitude (NAD 27), as well as locations for all other known historical resources, can be provided to SEA upon request. These maps illustrate the approximate location of the preferred alignment and alternative routes and show that, at its closest point, the preferred route is approximately 910' from the Schuele-Saathof House. Again, SGR would be pleased to provide these maps if SEA wishes to review them.

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It is SGR's commitment to work closely with appropriate agencies, interested Tribes and other parties, to ensure that archeological and historical resources are identified in the area of potential effect and that steps are taken to avoid such resources during construction. SGR looks forward to answering any questions that you or colleagues might have on these matters.

Sincerely,



David H. Coburn
Attorney for Southwest Gulf Railroad
Company

cc: Ms. Rini Ghosh, SEA
Ms. Jaya Zyman-Ponebshek, URS
Dr. Darrell Brownlow