

BEFORE THE
SURFACE TRANSPORTATION BOARD

300219

DOCKET NO. AB-1108 (SUB-NO. 1X)

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December 26, 2019
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THE BLACKLANDS RAILROAD
-- DISCONTINUANCE OF SERVICE EXEMPTION --
IN HUNT, DELTA, HOPKINS, FRANKLIN AND TITUS COUNTIES, TEXAS

REPLY OF
THE BLACKLANDS RAILROAD

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**ATTORNEYS FOR
THE BLACKLANDS RAILROAD**

Dated: December 26, 2019

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Petitioner The Blacklands Railroad (“BLR”) hereby files this reply to the December 5, 2019 “protest in opposition” (“Response”) submitted by the Northeast Texas Rural Rail Transportation District (“NETEX”) herein.¹ BLR seeks an exemption to discontinue financially crippling operations conducted by BLR over a 76-mile line of rail owned (and trackage rights held) by NETEX located between Greenville and Mount Pleasant, Texas (the “NETEX Line”). BLR’s petition for exemption, filed October 29, 2019 (the “Petition”), established beyond any reasonable doubt that BLR’s operation of the NETEX Line resulted in a loss of several hundred thousand dollars each year since at least 2015, with no reasonable basis for concluding that fortunes will improve in the future.

NETEX’s Response does not contest BLR’s financial losses, and professes both that “NETEX is not opposed to the termination of BLR as its operator” (Response, p. 3) and “NETEX is not opposed to transitioning to a new operator” (Response, p. 9). However, NETEX airs other purported concerns regarding (i) future rail service to existing customers on the

¹ In exemption proceedings under 49 U.S.C. § 10502 such as this, the Board, “absent good cause, allow[s] petitioner and those supporting the petitioner to close the record, as petitioner has the burden of proof.” *Wisconsin Central Ltd. – Abandonment Exemption – In Winnebago County, WI*, Docket No. AB-303 (Sub-No. 2X), slip op. at 1, n.1 (ICC served Mar. 9, 1990).

NETEX Line, (ii) BLR's continuing independent lease and provision of local service on the trackage rights segment of the NETEX Line, (iii) service concerns of existing NETEX Line customers, and (iv) track maintenance. Tellingly, none of the customers currently served by BLR (all of whom were served a copy of BLR's Petition), nor any other interested party, filed any objection to BLR's discontinuance of operations. The only party filing any response to the Petition was NETEX.

The issues raised in NETEX's Response merit neither a substantive determination against discontinuance nor a procedural mandate that these issues be resolved only after filing of an application for discontinuance. Fairly read in context, NETEX's Response is focused on assuring an orderly transition from BLR's operations on the NETEX Line to operations conducted by BLR's successor. Despite NETEX's repeated claim that BLR's discontinuance of operations will be "abrupt" and will leave existing customers without service, NETEX has known of BLR's potential to seek discontinuance from the Board for at least six months. BLR stands ready to work with NETEX or its future operator to plan for a smooth transition, but only if such coordination does not extend the proposed February 14, 2020 effective date of BLR's requested exemption.

Because no party has raised any substantive basis for rejecting or denying BLR's petition for exemption to discontinue operations on the NETEX Line, the Petition should be granted.

ARGUMENT

I. NETEX IS A COMMON CARRIER BY RAIL WITH OBLIGATIONS TO SATISFY ITS RESIDUAL COMMON CARRIER OBLIGATION UPON BLR'S DISCONTINUANCE.

NETEX seemingly denies at several points in its Response that it is a common carrier by rail holding residual common carrier obligations on the NETEX Line. *See, e.g.*, Response p. 4, n.3 (“The Petition states that NETEX is itself a Class III rail carrier, similar to BLR. [Citation omitted.] NETEX believes this statement is incorrect”); p. 7 (“NETEX is not a rail operator.”). Yet NETEX presents only flat assertions – with no factual basis, argument, or legal precedent -- from which to argue that it may disavow its residual common carrier obligation. In fact, at p. 1, n.1 of its Response, NETEX cites to the very precedent that established its common carrier status. *See Northeast Texas Rural Rail Transportation District – Purchase (Portion) Exemption – St. Louis Southwestern Railway Company*, Docket FD 32841 (STB served Jan. 26, 1996) (“*NETEX I*”); *Northeast Texas Rural Rail Transportation District – Acquisition Exemption – Union Pacific Railroad Company*, Docket FD 33892 (STB served Jul. 26, 2000) (“*NETEX II*”). The text of both *NETEX I* and *NETEX II* indicates that those NETEX acquisitions brought with them an underlying common carrier obligation. *NETEX I* was filed pursuant to 49 C.F.R. 1150, Subpart D, which includes provisions for the establishment of a Class III carrier (49 C.F.R. § 1150.32). Moreover, in *NETEX II*, NETEX proceeded for authority under 49 C.F.R. § 1150.41, governing “acquisitions and operations by Class III rail carriers,” providing an acknowledgement of its common carrier status resulting from closing on the acquisition authorized in *NETEX I*. Any doubt regarding NETEX’s common carrier status was

laid to rest in the Board's notice of the exemption filing in *NETEX II*, wherein NETEX was referred to by the Board as a "Class III rail carrier." *NETEX II*, p. 1.²

Given its focus on assuring an orderly transition from BLR's operations of the NETEX Line to a new operator, NETEX's protests regarding its common carrier status may be less focused on its legal status and more focused on its apparent inability to satisfy through its own resources the common carrier obligations that it voluntarily assumed. The fact that an entity holding a residual common carrier obligation may not be able to perform its obligations itself does not serve to reduce those obligations, nor does it provide a basis to deny BLR's Petition. *See, e.g., County of Greenville, S.C. – Acquisition Exemption – Rail Line of Greenville Economic Development Corporation*, Docket No. FD 35997 (STB served Feb. 26, 2016).

As stated by BLR in its Petition, once BLR's discontinuance is effected, NETEX, as a Class III common carrier by rail and owner of the NETEX Line, will have a residual common carrier obligation to satisfy requests for common carrier service, either with its own forces or through a third party operator. While NETEX indicates that it anticipates problems locating a viable third-party operator in time to continue rail service after BLR's discontinuance, such problems cannot stem from a shortage of time to find such an operator. Despite the fact that NETEX uses some form of the word "abrupt" no less than five times in its Response to describe BLR's discontinuance of operations, NETEX has been advised for many months of the

² The fact that NETEX sought authority to "acquire and operate" in *NETEX I* and only to "acquire" in *NETEX II* is of no moment; a residual common carrier obligation to provide service arises from acquisition, even where operating authority is not sought. *California High-Speed Rail Auth. – Construction Exemption – In Merced, Madera, and Fresno Counties, CA*, Docket No. FD 35724, slip op. at 2, n. 6 (STB served Jun. 13, 2013); *Port of Moses Lake – Construction Exemption – Moses Lake, Wash.*, Docket No. FD 34936, slip op. at 2 (STB served Aug. 27, 2009) (citing *Big Stone-Grant Industrial Dev. & Transp.. L.L.C. – Construction Exemption – Ortonville, Minn.*, Docket No. FD 32645 (ICC served Sep. 26, 1995)); *Sou. Elec. Generating Co. – Petition for Exemption – Construction of a Rail Line in Shelby County, AL*, Docket No. FD 31498, slip op. at 3, n. 1 (ICC decided Dec. 12, 1981).

