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May 24, 2018

Chairman Daniel R. Elliott III
Vice Chairman Deb Miller
Member Ann D. Begeman
Surface Transportation Board
395 E Street S.W.
Washington, DC 20423

Re: Comments and request for denial of Texas Central Railroad and Infrastructure Inc. and Texas Central Railroad LLC's May 4, 2018 Petition to Reopen.
Finance Docket Number: FD-36025-0

Dear Chairman Elliott, Vice Chairman Miller, and Member Begeman,

On May 4, 2018, Texas Central Railroad and Infrastructure, Inc. and Texas Central Railroad, LLC (collectively "TCR") filed a Petition to Reopen their April 19th, 2016 Petition for Exemption (Finance Docket No. FD 36025). Previously, on July 18, 2016, the Board found that the STB did not have jurisdiction over TCR's proposed high speed rail proposal because it was a totally intrastate project with no connections to an interstate rail system.

At the same time that TCR submitted their original Petition for Exemption, they also filed a Petition for Clarification seeking a ruling from the Board to clarify language in the Federal statutes that essentially would allow TCR the power of eminent domain to immediately begin condemnation proceedings on Texas landowners to take their land. This was at a time well before the NEPA process (triggered by the FRA's authority over safety issues) had come anywhere close to producing a Draft Environmental Impact Statement (DEIS).

It was very clear that TCR's purpose in submitting the original Petitions was solely to garner Federal authority which would allow them to immediately begin those eminent domain condemnation proceedings. The Board correctly ruled that the STB did not have jurisdiction over purely intrastate projects of this nature and that any "connections" to Amtrak's interstate rail service were "too speculative and undefined to make this intrastate line a part of the interstate rail network"¹.

TCR now, in its May 4, 2018 Petition to Reopen, claims that circumstances have substantially changed because they have reached an agreement with Amtrak for a through ticketing arrangement and other services to be provided by Amtrak that would allow interstate and intrastate passengers to purchase tickets for the high speed rail through Amtrak's ticketing outlets.

TCR claims that this arrangement "will provide seamless interstate passenger service"² (emphasis added) between TCR's high speed rail line and the interstate Amtrak national network. However, this is at best a

¹ TCR's May 4, 2018 Petition to Reopen at 2

² TCR's May 4, 2018 Petition to Reopen at 5

misstatement of fact as any passenger wishing to connect between TCR's HSR line and Amtrak would hardly consider the process of getting from the TCR terminal to the Amtrak terminal and vice versa, seamless. Travelers are often confronted with catching connecting flights during air travel, but they don't have to travel to a different airport to do so and generally their luggage is transferred between flights for them.

Rather, what TCR is proposing is a purely speculative and undefined "transfer service" between terminals which are not even closely connected. To quote from the Board's July 18, 2016 Decision³, "*What Texas Central characterizes as its proposed "connections" to Amtrak are not sufficient to make the proposed Line part of the interstate rail network. Texas Central makes clear that the Line would not directly connect, nor would it be feasible to directly connect, with Amtrak. (Surreply 7-8.) Rather, Texas Central states that passengers would have the "ability to connect" to the existing Amtrak station in Dallas by walking a half mile from the prospective Line station location. (Surreply 9.) In Houston, Texas Central proposes the use of an intermediate bus service to "connect" Line passengers to the existing Houston Amtrak station, located approximately seven miles from the prospective Line station site. (Surreply 11.) The proximity of a planned station near interstate transportation but with no concrete plans today for through ticketing **and no direct connection to Amtrak or any other interstate passenger rail carriers does not make a proposed intrastate passenger service part of the interstate rail network.**" (emphasis added.)*

Furthermore, from the Decision, "*Whether an intrastate passenger rail service is part of the interstate rail network **is a fact-specific determination based on the totality of circumstances.** See Cal. High-Speed Rail Auth., FD 35724, slip op. at 11-15; All Aboard Fla.-Operations LLC, FD 35680, slip op. at 3. In making this determination, the Board may examine several factors, such as whether the proposed service shares stations or has a through ticketing arrangement with Amtrak or another interstate passenger rail carrier, **but no one factor is controlling.** See, e.g., Cal. High-Speed Rail Auth., FD 35724, slip op. at 11-15; All Aboard Fla.-Operations LLC, FD 35680, slip op. at 3-4.*"⁴ (emphasis added.)

