



LAW OFFICE OF THOMAS W. WILCOX, LLC
1629 K. STREET, NW SUITE 300
WASHINGTON, DC 20006

(202) 508-1065 (O)

(202) 365-8409 (C)

TOM@TWILCOXLAW.COM

WWW.TWILCOXLAW.COM

October 24, 2024

VIA EMAIL

Ms. Danielle Gosselin
Director
Office of Environmental Assessment
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423

Re: Docket No. FD 36815; Request for Waiver of Six-Month Pre-filing Notice
Requirement under 49 C.F.R. §1105.10(a)(1)

Dear Ms. Gosselin:

Pursuant to 49 CFR §1105.10(c)(2), the undersigned, on behalf of Texas Materials, respectfully requests a waiver of the six-month pre-filing notice required by the Surface Transportation Board's ("STB" or "Board") regulations at 49 CFR §1105.10(a)(1). As first discussed with you and other Office of Environmental Analysis ("OEA") staff in a video conference with Texas Materials representatives on August 29, 2024, Texas Materials intends to petition the Board for an individual exemption under 49 U.S.C. §10901 and §10502 for authority to construct and operate an approximately 27-mile line of railroad running between Burnet, TX and Lampasas, TX, which are located northwest of Austin, TX. As discussed on the video call, the new rail line would connect to the existing tracks operated by the Austin Western Railroad ("AWRR") in the vicinity of Burnet, and to the main line of BNSF Railway in the vicinity of Lampasas. As noted above, Docket No. FD 36815 has been created for this proceeding.

The waiver provisions of the Board's environmental rules require a party seeking a waiver to describe as completely as possible the environmental effects and timing of the proposed action and to show that all or part of the six-month lead time is not appropriate. Also, "the purpose of 49 C.F.R. § 1105.10(a)(1) is to provide prospective applicants with information about the Board's environmental review process and for applicants to inform OEA about the proposed project before

Ms. Danielle Gosselin

October 24, 2024

Page 2

starting the formal review.” STB Docket FD 36398, *Brookhaven Rail – Construction and Operation Exemption – in Suffolk County, N.Y.* (served March 24, 2022). Texas Materials sets out the following information in accordance with these standards to demonstrate that six months advance notice before filing is not necessary for this project.

A. Description of the Subject Rail Lines

The newly constructed line would generally re-establish a rail route between Burnet and Lampasas that was constructed in 1917 by the Houston & Texas Central Railroad and eventually formally abandoned by a successor railroad in 1951.¹ The tracks and right-of-way making up the abandoned rail corridor were acquired by a third-party that sold the right-of-way to Texas Materials in 2024 (all of the tracks and ties had been removed prior to the sale). Because Burnet and Lampasas have developed their respective downtown areas around the prior end points of the former rail line, Texas Materials plans to reinstate the line by constructing new tracks outside of each city that will connect to about 20 miles of the original right-of-way running between them. A map of the project and project area is attached as Exhibit A to this letter. This Exhibit shows the alternative routings around the cities that are currently being considered. When the project is complete a rail carrier that is either a newly created affiliate of Texas Materials, or a railroad granted authority by Texas Materials to operate over the line in common carrier service will transport traffic interchanged with the AWRP at Burnet and with BNSF at Lampasas.

B. Potential Environmental Impacts

Texas Materials believes that the environmental impacts of the project will be minimal because it intends to simply reinstate service over a large segment of the existing railroad corridor outside the populated areas of the two cities, and it will construct new tracks on either end that will bypass the two cities in order to minimize the impacts associated with construction and subsequent operations. Moreover, the project is located in an arid region of Texas that does not contain environmentally sensitive areas of note. Nevertheless, as part of the project’s design and planning, Texas Materials and its engineering contractor, HDR, conducted a preliminary review of the potential environmental issues associated with the project. Below is a discussion of the issues identified to date.

Wetlands – Although the project area is generally arid with no major tributaries, it contains between 30 and 40 drainage areas. Many of those could be classified as wetlands and/or drainage areas.

Phase I Environmental Site Assessment – To date, the engineering firm Kleinfelder has conducted a Phase I assessment of the existing right-of-way area.

Non-Attainment Area – The project is not located in a Non-Attainment Area for any pollutants.

¹ Finance Docket No. 16604, *Texas & New Orleans Railway Abandonment*, 282 I.C.C. 1 (1951)

Law Office of Thomas W. Wilcox, LLC.

Ms. Danielle Gosselin

October 24, 2024

Page 3

Road Crossings – The newly constructed railroad would cross two primary roads: Texas State Highway 183 and Texas State Highway 190. Whether either or both these crossings will be above grade or at-grade is being evaluated as part of the current design. The new rail line would also cross other smaller, low volume county and private roads at-grade.