distinct possibility that BLR would seek discontinuance. As established in BLR's Petition, newspaper notification of BLR's intent to seek discontinuance was published during the first few days of May, 2019. *See also* Agenda of NETEX June 6, 2019 Regular Meeting, attached as Exhibit A, referencing at the bottom of p. 1 "Northeast Texas Farmers Co-Op presentation/discussion related to concerns over potential discontinuance of service by Blacklands Railroad and Transparency of NETEX. (Brad Johnson)." NETEX also contemplated identifying parties with interest in the NETEX Line more than three years ago. *See* Exhibit B (NETEX's July 20, 2016 Request for Expressions of Interest). And in 2018, NETEX went so far as to issue a request for proposals seeking parties interested in "partnering, purchasing or leasing" the NETEX Line infrastructure. *See* Exhibit C (NETEX's May 30, 2018 Request for Proposals). Given this history, it is clear that NETEX is not starting from square one in identifying third parties that may have an interest in operating or otherwise participating in the operation of the NETEX Line.

Assuming that BLR's Petition is granted, shippers on the NETEX Line will not be left without a common carrier operator. For over six months, NETEX has had both the obligation and sufficient opportunity to determine the identity of that operator. NETEX cannot shirk the common carrier responsibilities it voluntarily assumed by claiming surprise. And, to the extent that NETEX desires to coordinate a pending transition to a new operator, BLR stands ready to have those discussions under reasonable terms, so long as they do not delay the effective date of BLR's discontinuance of operations.

II. BLR'S 7.9-MILE LEASE IS A RED HERRING.

Throughout its Response, NETEX refers to the fact that in 2005, BLR directly leased from Union Pacific Railroad Company ("UP") a 7.9-mile section of main line track to

provide local service to on-line customers. *Blacklands Railroad, Inc – Lease and Operation Exemption – Union Pacific Railroad Company*, Docket No. FD 34723 (STB served Jul. 26, 2005). That lease is unrelated to BLR’s operating agreement with NETEX for the NETEX Line, and will continue after NETEX’s discontinuance of operations on the NETEX Line as proposed herein. Despite professing several concerns about BLR’s lease with UP, none of those concerns can stand as a basis to either deny or reject BLR’s Petition.

- NETEX holds overhead trackage rights on the leased track segment (*see NETEX II*), while BLR’s lease rights from UP allow for local service to on-line customers served from that same track. Thus, BLR’s lease has not taken away customers from the NETEX Line; BLR merely replaced UP as the service provider to on-line customers on the leased segment for the movement of traffic to and from the interchange connection to UP at Mount Pleasant. NETEX’s trackage rights never allowed NETEX (or BLR as NETEX’s operator) to serve customers on the leased segment.
- NETEX claims that BLR’s lease was undertaken “unbeknownst to NETEX” (Response, p. 2), and “without NETEX’s knowledge” (Response, p. 3). Yet NETEX provides no basis to find any obligation on BLR to advise NETEX of the lease, and in any event, public notice of the lease was available on the STB’s web site.
- NETEX complains that the financial results from BLR’s operation of the leased segment are not included in BLR’s Petition. Of course, costs and expenses related to operations other than those that are the subject of the Petition would not be properly considered in the Board’s assessment of the public convenience and necessity presented by BLR’s petition for a discontinuance exemption.

- In a similar vein, NETEX contends that the financial results of the leased segment are needed in order for the Board to assess “whether the NETEX Line as a whole is financially viable.” Response, p. 9. This cross-subsidy argument must be rejected, as it misses the point that only those operations conducted by BLR pursuant to its agreement with NETEX are the subject of discontinuance in the Petition. BLR’s financial performance under its lease with UP is irrelevant to whether the unrebutted financial data provided in the Petition supports BLR’s discontinuance of its operations of the track owned or operated over by NETEX.
- NETEX expresses concerns that BLR will control the movement of trains over the leased segment, over which NETEX or its new operator will traverse to reach the interchange point at Mount Pleasant. While claiming that BLR has indicated that the successor operator to BLR will need to “ask permission” to use the leased segment, NETEX is in fact identifying nothing more than the standard dispatching protocols that govern the movement of one company’s trains over tracks dispatched by another company. BLR’s lease with UP provides that BLR controls train movements on the leased track – as did UP before it – so any railroad seeking to operate over the leased segment would need dispatching authority from BLR prior to occupying the leased track. The lease to BLR has not changed the fact that NETEX would require permission (through dispatching) from a third party in order to exercise the trackage rights, although the identity of that entity has changed from UP to BLR via BLR’s lease from UP.
- NETEX also infers that BLR will intentionally interfere with access to the Mount Pleasant interchange. Yet NETEX presents no facts or reasoning to support this fear,

and BLR cannot think of a motivation why such interference would be to BLR's benefit. NETEX speculates that BLR will use "track maintenance or other reasons" (Response, p. 5) to delay the NETEX Line operator from accessing the interchange at Mount Pleasant, but track maintenance is a required element of operating any rail line, and will result in occasional blockage of all train operations, not just those of trackage rights tenants. In any event, NETEX's trackage rights over the leased track were authorized in *NETEX II*, so NETEX or its subsequent operator have a ready remedy at the Board if BLR unreasonably interferes with transit over the leased track segment.

- NETEX suggests (Response, p. 8) that an "access agreement" will be needed to govern trackage rights operations on the leased segment. But NETEX's trackage rights are already governed by a June 1, 2000 agreement entered by BLR, NETEX and UP. That agreement contemplates that the trackage rights will vest in NETEX or any operator selected by NETEX (with UP's consent not to be unreasonably withheld) if BLR's operations of the trackage rights ceases. The agreement also contemplates that the track may be used by "such other company or companies as UP has heretofore admitted or may hereafter at any time admit." Clearly, no further agreements are required.

III. BLR's SERVICE HAS BEEN APPROPRIATE GIVEN TRAFFIC LEVELS.

At several places in its Response, NETEX denigrates the service provided by BLR to customers on the NETEX Line, suggesting that service deficiencies are the cause of BLR's deficit operations. To the contrary, BLR has worked diligently to provide responsible rail service scaled appropriately to demand and market forces. While no railroad can provide 100%

service reliability, BLR has continued to work toward stabilizing and growing existing customers for the NETEX Line.

As reflected in the Petition, BLR was awarded the Shortline of the Year Award in 2011 by Railway Age magazine, a recognition seemingly at odds with the image painted by NETEX of a business working diligently to drive away customers. Because the NETEX Line hosts no bridge traffic, developing customers that originate and/or terminate rail cars is the only means by which the NETEX Line can be profitably operated. Diligent attention to customer demand and developing reasonable service plans is the lifeblood of any shortline, but as demonstrated in this docket, even that level of effort does not assure success.