A fact specific determination requires looking at the facts of the situation. In Dallas, the actual walking distance from the proposed TCR terminal to the Union Station Amtrak terminal is at best approximately 0.934 miles.⁵ This is more than the half mile which TCR has represented and it also must be realized that this is along uncovered roadway sidewalks in all sorts of weather, be it rain, severe cold, or the severe heat of summers in Texas, and while carrying their own luggage. A large percentage of passengers would not likely be able to make such a walk. Even if TCR would provide a bus shuttle service, this adds substantial time and effort to the passenger for the transfer.

In Houston, where the distance between the preferred TCR terminal and the Houston Amtrak terminal is approximately 7.4 miles by vehicle⁶, the trip would be continually subject to heavy Houston traffic and no reliable schedule could be maintained, resulting in missed connections and long delays.

These "connections" are not only far from seamless, but it is unrealistic to expect that passengers would opt for interstate travel using Amtrak and TCR high speed rail over travel by air or other means. In addition, TCR would now be adding to their proposed costs of service substantially, which would increase ticket prices for the high speed rail service even more. Already, in the DEIS, TCR anticipates that average ticket prices would be approximately \$199.00 one way between Houston and Dallas. A \$398.00 round trip ticket would possibly be feasible for business travelers between Houston and Dallas

³ STB July 18, 2016 Decision Docket No. FD 36025, on TCR Petition for Exemption at 4, paragraph 2

⁴ STB July 18, 2016 Decision Docket No. FD 36025, on TCR Petition for Exemption at 4, paragraph 1

⁵ See Attachment A, Dallas TCR terminal to Amtrak terminal walking distance

⁶ See Attachment B, Houston TCR terminal to Amtrak terminal driving distance

only, (a class of traveler which could not possibly support the project on its own), but by adding these increased costs of the arrangement with Amtrak, this round trip price would likely increase beyond what even business travelers would consider, and would make interstate travel on TCR high speed rail via Amtrak so cost prohibitive and inconvenient as to render it a very unlikely choice for the traveler.

TCR's arrangement with Amtrak requires them to pay all costs incurred by Amtrak, plus an additional fee of 10%, in implementing the arrangement, plus a commission of 15% on all TCR ticket sales on both the high speed rail service and the speculative and undefined transfer service. This is in addition to the costs of other services which Amtrak is to provide to TCR, including marketing, consulting, training, and others.

The true facts of the changed circumstances cited in TCR's Petition to Reopen, as a consequence of this arrangement with Amtrak, is that 1, there is nothing that makes TCR's intrastate service a part of the interstate rail network because there are no physical connections between the services and 2, the increase of costs to TCR would substantially increase ticket prices making it even less competitive with other forms of travel and would make the project even more financially unsound.

The fact specific determination that must be made in these circumstances is that this intrastate project is simply not, and cannot be physically made to be a part of the interstate rail network. Since the through ticketing arrangement, in and of itself, cannot be the sole controlling factor⁷, and the connections between TCR HSR and Amtrak are still speculative, undefined and impossible, the STB should reassert its decision that this intrastate project is not a part of the interstate rail network and that it does not have jurisdiction in the matter and it should deny the Petition to Reopen.

Thank you for your consideration.

