

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2875

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

THOMAS J. LITWILER
(312) 252-1508
tlitwiler@fletcher-sippel.com

January 4, 2005

VIA FACSIMILE AND FEDERAL EXPRESS

Ms. Catherine Glidden
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20006

Re: **Docket No. AB-281 (Sub-No. 1X)**
Texas North Western Railway Company -- Abandonment
Exemption -- In Moore, Hutchinson and Hansford Counties, TX

Dear Ms. Glidden:

Petitioner Texas North Western Railway Company ("TXNW") hereby submits this comment on the environmental assessment ("EA") issued by the Section of Environmental Analysis ("SEA") in the above-captioned docket on December 17, 2004. TXNW offers only a clarifying comment on the single recommended environmental condition on the proposed abandonment, relating to the National Geodetic Survey ("NGS").

Noting that NGS has identified 16 geodetic station markers that may be affected by abandonment, the EA recommends a condition that "TXNW shall notify NGS 90 days prior to salvage activities in order to plan their relocation." EA at 3. This is one of two formulations that the SEA generally uses to address geodetic markers. The other standard formulation provides that "if there are any planned activities which would disturb or destroy these markers, [railroad] should contact NGS not less than 90 days in advance of such activities in order to plan for their relocation." E.g., Soo Line Railroad Company -- Abandonment Exemption -- In Ramsey and Benson Counties, ND, Docket No. AB-57 (Sub-No. 54X) (STB served October 29, 2004) at 3; see R.J. Corman Equipment Company, LLC -- Abandonment Exemption -- In Johnson, Magoffin and Breathitt Counties, KY, Docket No. AB-876X, et seq. (STB served December 23, 2004) at 3, 4, 6.

TXNW requests that the second formulation -- rather than the first formulation recommended in the EA -- be imposed as an environmental condition in this proceeding. The second formulation tracks NGS's actual comments,¹ and appropriately requires the railroad to

¹ See October 15, 2004 NGS letter included as Appendix P-1 to TXNW's Environmental/Historic Report (TXNW Notice of Exemption at 58).

FLETCHER & SIPPEL LLC

Ms. Catherine Glidden
January 4, 2005
Page 2

consult further with NGS when and if geodetic station markers are discovered that would be impacted by salvage. Taken literally, the broader first formulation would require the railroad to re-consult with NGS prior to any salvage, presumably with the same result as the railroad's initial consultation -- the provision by NGS of a list of potential geodetic markers in the area.

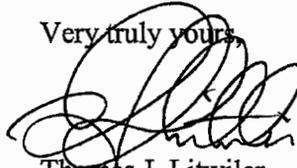
We also do not believe that NGS intended that railroads be required to search for each of the geodetic station markers identified in its comments. Those markers may or may not be within the right-of-way of the rail line, and at times they cannot be located ("recovered," in NGS parlance) even by experienced surveyors. In some cases they may no longer exist. Some of the markers identified in this abandonment, for example, could not be found by the U.S. Geological Survey as long ago as 1973. See NGS Data Sheet attached hereto.

Using the information provided by NGS, however, railroads should be expected to watch for geodetic station markers during salvage and to consult with NGS when markers that would be disturbed by salvage are found. TXNW requests that the NGS environmental condition imposed in this proceeding be appropriately formulated to reflect that obligation.

TXNW also has recently received correspondence from the Texas General Land Office/Coastal Coordination Council confirming that the rail line at issue does not lie within the boundaries of the Texas Coastal Management Program and is not subject to a CMP consistency review. A copy of that letter is attached for the Board's information.

Two copies of this letter are enclosed for the Board's use. I certify that a copy also has been served by facsimile and first class mail on NGS, using the contact information in NGS's October 15, 2004 comment letter. Thank you for your assistance on this matter.

Very truly yours,



Thomas J. Litwiler
Attorney for Texas North Western
Railway Company

TJL:tl

Attachment

cc: Mr. Frank C. Maida, NGS

DATABASE = Sybase ,PROGRAM = datasheet, VERSION = 7.10

1 National Geodetic Survey, Retrieval Date = JANUARY 4, 2005

GK0281 *****

GK0281 DESIGNATION - J 253
GK0281 PID - GK0281
GK0281 STATE/COUNTY- TX/HUTCHINSON
GK0281 USGS QUAD - MORSE (1974)

GK0281
GK0281 *CURRENT SURVEY CONTROL

GK0281* NAD 83(1986)- 36 02 10. (N) 101 28 26. (W) SCALED
GK0281* NAVD 88 - 982.415 (meters) 3223.14 (feet) ADJUSTED

GK0281 GEOID HEIGHT- -26.88 (meters) GEOID03
GK0281 DYNAMIC HT - 981.330 (meters) 3219.58 (feet) COMP
GK0281 MODELED GRAV- 979,495.4 (mgal) NAVD 88

GK0281 VERT ORDER - SECOND CLASS 0

GK0281.The horizontal coordinates were scaled from a topographic map and have
GK0281.an estimated accuracy of +/- 6 seconds.