The Response presents the comments of AB Mauri North America, formerly Fleischmann's ("Mauri"), regarding BLR's service performance, but Mauri's comments cannot be understood out of context. As reflected on Exhibit D of the Petition, the Mauri facility shipped between 43 and 77 cars per year since 2015, with a projection of 69 cars in the forecast year, meaning that this customer takes less than two (2) cars per week on average, making it one of the smaller customers by volume on the NETEX Line. Mauri's facility is located in Greenville, Texas a city that previously hosted several larger shippers that merited twice per week (and sometimes three times per week) service.³ With the reductions at those larger businesses, service to Greenville-based customers was reduced to once per week. The economics of the Greenville service simply couldn't support continuation of service twice per week. Additionally, BLR has spoken with Mauri on numerous occasions over the last several

³ For example, a large Newell Rubbermaid facility that moved significant railcars and was located just southwest of Greenville closed in 2012, and the new operator, Fritz Industries, does not make significant use of rail. More recently, as reflected in Exhibit D to BLR's Petition, New Phoenix, a scrap dealer, shipped 124 carloads in 2015, but only four cars since. Greenville Co-Op and FSTI (both located in the Greenville area) have also reduced rail shipments in recent years.

decades regarding Mauri's limited ability to handle sufficient cars (they currently have track space for two (2) rail cars), but Mauri has declined to expand its rail capacity, as acknowledged by Mauri in its correspondence (Response, Exhibit D).

NETEX also states in its Response (Exhibit E) that NETEX Line customers located in the Greenville Industrial Park are concerned with BLR's alleged "unreliable service and a lack of responsiveness." Response, p. 6. NETEX's proof of these alleged concerns is a letter that NETEX itself wrote roughly three weeks after BLR filed its discontinuance petition, and three weeks before NETEX filed its Response. Notably, none of the alleged Greenville Industrial Park customers are identified, nor have they elected to comment in this proceeding.

In summary, BLR has a nationally-recognized history of providing responsive rail service, but that service must be adjusted to reflect demand and cost factors. While every rail customer would undoubtedly prefer more rail service to its facility, rail service must reflect real-world economics. Nothing in NETEX's Response indicates a service-driven decrease in rail shipments that would significantly change the massive annual financial losses reflected on BLR's unrebutted income statements. Like the remainder of the issues raised in the Response, alleged service issues provide no basis to reject or deny the Petition.

IV. NETEX'S COMPLAINTS REGARDING TRACK MAINTENANCE ARE OVERSTATED AND IRRELEVANT TO BLR'S DISCONTINUANCE.

NETEX attempts to make much of the current condition of the NETEX Line track, describing the track as "seriously deteriorated," and claiming that all but a small segment of the NETEX Line is in FRA "excepted" classification. *See* 49 C.F.R. § 213.9. BLR disagrees

with this assessment,⁴ but more fundamentally, BLR notes that the condition of the track on the NETEX Line is not an issue for the Board to resolve, and has no bearing on whether discontinuance should be granted.

The basis for NETEX's complaints regarding track conditions and classification is the operating agreement between NETEX and BLR, pursuant to which BLR maintains the NETEX Line. *See* Response, p. 5. Because NETEX's claims regarding track classification are framed as a complaint regarding compliance with contractual terms, they are generally not resolved by the STB but by the courts, and they provide no basis to reject or deny the Petition. *City of Alameda – Acquisition Exemption – Alameda Beltline Railroad*, Docket No. FD 34798, slip op. at 3 (STB served Apr. 3, 2006) (“The contractual dispute in state court does not bring into question the appropriateness of the exemption process...”). Any dispute between NETEX and BLR regarding compliance with the terms of the operating agreement could be resolved in the pending court litigation if raised before the court by NETEX. Compliance with the BLR-NETEX contract's provisions is a central issue in dispute there.

Additionally, as demonstrated by BLR in its Petition, since at least 2015, BLR has spent approximately \$500,000 or more per year on maintaining the NETEX Line (in addition to making annual lease payments to NETEX that NETEX has largely not invested back into its track), so the existing track conditions clearly are not the result of inadequate financial

⁴ Curiously, NETEX attempts to support its claim regarding the condition of the track with a letter from BLR of earlier this year in which BLR stated that the track “remains in Class 1 condition for most of the railroad.” Response, Exhibit C.

commitment to maintenance.⁵ Any inference that BLR has not spent appropriately to maintain the NETEX Line is effectively debunked by the unchallenged financial reports.

NETEX's Response expresses concern that BLR will "leave the NETEX Line track in seriously deteriorated condition" (Response, p. 5), intimating that BLR's allegedly inadequate maintenance investments have allowed the track to degrade to exempt status over the two decades that BLR maintained it. However, as documented by NETEX's members themselves, the track's condition was somewhat degraded when BLR assumed operation and maintenance control over it. For example, in 2014, the County of Franklin, in a letter seeking grant or loan support for enhancing the FRA classification of the NETEX Line, stated that BLR "has operated over an inferior infrastructure for 15 years." *See* Exhibit D.⁶ In a similar funding support letter from 2015, the Commerce (TX) Economic Development Corporation, authored by Bonnie Hunter, the EDC Coordinator and current NETEX Board Member, recognized that the NETEX Line had "millions of dollars of deferred maintenance" when it was acquired by NETEX in the mid 1990's. *See* Exhibit F.

NETEX's complaints regarding track condition ignore the fact that FRA's maximum authorized track speed for freight trains operating on excepted track is the same as that for FRA Class 1 track: 10 mph. *See* 49 C.F.R. § 213.9(a). Thus, regardless of what percentage of the NETEX Line is maintained in Class 1 versus excepted condition, that distinction has had no impact on service to NETEX Line customers.

⁵ As discussed in the Petition (p. 11), BLR's annual per mile spending on maintenance of way (roughly \$8,000 per mile each year) is well within ranges the Board has previously deemed reasonable.

⁶ *See also* Exhibit E, an April 22, 2014 letter in which NETEX board member Harley Davis referred to the track as "excepted track."

NETEX's comments regarding appropriate track maintenance provide no basis to reject or deny BLR's discontinuance Petition. BLR is under no STB-imposed or other regulatory obligation to maintain the NETEX Line to any particular track classification, and any contractual obligation could be resolved in the pending court proceeding. And, assuming *arguendo* that the track is maintained in the condition claimed by NETEX, if BLR has lost hundreds of thousands of dollars each year operating the NETEX Line while not spending sufficiently to maintain it, it is all the more proof that discontinuance of operations is warranted.

V. THE BOARD'S EXEMPTION PROCESS IS PROPERLY INVOKED HERE.

At various points in the Response, NETEX intimates that the Board should not decide the Petition on substantive grounds, but rather should reject the Petition and force BLR to engage in a lengthy and time-consuming full-blown application for discontinuance. As noted previously, many of these references appear designed to buy additional time for NETEX to determine how it will satisfy its residual common carrier obligation once BLR discontinues operations. That, of course, cannot possibly serve as a basis to require an entity that has lost hundreds of thousands of dollars each year to undertake the expense of a discontinuance application, all to prove a financial loss that is already both voluminously confirmed and un rebutted.