Sincerely,



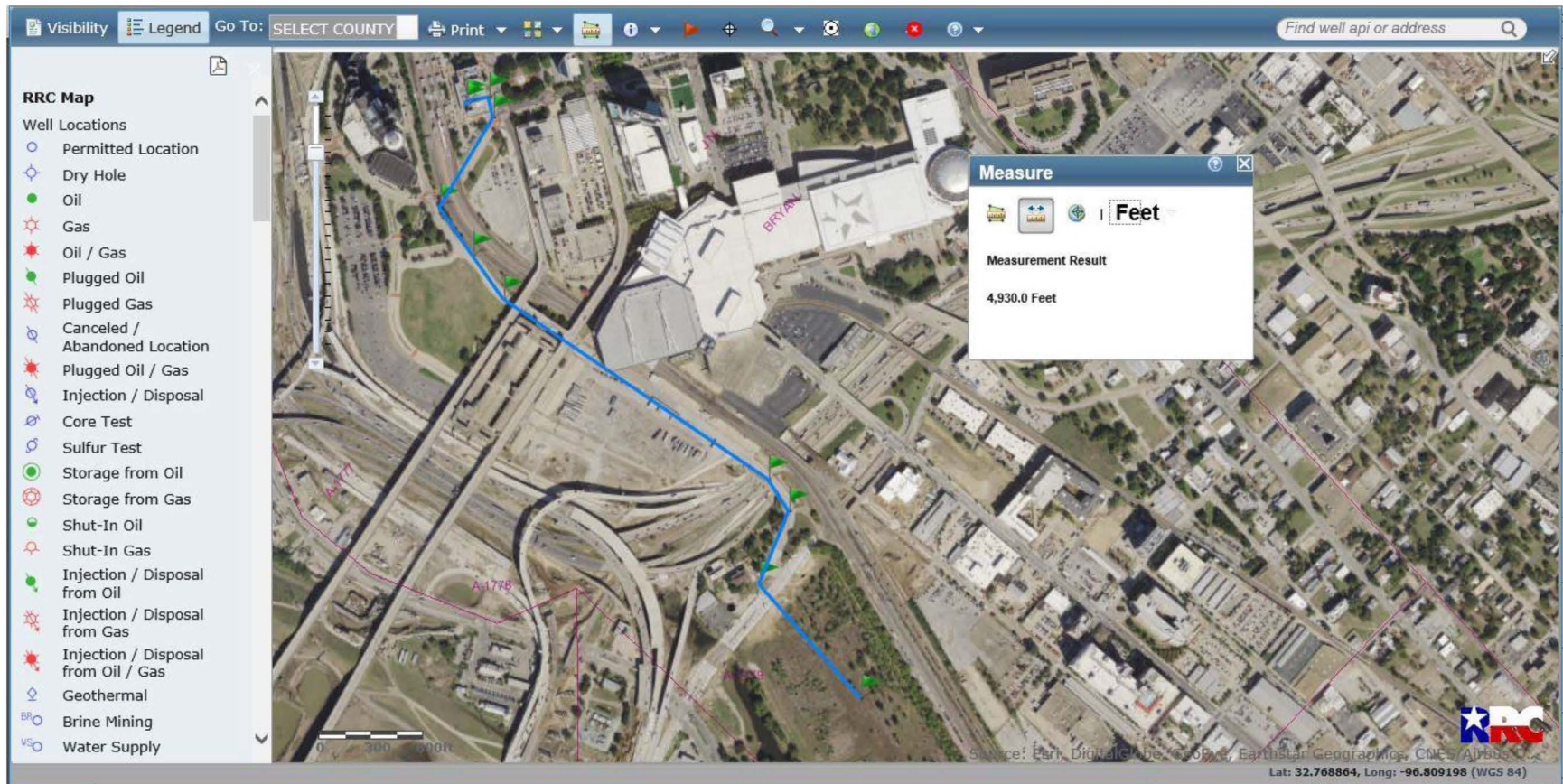
Rick Welch

Cc: Parties of Record

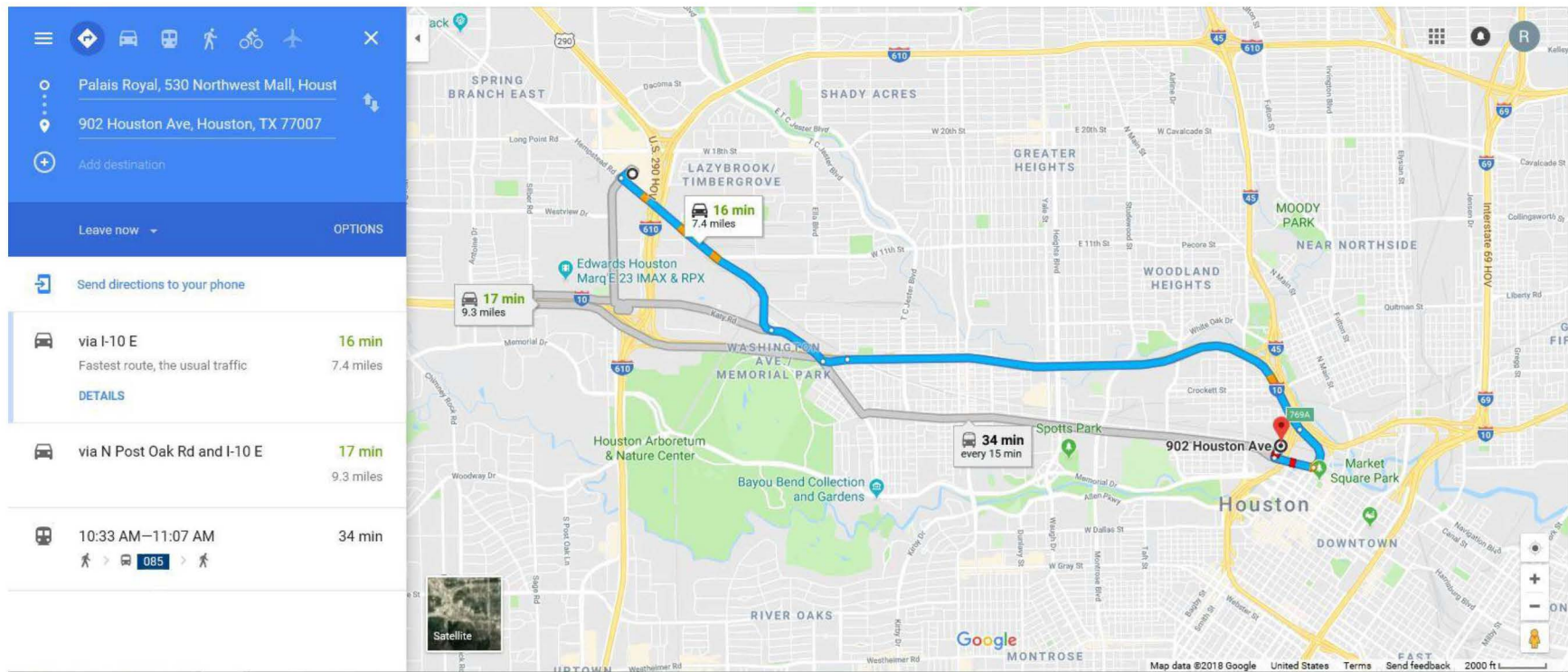
⁷ STB July 18, 2016 Decision Docket No. FD 36025, on TCR Petition for Exemption at 4, paragraph 1.

Attachment A - Walking Distance Between Dallas TCR Terminal and Amtrak's Union Station Terminal. (4,930 ft. = 0.934 miles)

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Attachment B - Driving Distance Between Houston Preferred TCR Terminal and Amtrak's Houston Terminal. (7.4 miles)



Certificate of Service

I hereby certify that on this 24th day of May, 2018, I have served a copy of the foregoing comments upon each of the following parties of record listed below, current as of the time of submission.

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