Finally, as discussed during the video call, Texas Materials desires to retain the firm of VHB to serve as the Third-Party Consultant pursuant to the Board's rules to assist OEA in its review of the environmental impacts of this proposed project. Pursuant to 49 C.F.R. §1105.10(d), Texas Materials hereby asks OEA to approve VHB to serve in this role. The VHB team would be headed by Mr. Alan Summerville, with whom you are familiar from past rail construction projects.

Based on the foregoing, the undersigned, on behalf of Texas Materials, respectfully requests that OEA waive the 6-month prefiling notice required under 49 CFR §1105.10(a)(1). We also ask that this waiver be granted as soon as practicable because Texas Materials intends for the Petition for Exemption for construction authority to be filed soon after issuance of the requested waiver.

Please do not hesitate to call me or email me if you have any questions or desire additional information.

Sincerely,

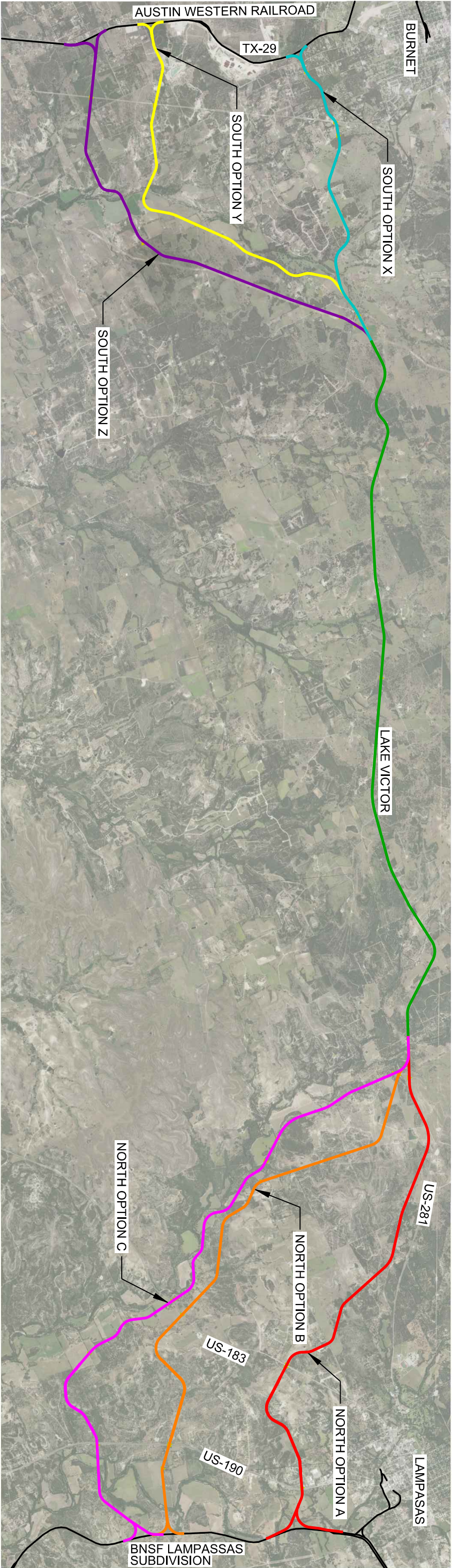


Thomas W. Wilcox
Attorney for Texas Materials

Attachment

EXHIBIT A

Map



SCALE 1" = 8000'

CONCEPTUAL

NOT FOR CONSTRUCTION

PLOT DATE: \$DATE\$

\$TIME\$

\$USERS\$

HDR Engineering, Inc.

600 W 6th St., Suite 200

Fort Worth, TX 76102

817-505-3800

www.hdrinc.com

HDR

ISSUE	DATE	DESCRIPTION

BNSF CALL BEFORE YOU DIG # 1-800-545-6005

TEXAS

811

Know what's below.

Call before you dig.

THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF REVIEW UNDER THE AUTHORITY OF AMANDA C. STAHLNECKER, PE 124571. IT IS NOT TO BE USED FOR BIDDING, CONSTRUCTION OR PERMIT PURPOSES.

TEXAS

MATERIALS

811

Know what's below.

Call before you dig.

TEXAS MATERIALS SHORTLINE

DESIGNED:	HDR:KRRK	TEXAS MATERIALS - NEW SHORTLINE	
CHECKED:	HDR:ACS		
DRAWN:	HDR:LABB		
CHECKED:	HDR:ACS		
DATE:	OCT 21, 2024		
AUTH:		CORRIDOR OPTIONS EXHIBIT	
LINE SEG:	7900		
FILE NAME	CORRIDOR OPTIONS EXHIBIT		
SCALE	(FULL-SIZE) - AS NOTED	SHEET	1 OF 1