NETEX suggests that BLR should not be allowed to request discontinuance via exemption because "the Board cannot verify and examine [BLR's financial] figures unless BLR's request is subject to the Board's full application procedures...". Response, p. 2. NETEX presents no reasons why the financial data presented by BLR does not allow the Board to confirm the enormous annual losses borne by BLR since 2015. Nor does NETEX explain why resorting to a far more costly and time-consuming process required for presentation and review

of a formal discontinuance application is required to make sense of BLR's financial plight. No forensic accounting is needed to see that BLR has incurred annual, sizeable and systemic losses in operating the NETEX Line.⁷

Moreover, NETEX's contention that BLR should proceed via an application for discontinuance ignores the fact that BLR, like virtually every other shortline railroad, does not use the Board's Uniform Rail Costing System ("URCS") for tracking financial data. Subjecting years of financial data to entry via URCS, or determining an effective and acceptable work-around, would be to no purpose. The losses shown by BLR are not marginal, nor likely to be converted to profits through application of the more elaborate URCS accounting system. The financial information presented by BLR is compelling, and regardless of how it is presented, it is going to continue to show massive financial losses.

While NETEX suggests without further explanation that nothing short of an extensive application is required to determine whether BLR is actually losing hundreds of thousands of dollars in operating the NETEX Line each year, NETEX provides no basis to question the numbers already presented by BLR. The best NETEX can do to throw doubt on BLR's financial presentation is to suggest that NETEX is "not in a position to confirm the accuracy of BLR's statements and figures." That comment, of course, does nothing to impugn the veracity of the financial data presented by BLR. And it certainly does not point to any need for a full application for discontinuance.

⁷ NETEX suggests (Response, p. 8) that BLR has refused to participate in an audit of BLR's finances. In reality, BLR refused NETEX's insistence on auditing all of BLR's financial records, including those that have nothing to do with the operation of the NETEX Line. The reasons for NETEX's fascination with BLR's non-NETEX operations (both in and outside this docket) are unclear, but NETEX is not entitled to review BLR's non-NETEX business results, and as discussed elsewhere herein, BLR's non-NETEX financial records have no relevance in this docket.

While NETEX attempts to distinguish the cases cited by BLR to establish that proceeding via exemption in this matter is wholly appropriate, its efforts are unavailing. NETEX attempts to distinguish *Southwest Railroad, Inc. – Discontinuance of Service Exemption – In Curry, Roosevelt, Chavez, and Eddy Counties, N.M.*, Docket AB-1251X (STB served Apr. 27, 2017) by claiming that BLR’s Petition for exemption stands in “stark contrast” to that proceeding because “shippers have expressed opposition to [BLR’s] Petition.” Response, p. 7. To the contrary, not a single shipper on the NETEX Line has filed opposition in this docket, despite the fact that all active shippers were served with a copy of the Petition at the time of filing with the Board. Similarly, NETEX tries to distinguish *Yellowstone Valley Railroad, L.L.C. – Discontinuance of Lease and Trackage Rights Operations Exemption – In Richland, Sheridan, Roosevelt, and Daniels Counties, Mont., And McKenzie County, N.D.*, Docket No. AB-991 (Sub-No. 1X) (STB served May 10, 2013) by pointing out that the line’s owner would continue to serve the line once the tenant discontinued operations. As discussed previously, NETEX voluntarily assumed an identical residual common carrier obligation when acquiring the NETEX Line, and will be required to provide common carrier service (through its own forces or a contractor) once BLR discontinues operations.

NETEX’s efforts to overly complicate this situation cannot stand. Stripped of innuendo and bare speculation, NETEX’s Response provides nothing to indicate that the public convenience and necessity cannot be fully determined by the Board through the verified record presented by BLR in this exemption process.

VI. BLR PROPERLY IDENTIFIED KCS AND DGNO AS VIABLE SHIPPING OPTIONS FOR CUSTOMERS ON THE NETEX LINE.

NETEX maligns BLR’s Petition for discussing viable shipping options for NETEX Line customers. But NETEX misconstrues the nature of BLR’s comments regarding

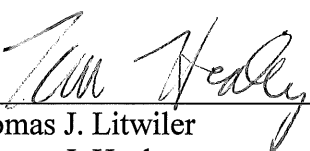
The Kansas City Southern Railway Company (“KCS”) and the Dallas, Garland and Northeastern Railroad (“DGNO”). From BLR’s simple statement that “DGNO serves Greenville” (a statement that can be confirmed through review of any Texas railroad map), NETEX goes to some length to explain that DGNO does not have “direct access” to NETEX Line customers, and that getting direct access would require either KCS’ consent or the expenditure of \$300,000-\$400,000. Response, pp. 8-9. Contrary to NETEX’s assertion, BLR believes that DGNO does have direct access via trackage rights on the KCS, via a switch that is in place to accommodate this ability. Regardless, BLR’s comment was directed toward the proximity of DGNO to customers on the NETEX Line, perhaps providing a convenient transloading opportunity if direct access is somehow not available.

Similarly, while implicitly admitting that KCS has access to a number of BLR customers, NETEX speculates that KCS will not be interested in providing such service because it is a Class 1 carrier. Response, p. 9. That concern, of course, misses the mark. It is undisputed that KCS provides a viable rail option for many NETEX Line customers, and perhaps once BLR discontinues operations, KCS will realize an additional marketing opportunity.

CONCLUSION

For all of the foregoing reasons, the Board should allow BLR’s discontinuance to proceed via the exemption process, and should grant BLR’s requested discontinuance exemption.

Respectfully submitted,

By: 
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**ATTORNEYS FOR
THE BLACKLANDS RAILROAD**

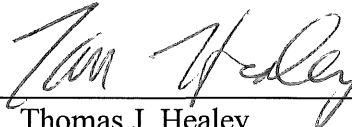
Dated: December 26, 2019

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of December, 2019, a copy of the foregoing

Reply of The Blacklands Railroad was served by overnight delivery upon the following:

Mr. Sam Young
Chairman
Northeast Texas Rural Rail Transportation District
208 Highway 37 South
Mt. Vernon, TX 75457



Thomas J. Healey

EXHIBIT A

NETEX JUNE 6, 2019 AGENDA

*Northeast Texas Rural Rail
Transportation District
Regular Meeting
Thursday June 6, 2019, 1:30 PM*

The Northeast Texas Rural Rail Transportation District will meet for a regular meeting and an executive session at 1:30 PM on June 6, 2019 at the Sulphur Springs/Hopkins County EDC Office, 1200 Enterprise Lane, Sulphur Springs, Texas. The following items will be discussed:

1. *1:30pm - Prayer for Board Members Guidance and Inspiration.*

2. *Call to order/determination of a quorum.(SY)*

3. *Adjourn to Executive Session: (SY), time _____.*

Adjourn to Open Session, time 2:15pm.