GK0281.The orthometric height was determined by differential leveling
GK0281.and adjusted by the National Geodetic Survey in June 1991.

GK0281.The geoid height was determined by GEOID03.

GK0281.The dynamic height is computed by dividing the NAVD 88
GK0281.geopotential number by the normal gravity value computed on the
GK0281.Geodetic Reference System of 1980 (GRS 80) ellipsoid at 45
GK0281.degrees latitude (g = 980.6199 gals.).

GK0281.The modeled gravity was interpolated from observed gravity values.

GK0281;
GK0281;SPC TX N North East Units Estimated Accuracy
- 1,225,890. 202,350. MT (+/- 180 meters Scaled)

GK0281 SUPERSEDED SURVEY CONTROL

GK0281 NGVD 29 (??/??/92) 981.956 (m) 3221.63 (f) ADJ UNCH 2 0

GK0281.Superseded values are not recommended for survey control.
GK0281.NGS no longer adjusts projects to the NAD 27 or NGVD 29 datums.
GK0281.See file dsdata.txt to determine how the superseded data were derived.

GK0281_U.S. NATIONAL GRID SPATIAL ADDRESS: 14SKE771907(NAD 83)

GK0281_MARKER: DB = BENCH MARK DISK
GK0281_SETTING: 7 = SET IN TOP OF CONCRETE MONUMENT
GK0281_STAMPING: J-253 1934

GK0281_STABILITY: C = MAY HOLD, BUT OF TYPE COMMONLY SUBJECT TO
GK0281+STABILITY: SURFACE MOTION

GK0281 HISTORY - Date Condition Report By
GK0281 HISTORY - 1934 MONUMENTED CGS
GK0281 HISTORY - 1973 MARK NOT FOUND USGS

GK0281 STATION DESCRIPTION

GK0281'DESCRIBED BY COAST AND GEODETIC SURVEY 1934
GK0281'1.5 MI S FROM MORSE.
GK0281'1.6 MILES SOUTH OF C. RI AND G. RR. STATION AT MORSE 264 FEET SOUTH OF
GK0281'MORSE JUNCTION SIGN POST, WHERE PANHANDLE AND SOUTH FE RAILWAY CROSSES
GK0281'CHICAGO ROCK ISLAND AND GULF, RAILWAY. 39 FEET EAST OF NEAREST RAIL OF
GK0281'CHICAGO ROCK ISLAND AND GULF RAILWAY TRACK. 10 FEET SOUTH OF MILEPOLE
GK0281'73/24.
GK0281

GK0281

STATION RECOVERY (1973)

GK0281

GK0281'RECOVERY NOTE BY US GEOLOGICAL SURVEY 1973

GK0281'MARK NOT FOUND.

*** retrieval complete.

Elapsed Time = 00:00:00



Coastal Coordination Council

P.O. Box 12873 ♦ Austin, Texas 78711-2873 ♦ (512) 475-3514 ♦ FAX (512) 475-0680

Chairman

Jerry Patterson
Texas Land Commissioner



Members

Victor Carrillo
Railroad Commission of Texas

Mayor Victor Pierson
Coastal Government
Representative

John Barrett
Agriculture Representative

Memo Benavides
Texas State Soil & Water
Conservation Board

Jack Gibson
Coastal Business Representative

Jack Hunt
Texas Water Development Board

John W. Johnson
Texas Transportation Commission

Robert Jones
Coastal Resident Representative

Larry R. Soward
Texas Commission on
Environmental Quality

Robert R. Stickney
Sea Grant College Program

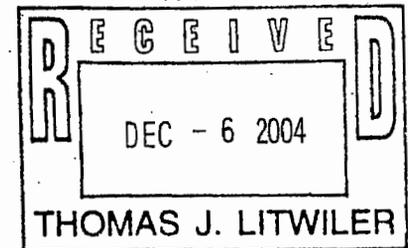
Mark E. Watson, Jr.
Parks & Wildlife Commission
of Texas



Gwen Spriggs
Council Secretary

Jesse Solis, Jr.
Permit Service Center
1-866-894-3578

December 3, 2004



Thomas J. Litwiler
Attorney for Texas North Western Railway Co.
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2875

**Re: Docket No. AB-281 (Sub-No. 1X), Texas North Western Railway
Co.—Abandonment, Exemption—In Moore, Hutchinson and
Hansford Counties, TX**

Dear Mr. Litwiler:

It has been determined that the project referenced above is outside the Texas Coastal Management Program (CMP) boundary. Therefore, it is not subject to consistency review under the Texas CMP.

Thank you for the opportunity to comment.

Sincerely,

Thomas R. Calnan
Coastal Biologist
Coastal Coordination
Texas General Land Office