4. *2:15 pm. Approval of minutes from meeting on April 11, 2019 (SY)*

_____ *Motion* _____ *Second* _____ *Ayes* _____ *Nays*

5. *Possible action as a result of Executive Session. (Board)*

_____ *Motion* _____ *Second* _____ *Ayes* _____ *Nays*

6. *Recognition and invitation to citizens: any citizen may make a five minute presentation however; no action will be taken unless provided for on the Agenda. (SY)*

7. *Comments by board members, and/or staff or declaration of conflict of interest. (Build Grant Application, Board Meeting Scheduling)*

8. *Blacklands submittal of the 2018 Annual Report – A financial statement and a summary of the physical statistics and condition of the property. If 2018 documents are still not available, do to the Blacklands tax accountants work not being completed, NETEX would accept the same required documents for 2017 or 2016. (W. Defebaugh) (per the requirements of provision 2G of the NETEX/Blacklands Operating Agreement... G. Contractor shall file an annual report with NETEX which will include a financial statement prepared in the ordinary course of business consistent with GAAP, and a summary of the physical statistics and condition of the property (the "Annual Report"). A quarterly summary pertaining to the same subjects also shall be filed (the "Quarterly Report"). The Annual Report shall be provided by Contractor to NETEX no later than March 30th of the year following the fiscal year for the which such report is made, and the Quarterly Report shall be provided by Contractor to NETEX with the quarterly Rental Fee for the preceding quarter in accordance with the terms of Section 4 hereof.)*

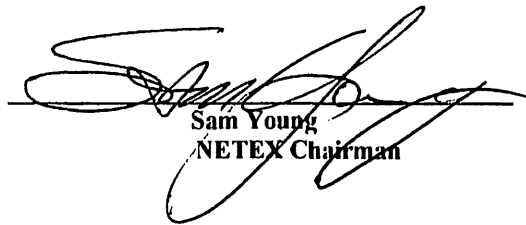
9. *Discussion and possible action related to the Hopkins County appointment of Neal Barker to the NETEX Board (per Hopkins County Commissioner's Court Resolution received May 6, 2019 via email). (S. Young)*

_____ *Motion* _____ *Second* _____ *Ayes* _____ *Nays*

10. *Northeast Texas Farmers Co-Op presentation/discussion related to concerns over potential discontinuance of service by Blacklands Railroad and transparency of NETEX. (B. Johnson)*

11. *Adjourn (SY)*

The Northeast Texas Rural Rail Transportation District Board reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters above, with respect to and as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.074 (Personnel Matters) and 551.087 (Negotiations).



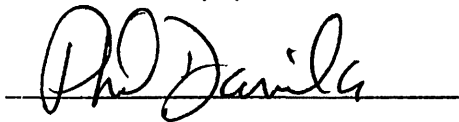
Sam Young
NETEX Chairman

**STATE OF TEXAS
NORTHEAST TEXAS RURAL RAIL TRANSPORTATION DISTRICT**

I, Phil Davila, NETEX Executive Director, do hereby certify that the above and foregoing notice was filed in the office of the NETEX Administrator on the 3rd day of June 2019.

Given under my hand this 3rd day of June 2019 at 9:00 AM

Posted this 3rd day of June 2019



Phil Davila
NETEX Executive Director

EXHIBIT B

**NETEX 2016 REQUEST FOR
EXPRESSIONS OF INTEREST**

Northeast Texas Rural Rail Transportation District
Northeast Cotton Belt Regional Rail Line
Request for Expressions of Interest
July 20, 2016

The Northeast Texas Rural Rail Transportation District (NETEX) is seeking expressions of interest (REOI) from entities ("Respondents") that are interested in partnering, purchasing, or leasing the NETEX owned railroad right-of-way, from near Wylie, Texas to near Winfield, TX.

1.0 General Description of Location, Condition and Background:

NETEX is multi-county Rural Rail Transportation District representing six contiguous counties across Northeast Texas. It was formed in 1995 to save the former (SSW) St. Louis Southwestern Railway's (Cotton Belt Route) Dallas Division, or "C-Branch", from abandonment and preserve short line freight-rail service for current and future customers along the corridor. NETEX is a governmental subdivision of the state, created by the commissioner's courts by resolution, and operated by a board of directors appointed by the commissioner's courts of the member counties.

The NETEX Corridor lies within the State of Texas and consists of three segments that run across six counties as listed here:

- 1.1 Segment I** begins just east of the KCS yard in Wylie, Texas at MP 578.2 and runs east-northeast 23.2 mile to MP 555.0 at Simtrott (just west of Greenville, Texas). This Segment consists of the rail right-of-way without rail, ties or ballast.
- 1.2 Segment II** is in daily operation and begins at MP 555.0 at Simtrott and runs east 31 miles through Greenville and Commerce, Texas to MP 524.0 (just west of Sulphur Springs, Texas). This Segment is fully operational.
- 1.3 Segment III** is in operation and begins at MP 524.0 and runs east 34.6 miles through Sulphur Springs and Mount Vernon, Texas to MP 489.4 near Winfield, Texas. This Segment is fully operational and continues to Mount Pleasant via a UP lease from 489.4 east for approximately 7 miles.

NETEX was formed in 1994 by Hunt, Hopkins, Franklin, and Titus Counties, Texas, to prevent the abandonment of Southern Pacific's "Cotton Belt C-Branch" line between Mount Pleasant, Texas and Wylie, Texas. Collin and Delta Counties subsequently became members of the NETEX Rail District. The NETEX controlled infrastructure provides connectivity between the North American Freight Rail Network via interchanges with the Union Pacific (Mount Pleasant, Texas), Kansas City Southern (Greenville, Texas) and the Dallas, Garland, and Northeastern Railroad (Greenville, Texas). In 1995, NETEX purchased 31 miles of track from Milepost (MP) 524, west of Sulphur Springs Texas, to Milepost (MP) 555, west of Greenville, Texas. This section of the line (Segment II) was purchased through a grant-funding agreement with the State of Texas (via TxDOT). In 2000, NETEX purchased 34.6 miles of track from Milepost (MP) 489.4 at the Franklin County/Titus County line to Milepost (MP) 524, at Sulphur Springs, Texas. This section of the line (Segment III) was purchased through a US Department of Agriculture (USDA) grant. In 2003, NETEX purchased the 23.2 mile segment of right-of-way (Segment I) from

Simtrott, west of Greenville, Texas, to east of Wylie, Texas. The tracks and ballast had been removed from this line segment prior to the time of the purchase.

The majority of Segments II and III are excepted track. The line is in need of rehabilitation to address a poor tie condition and ballast deficiency that currently limits freight movements to 10 mph based on the Federal Railroad Administration's (FRA) "Excepted Track" classification. The NETEX line is constructed of predominantly 112# jointed rail, which is in good condition, on ties that date from the 1930's to the 1980's, which are in bad to fair condition. Additional details are located on the NETEX website www.netextrail.org including the TIGER VII Application.

Blacklands Railroad (The current freight-rail service operator of Sections II and III) interchanges with two Class 1 railroads; Union Pacific (Mount Pleasant Yard) and Kansas City Southern (Greenville Yard).

2.0 Purpose and Process:

The purpose of this announcement is to gather information and gauge the interest level from private sector (Respondents) on the potential use of the NETEX rail infrastructure and for the NETEX Board to determine if a formal Request for Proposals (RFP) should be developed for the line in the near future.

Respondents that submit a formal Expression of Interest, in accordance with submittal requirements outlined below, may request to present their proposal to the NETEX Executive Committee. Respondents must submit a presentation request to the REOI Coordinator by 4:00pm CST August 30, 2016. Presentation will be scheduled by the Executive Committee and occur on or before September 21, 2016. Presentations will be limited to one hour and all presentation costs incurred by the Respondents shall be borne by the Respondent.

After review of the REOI responses, including any scheduled presentations, and an assessment of the interest level from the private sector, NETEX may choose to issue a Request for Proposal (RFP). Participation in the REOI process is not a requirement for any subsequent competitive procurement, though the results of the REOI will most likely be used to construct and refine an RFP. NETEX reserves the right to refrain from issuing an RFP or any other formal solicitation document for this infrastructure. The REOI is not a formal solicitation and no contract will be awarded as a result of the REOI and responses. If an RFP is issued, NETEX will outline specific requirements that the Respondent(s) must meet to obtain ownership, a partnership, a lease or operating final agreement from NETEX.

Assumed conditions and requirements that may be included in a competitive solicitation include, but are not limited to:

- 2.1 Although NETEX continues its efforts to secure State and/or Federal funding, there is currently no State or Federal funding available for the rehabilitation of the line and all costs to be borne for improvements and repairs, including but not limited to tracks, ties, ballast, drainage, signals and bridges, shall be the responsibility of the selected private entity.
- 2.2 NETEX (depending on the structure of a final agreement) is willing to continue to seek State and/or Federal funding since NETEX is a subdivision of the state and considered a Public Entity qualified to submit applications to various State and Federal Freight-Rail funding mechanisms.

- 2.3 The NETEX Rail Infrastructure shall forever be maintained in a manner to support Freight-Rail service to existing and future shippers. Inbound or outbound freight shall always be served by a short line railroad operation.
- 2.4 Should the private entity cease short line rail service on the line for any reason, the line and complete control will revert back to the Northeast Texas Rural Rail Transportation District.

3.0 REOI Schedule:

Release REOI	July 20, 2016
Respondents' Questions due by 4:00pm CST	August 10, 2016
Addenda (response to all questions) issued by NETEX online by 4:00pm CST	August 19, 2016
Respondents' Expressions of Interest Due by 4:00pm CST	August 29, 2016
Respondents' Request to present their proposal, Due by 4:00pm CST	August 30, 2016
Requested presentation will be scheduled on or before	Sept 21, 2016

4.0 REOI Coordinator:

Respondent's communications concerning this Request for Expressions of Interest shall be directed to....

REOI Coordinator	Phil Davila, NETEX Executive Director
Address	NETEX 641 Church St. Sulphur Springs, Texas 75482
Email	phil@netextrail.org

5.0 Response Preparation Instructions:

5.1 Submissions of interest shall include basic information about the type of service proposed and a brief description of the relevant experience and capability of the Respondent, and basic information on the financing for the proposed service and infrastructure improvements.

5.2 Submissions of interest shall include a statement of whether or not the Respondent is a railroad corporation organized under the laws of Texas or whether the Respondent is a railroad corporation under the laws of any other state, and approved by the Federal Railroad Administration to own and/or operate the type of proposed service.

5.3 Respondents (whether a railroad or some other private entity) shall describe their particular proposal concept with regards to potential ownership, partnership, lease or operating agreement from NETEX.

5.4 Expressions of interest shall be limited to no more than six (6) pages. Electronic and paper submissions are acceptable.

5.5 Responses to the REOI should be submitted to the REOI Coordinator no later than 4:00pm CST on August 29, 2016. Expressions of interest received after the due date/time will not be considered. With the inclusion of a return email address, the REOI Coordinator will email an acknowledgement of receipt to the submitting Respondents.

6.0 Additional Information:

6.1 Respondents may respond as independent companies, corporations, or as individuals.

6.2 All material submitted in response to this REOI, including during scheduled presentations, become the property of NETEX and NETEX has the right to use any of the ideas presented in the development of a potential formal RFP. Any information submitted in the response that is proprietary or confidential must be clearly designated as such. NETEX will honor requests for confidentiality for information of a proprietary nature to the extent permitted by law. Marking/designating the entire submission as proprietary or confidential will be rejected as non-responsive.

6.3 Respondent may submit comments and questions to the REOI Coordinator prior to responding to the REOI by the date indicated on the REOI schedule above. Response to all Respondents' questions will be considered addendums to the REOI and any addenda will be posted on the NETEX website (www.netextrail.org) by the date indicated on the REOI schedule above.

7.0 Reports and Documents that may be of interest to Respondents include:

7.1 NETEX Rail Preservation and Economic Development Project
FY 2015 TIGER DISCRETIONARY GRANTS APPLICATION – posted on the NETEX website (www.netextrail.org).

7.2 To be added as necessary.

7.3 To be added as necessary.

Sam Young
NETEX Chairman

EXHIBIT C

NETEX 2018 REQUEST FOR PROPOSALS

Northeast Texas Rural Rail Transportation District
Northeast Cotton Belt Regional Rail Line
Request for Proposals
May 30, 2018

The Northeast Texas Rural Rail Transportation District (NETEX) is seeking proposals from companies ("Respondents") that are interested in partnering, purchasing, or leasing the NETEX owned/controlled railroad infrastructure, from near Wylie, Texas to near Winfield, Texas including any trackage rights that are extended to NETEX.

1.0 General Description of Location, Condition and Background:

NETEX is multi-county Rural Rail Transportation District representing six contiguous counties across Northeast Texas. It was formed in 1995 to save the former (SSW) St. Louis Southwestern Railway's (Cotton Belt Route) Dallas Division, or "C-Branch", from abandonment and preserve short line freight-rail service for current and future customers along the corridor. NETEX is a governmental subdivision of the state, created by the commissioner's courts by resolution, and managed by a board of directors appointed by the commissioner's courts of the member counties.

The NETEX Corridor lies within the State of Texas and consists of three segments that run across six counties:

Segment I begins just east of the KCS yard in Wylie, Texas at MP 578.2 and runs east-northeast 23 .2 mile to MP 555.0 at Simtrott (just west of Greenville, Texas). This Segment consists of the rail right-of-way without rail, ties or ballast.

Segment II is in daily operation and begins at MP 555.0 at Simtrott and runs east 31 miles through Greenville and Commerce, Texas to MP 524.0 (just west of Sulphur Springs, Texas). This Segment is fully operational.

Segment III is in daily operation and begins at MP 524.0 and runs east 34.6 miles through Sulphur Springs and Mount Vernon, Texas to MP 489.4 near Winfield, Texas. This Segment is fully operational and continues to Mount Pleasant via a UP trackage rights from 489.4, east for approximately 7.9 miles to the UP main line.

NETEX was formed in 1994 by Hunt, Hopkins, Franklin, and Titus Counties, Texas, to prevent the abandonment of Southern Pacific's "Cotton Belt C-Branch" line between Mount Pleasant, Texas and Wylie, Texas. Collin and Delta Counties subsequently became members of the NETEX Rail District. The NETEX controlled infrastructure provides connectivity between the North American Freight Rail Network via interchanges with the Union Pacific (Mount Pleasant, Texas), Kansas City Southern (Greenville and Sulphur Springs, Texas) and the Dallas, Garland, and Northeastern Railroad (Greenville, Texas). In 1994, NETEX purchased 31 miles of track from Milepost (MP) 524, west of Sulphur Springs, Texas, to Milepost

(MP) 555, west of Greenville, Texas. This section of the line (Segment II) was purchased through a grant-funding agreement with the State of Texas (via TxDOT). In 2000, NETEX purchased 34.6 miles of track from Milepost (MP) 489.4 at the Franklin County/Titus County line to Milepost (MP) 524, at Sulphur Springs, Texas. This section of the line (Segment III) was purchased through a US Department of Agriculture (USDA) grant. In 2003, NETEX purchased the 23.2 mile segment of right-of-way (Segment I) from Simtrott, west of Greenville, Texas, to east of Wylie, Texas. The tracks and ballast had been removed from this line segment prior to the time of the purchase.

The majority (if not all) of Segments II and III are excepted track. The line is in need of rehabilitation to address a poor tie condition and ballast deficiency that currently limits freight movements to 10 mph based on the Federal Railroad Administration's (FRA) "Excepted Track" classification. The NETEX line is constructed of predominantly 112# jointed rail, which is in good condition, on some ties that date from the 1930's to the 1980's, which are in bad to fair condition. Additional details are located on the NETEX website www.netexrail.org including the detail in a previous TIGER VII Grant Application.

Blacklands Railroad (The current freight-rail service operator of Sections II and III) interchanges with two Class 1 railroads; Union Pacific (Mount Pleasant Yard) and Kansas City Southern (Greenville Yard).

2.0 Purpose and Process:

The purpose of this announcement is to solicit detailed proposals from the private sector (Respondents) related to a potential public-private partnership, sale, or long-term lease of the NETEX rail infrastructure that provides the best opportunity for the long-term sustainability of this rail asset. Proposals should address an asset strategy that considers ownership, refurbishment, marketing, operations, maintenance, connectivity, and opportunities for carload growth. NETEX is seeking the best all round proposal that is good for the Respondent and NETEX, a representative of the people residing in the five counties it represents along the operating corridor.

This RFP is a formal solicitation and it is the intent of NETEX to enter into an agreement with a financially sound private sector company or team that demonstrates the best ability to provide competitive rail-freight transportation to the NETEX counties and region, in a profitable manner to ensure long term stability of the services delivered.

If NETEX determines no proposal sufficiently meets the expectations and purpose of this RFP, NETEX reserves the right to not sale, lease, or enter into any contractual relationship as a result of this solicitation.

Conditions and requirements to consider in responding to this RFP include, but are not limited to, the following:

- NETEX is willing to continue its efforts to secure State and/or Federal funding though there is currently no State or Federal funding secured or being applied for with respect to the rehabilitation of the line and all costs to be borne for improvements and repairs, including but

not limited to tracks, ties, ballast, drainage, signals, and bridges, shall be the responsibility of the selected private entity.

- NETEX (depending on the structure of a final agreement) is willing to continue to seek State and/or Federal funding since NETEX is a subdivision of the state and considered a Public Entity qualified to submit applications to various State and Federal Freight-Rail funding mechanisms.
- The active NETEX Rail Infrastructure shall forever be maintained in a manner to support Freight-Rail service to existing and future shippers/receivers. Inbound or outbound freight shall always be served by a short line railroad operation. Segment I shall be preserved as a viable rail corridor to enable the short- or long-term restoration of rail infrastructure and service.
- All segments of the NETEX corridor and infrastructure shall be considered eligible for eventual development and implementation of appropriate passenger service in addition to freight service.
- Should the private entity cease short line rail service on the line for any reason, the line and complete control will revert back to the Northeast Texas Rural Rail Transportation District at no cost.

3.0 Current Infrastructure Expansion Discussions/Negotiations:

- **Union Pacific 7.9 miles from Titus/Franklin County line to UP Mt. Pleasant main switch:** NETEX currently has trackage rights over these 7.9 miles of UP track in order to reach the UP mainline in Mount Pleasant. UP maintained ownership of this infrastructure to ensure access to the Luminant Monticello Power Plant. With the recent closure of the power plant, UP has no significant operational reason to continue ownership of this infrastructure. Over the years, there has been business interest in locating along this infrastructure. These businesses would have produced badly needed rail freight carloads; however, UP ownership seemed to play a part in their decision to look elsewhere. NETEX has formally requested UP to consider “gifting” this short piece of infrastructure to NETEX while granting UP continued trackage rights across this section. NETEX would have a certified rail appraiser provide a value appraisal to UP for use as a tax deduction.
- **Luminant Monticello Power Plant and Mine Rail Infrastructure:** NETEX has remained in contact with Luminant Management for a couple years as discussions were leaning toward the closure of the Monticello Power Plant facility. The Luminant rail infrastructure meets the above 7.9 miles of UP track in Winfield, Texas. Winfield, Texas is east of the Titus/Franklin County border, where the NETEX owned infrastructure begins and runs to the west. The 12+ miles of Luminant rail infrastructure represents a tremendous rail freight growth opportunity as Luminant markets the thousands of acres of land to commercial/industrial development. NETEX has also suggested to Luminant that they consider “gifting” the rail infrastructure to NETEX as they define their closure plans. NETEX would provide a certified value appraisal for their tax benefit.

4.0 RFP Schedule:

Release RFP	May 30, 2018
Respondents' Questions due by 4:00pm CST	June 6, 2018

Addenda (response to all questions) issued by NETEX online by 4:00pm CST	June 13, 2018
Respondents' Proposals Due by 4:00pm CST	July 20, 2018
NETEX Board Member Review of proposals	July 23-26, 2018
NETEX Board Meeting (Member Discussion and Clarification Request Generation)	July 26, 2018
NETEX Request for any Clarifications/Modifications from Respondents	July 27, 2018
Respondents Clarifications/Modifications due by 4:00pm CST	Aug 1, 2018
NETEX Board Meeting (Proposal Scoring and Preferred Proposal Selection)	Aug 9, 2018
NETEX Agreement Execution subject to final negotiation and Legal Review.	Aug 30, 2018

5.0 RFP Coordinator:

Respondent's communications concerning this Request for Proposals shall be directed to....

RFP Coordinator	Phil Davila, NETEX Executive Director
Address	NETEX 1200 Enterprise Dr. Sulphur Springs, Texas 75482
Email	prdavila@sbcglobal.net

6.0 Response Preparation Instructions:

- Proposals shall include information about the type of service proposed/envisioned/planned, a description of the relevant experience and capability of the Respondent (operation and maintenance), and details on the funding for the proposed service and infrastructure improvements. Please include any details related to your assets, human resources, ability to market the existence of the rail line nationally, relationships with Class 1 Railroads or TxDOT or the FRA or STB, past experience with commercial and/or industrial development.
- Proposals shall include a statement of whether or not the Respondent is a railroad corporation organized under the laws of Texas or whether the Respondent is a railroad corporation under the laws of any other state, and approved by the Federal Railroad Administration to own and/or operate the type of proposed service.
- If more than one company is teaming/partnering in a proposal, the respondents shall define in detail the depth and scope of the companies relationships including the agreement that binds them together related to this proposal.
- Respondents (whether a railroad or some other private entity) shall describe their particular proposal with regards to potential ownership, partnership, long-term lease, or other from NETEX.
- The proposal shall be limited to no more than 30 pages. Eleven (11) copies of the paper submissions are required (in a sealed envelope/express mail box) to be delivered to the RFP Coordinator at the Sulphur Springs address included in this document no later than 4:00pm CST on Friday July 20, 2018. Proposals received after the due date/time will not be considered. The RFP Coordinator will email an acknowledgement of receipt to the submitting Respondents.

7.0 Additional Information:

- Respondents may respond as independent companies, corporations, or as individuals.

- All material submitted in response to this RFP, become the property of NETEX. Any information submitted in the response that is proprietary or confidential must be clearly designated as such on each page as necessary. NETEX will honor requests for confidentiality for information of a proprietary nature to the extent permitted by law. Marking/designating the entire submission as proprietary or confidential will be rejected as non-responsive.
- Respondent may submit comments and questions to the RFP Coordinator prior to responding to the RFP by the date indicated in the RFP schedule above. Response to all Respondents' questions will be considered addendums to the RFP and any addenda will be posted on the NETEX website (www.netextrail.org) by the date indicated on the RFP schedule above.

8.0 Reports and Documents that may be of interest to Respondents include:

- NETEX Rail Preservation and Economic Development Project
FY 2015 TIGER DISCRETIONARY GRANTS APPLICATION – posted on the NETEX website (www.netextrail.org).

Sam Young
NETEX Chairman

EXHIBIT D

2014 FRANKLIN COUNTY LETTER



Franklin County Judge

Scott Lee

200 N. Kaufman St.

Mt. Vernon, TX 75457

(903)537-2342 ext. 6 (903)537-2418 Fax

www.co.franklin.tx.us

The Home of Beautiful Lake Cypress Springs



January 28, 2015

The Honorable Anthony Foxx
Secretary, US Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

Ref: Northeast Texas Rail Preservation and Economic Development Project

Dear Secretary Foxx,

I am writing in support of the Northeast Texas Rural Rail Transportation Districts application for a TIGER grant. The railroad has great potential to boost the local economy as well as all of Northeast Texas. But the railroad needs upgrades to make it more useful for business. The railroad was nearly lost some years back, but because of hard work, tenacious efforts from numerous people, it was saved.

However, the railroad needs multiple upgrades to become the economic engine it has been in the past. Railroad ties, safety issues, etc. all need upgrading in order to retain and create jobs and businesses in a region that desperately needs new jobs.

As County Judge for Franklin County, I am working hard with, and support wholeheartedly, our local Industrial Foundation Board and Economic Development to too make sure we retain the railroad. The TIGER grant would provide a needed economic catalyst.

Yours truly,

Scott Lee, Franklin County Judge
Mount Vernon, TX

EXHIBIT E

2014 DAVIS LETTER

April 22, 2014

The Honorable Anthony Foxx
Secretary, U.S. Department of Transportation
New Jersey Avenue
Washington, DC 20590

Subject: Northeast Texas Rail Preservation and Economic Development Project

Secretary Foxx:

As a member of the board of directors of NETEX, I fully support the TIGER grant application which the Northeast Texas Rural Rail Transportation District (NETEX) is submitting under the provision of the Consolidated Appropriations Act, 2014 (TIGER Discretionary Grants). The board has worked hard to keep this "excepted track" rail line available to patrons in the NETEX corridor. This grant application is specifically a Rural Freight Rail Transportation Project which will consist primarily of tie replacement, ballast, and vegetation control. Members of the board are confident that once the rail line has been rehabilitated, revenue will be sufficient to maintain Class 2 track standards. The emerging area of economic activity in the Northeast region of Texas is dependent on this critical transportation infrastructure. The citizens of Northeast Texas would lose an important asset if this rail line is allowed to face closure.

The proposed project is in a depressed rural area where wage and poverty levels are far below the State and National averages. The economic benefit of this project is far greater than the Federal dollar cost.

As a member of the NETEX Board of Directors, I support this Application and urge DOT to give serious consideration and fund this rehabilitation project.

Respectfully,

Harley Davis, EdD
Member of the NETEX Board of Directors

EXHIBIT F

2015 HUNTER LETTER



April 15, 2015

The Honorable Anthony Foxx
Secretary, U.S. Department of Transportation
New Jersey Avenue
Washington, DC 20590

Re: Northeast Texas Rail Preservation and Economic Development Project

Dear Secretary Foxx:

The Commerce Economic Development Corporation is writing in support of a TIGER VI Grant Application on behalf of the Northeast Texas Rural Rail Transportation District (NETEX), in the amount of \$11M in federal funds. This project will rehabilitate 69.6 miles of Rail Line in Franklin, Hopkins, Delta and Hunt Counties, Texas. NETEX is submitting the application under provisions of the **TRANSPORTATION INVESTMENT GENERATING ECONOMIC RECOVERY ACT, "TIGER VI."** The NETEX district includes: Collin, Delta, Hopkins, Hunt, Franklin and Titus Counties, Texas. This Grant is important to the Commerce EDC and our local economy, as rail service plays a significant role for the industries in Commerce.

The grant application is a Rural Freight Rail Transportation Project, a vital resource for the Commerce EDC. The NETEX Board of Directors and contract operator, Blacklands Railroad (BLR), have worked diligently to save the C-Branch Line (STL SW Cotton Belt Route), which would have been abandoned. Without rail freight service, businesses and individuals along the NETEX rail line would face much higher transportation costs for products used in manufacturing, farming, ranching and construction. Rehabilitation of the rail line would assure shippers and receivers that service will continue to be available.

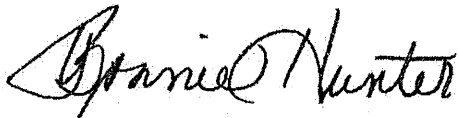
NETEX and BLR have more than doubled carloads shipped during the last decade. During this period, revenue has not been sufficient to make up for the millions of dollars of deferred maintenance that was inherited when the line was acquired in the mid 1990's. The "poor state of repair" of the line, necessitates train operation at 10 mph or less. Rehabilitation would classify the line as a Class 2 Rail Line, permitting train operation of 25 mph. For safety reasons, NETEX is seriously concerned that the rail line could face closure if rehabilitation is deferred. Long term benefits of the project will provide a safe, reliable and self-sustaining *rural rail line*. This project would immediately

Commerce Economic Development Corporation
1119 Alamo Street, Commerce, Texas 75428
(903) 886-1121 • Fax: (903) 886-8929
www.commercetxedc.org
e-mail: bonnie.hunter@commercetx.org

put people to work in a depressed rural region, where wage levels are below the state and national averages. The \$11M requested will be a responsible and appropriate use of TIGER VI Federal Funds. The Commerce Economic Development Corporation supports this application and urges the Department of Transportation to give this project serious consideration for funding.

Sincerely,

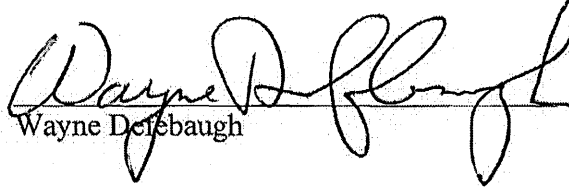
Commerce Economic Development Corporation

A handwritten signature in black ink, reading "Bonnie Hunter". The signature is written in a cursive, flowing style with a large initial "B".

Bonnie Hunter
Executive Director

VERIFICATION

I, Wayne Defebaugh, verify under penalty of perjury that I am President of The Blacklands Railroad, that I have read the foregoing Reply of The Blacklands Railroad and know the facts asserted therein with respect to The Blacklands Railroad, and that the same are true as stated.


Wayne Defebaugh